

2. UCD MIDLAND, LLC ZONING MAP AMENDMENT & ARTHUR E ABSHIRE PROPERTY (LEXINGTON CUT STONE & MARBLE TILE CO.) ZONING DEVELOPMENT PLAN

- a. **PLN-MAR-23-00004: UCD MIDLAND, LLC** – a petition for a zone map amendment from a Neighborhood Business (B-1) zone, a Light Industrial (I-1) zone, and a Mixed Use Community (MU-3) zone to a Downtown Frame Business (B-2A) zone, for 2.93 net (3.61 gross) acres, for property located at 262-276 Midland Avenue and 604 Winchester Road.

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 petitioner is proposing the Downtown Frame Business (B-2A) zone in order to create a mixed-use residential and commercial development. The applicant's proposal includes the construction of two five-story structures that will include a total of 182 dwelling units, and approximately 2,000 square feet of commercial space. The associated parking will be located on the first floor of the structures and along the rear of the property. The applicant is proposing an activated corner that will incorporate future development of the Liberty Trail.

The Zoning Committee Recommended: Approval.

The Staff Recommends: Approval, for the following reasons:

1. The requested Downtown Frame Business (B-2A) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed project will encourage expanded housing choices (Theme A, Goal #1), prioritizing higher density housing by adding 182 additional residential dwelling units (Theme A, Goal #1.a).
 - b. The proposed rezoning supports infill and redevelopment by infilling an industrial area that is now more appropriate for residential or mixed-use projects (Theme A, Goal #2.a; Theme E, Goals #1.c, 1.d).
 - c. The proposed project will prioritize multi-modal options to de-emphasize single occupancy vehicle dependence (Theme B, Goal #2.d), and support the Complete Streets concept, prioritizing a pedestrian first design that also accommodates the needs of bicycle, mass transit, and other vehicles (Theme D, Goal 1.a).
2. The requested Downtown Frame Business (B-2A) zone is in agreement with the 2018 Comprehensive Plan's Policies, for the following reasons:
 - a. The proposed rezoning will give this area additional flexibility in uses, allowing the applicant to create walkable neighborhood amenities that will help supplement the surrounding residential and commercial land uses (Density Policy #3 and Design Policy #12).
 - b. The proposed development creates a pedestrian-friendly street pattern and more walkable blocks to create inviting streetscapes (Design Policy #5).
 - c. The request meets Livability Policy #6 by providing the opportunities to accommodate additional residential and amenity opportunities that appeal to young professionals.
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 recommendations for Site Design, Building Form and Location. The applicant's proposal intensifies an underutilized site and creates a mixed-use development that prioritizes higher density residential. The proposed development provides safe pedestrian-scale connections to adjacent community facilities, greenspace, and potential employment, business, shopping, and/or entertainment uses.
 - b. The proposed rezoning addresses the Transportation and Pedestrian Connectivity Development Criteria. The proposed development provides increased access to planned trail systems, incorporates direct pedestrian linkages to the nearby transit stop, and provides safe multi-modal connections to the development.
 - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it will increase the amount of green open space, tree canopy coverage, and reduce the overall amount of impervious surface on-site. Additionally, the proposed development will add street trees along the Midland Avenue

frontage.

4. This recommendation is made subject to approval and certification of PLN-MJDP-23-00015: Arthur E Abshire Property (Lexington Cut Stone & Marble Tile Co.), 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-23-00015: ARTHUR E. ABSHIRE PROPERTY (LEXINGTON CUT STONE & MARBLE TILE CO.)
(6/4/2023)* - located at 262-276 MIDLAND AVENUE & 604 WINCHESTER ROAD, LEXINGTON, KY

Council District: 3

Project Contact: Gresham Smith

Planning Contact: T. Martin

Note: The purpose of this plan is to depict residential development of the site, in support of the requested zone change from Neighborhood Business (B-1) zone and Light Industrial (I-1) zone, and Mixed Use Community (MU-3) zone to Downtown Frame Business (B-2A) zone.

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

1. Provided the Urban County Council approves the zone change to B-2A; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Urban Forester's approval of tree preservation plan.
5. Greenspace planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval if environmentally sensitive areas.
7. United States Postal Service Office's approval of kiosk locations or easement.
8. Improve Plan legibility by removing concrete paving symbols and grey shading.
9. Denote compliance with Article 15-7 infill and redevelopment requirements shall be determined at time of the Final Development Plan.
10. Denote lot coverage and Floor Area Ratio as required per Article 21 of the Zoning ordinance.
11. Revise parking area to include pedestrian access to Owens Avenue.
12. Delete note #11.
13. Denote sanitary sewer conflict with Building A shall be resolved at time of Final Development Plan.
14. Denote stormwater controls shall be determined at time of the Final Development Plan.
15. Denote status of railroad easement and denote shall be resolved at the time of the Final Development Plan.
16. Discuss timing of Final Record Plat to release and revise building lines and easements.
17. Clarify and denote compliance with required open space.
18. Discuss Placebuilder criteria.
 - a. D-CO2-1. Safe facilities for all users and modes of transportation should be provided.

Staff Presentation – Mr. Hal Baillie presented the staff report and recommendations for the zone change application. He displayed photographs of the subject property and the general area. He stated that the applicant was seeking a zone map amendment from a Neighborhood Business (B-1) zone, a Light Industrial (I-1) zone, and a Mixed Use Community (MU-3) zone to a Downtown Frame Business (B-2A) zone, for 2.93 net (3.61 gross) acres, for property located at 262-276 Midland Avenue and 604 Winchester Road. Mr. Baillie indicated that the applicant is doing this to develop a mixed-use development that would incorporate 182 dwelling units and approximately 2,000 sq. feet of commercial space. Additionally, Mr. Baillie stated that the parking will be located on the first floor of the structures, and proposes to incorporate with the future development of the Liberty Trail.

Mr. Baillie indicated that the applicant is seeking to situate this in the Downtown Place-Type and the High-Density Non-Residential or Mixed-Use Development Type. Mr. Baillie stated that Staff was in agreement with both of these selections and that their selection of the B-2A zone was appropriate.

Mr. Baillie stated that Staff had concerns about the connections to other areas, while also providing a greater amount of tree canopy, but that the applicant said they would have street trees that would provide some buffer from the road and work to create a vertical edge. Mr. Baillie continued his presentation by displaying the

applicant's renderings of the subject property and highlighted their desire to add more amenities and activation of the space.

Mr. Baillie stated that the applicant has done significant community outreach, and entered three letters of support and one letter of concern into the record.

Mr. Baillie ended his presentation by stating that Staff was recommending approval for this zone change, and could answer any questions from the Planning Commission.

Commission Questions – Mr. Pohl asked about the status of the Winchester Road Corridor Plan and Mr. Baillie responded by stating that he was not aware of such a plan.

Staff Development Plan Presentation – Mr. Tom Martin oriented the Planning Commission to the location and characteristics of the subject property. Mr. Martin stated that the two proposed buildings on the site would be 75 feet and 5 stories tall, with 208 parking spaces and 182 units. Mr. Martin indicated that many of the conditions have to do with the constraints on the site because of the size, access, and the railroad. Mr. Martin indicated that there was a large sanitary sewer trunk line with a 60 foot easement that is extremely impactful on this site. Additionally, Mr. Martin indicated that the Staff, of the Division of Waste Management, and Water Quality do not usually like for an applicant to build over a sewer line, so that the applicant would potentially need to relocate the trunk line.

Mr. Martin indicated that there were a few clean-up items that needed to be addressed concerning lot coverage and FAR, but the Subdivision Committee recommended approval and he could answer any questions from the Planning Commission.

Commission Questions – Mr. de Movellan asked if there was any discussion about connectivity in the back of the development with some of the adjoining properties. Mr. Martin indicated that was an option, but it would be difficult coordinating with the other private properties adjacent to the property. Mr. Baillie also made the point that the Planning Commission cannot force a connection to a private roadway.

Ms. Worth said that one of the letters, mentioned a concern with management of traffic and pedestrian and bicyclist safety and asked if that was out of bounds for discussion here. Mr. Martin indicated that will come into play because of the crosswalk and that the applicant is proposing 8 foot sidewalks.

Applicant Presentation – Chris Clendenen, attorney for the applicant, stated that the property was designed to be a focal point for the Winchester Road corridor while providing connectivity with the city's trail systems. Additionally, Mr. Clendenen indicated that this property would serve as an infill and redevelopment project, would emphasize multi-modal transportation, and improve the tree canopy.

Mr. Clendenen continued, giving a brief history of the property from 1890 until today and then turned over the presentation to Scott Shapiro.

Mr. Shapiro introduced himself and stated the mission of this property was to bring mixed-use development that will increase residential density in downtown Lexington. Mr. Shapiro said that Lexington has two superpowers, the horse industry and the University of Kentucky, which creates young professionals who want to live downtown. Mr. Shapiro argues that this development is exactly the type of development Lexington needs for these young professionals. Mr. Shapiro indicated that a development like this close to downtown has not been built in Lexington for 40 years.

Mr. Shapiro stated that the property is very difficult to develop, and because of the odd configuration of the site, this development has taken a year and a half to do all the work to make this happen. Mr. Shapiro gave a brief overview of the difficulties, including the removal of underground storage tanks, dealing with the railroad easement, as well as a title issue. However, Mr. Shapiro indicated that they had done a lot of neighborhood outreach and that they now have a product they are proud of. Additionally, Mr. Shapiro stated that the Town Branch Trail helped make this viable, and noted the various accesses to the Liberty Trail and Town Branch Trail from the site.

Mr. Shapiro's business partner, Andrew Ganahl introduced himself and stated that he had done similar mixed-use sites in Kansas City and Milwaukee. Mr. Ganahl stated that this was an area that is clearly changing from its former industrial use and the development would benefit this area.

Noting Mr. de Movellan's question about connectivity, Mr. Ganahl mentioned that after discussions with the neighborhood to the south of the property, that fence on that portion of the property was best for the neighborhood and would provide security and shield from headlights. Mr. Ganahl noted that due to the complexities of the site, there has been considerable cost due to the engineering costs of adjusting the sewer line. Additionally, he noted the importance of the connectivity to Owens Street.

Mr. Shapiro and Mr. Ganahl highlighted their neighborhood engagement, showcased renderings of the project, and finally asked for the Planning Commission to approve the development.

Public Comment – Bruce Simpson, attorney for Midland Townhomes Neighborhood Association, stated that the neighborhood association was against the zone change and development. Mr. Simpson indicated that the neighborhood association had concerns with the safety of pedestrian connectivity and the property's connection to the sanitary sewers. Additionally, Mr. Simpson noted their concerns about the amount of tractor-trailers on Owen Avenue, and how it would affect the pedestrians.

Tyler Wilson, 628 Winchester Road, stated he was excited for the development, but had concerns about vehicular safety at the connection with Owen Avenue due to potential conflicts with tractor-trailers.

Kristan Curry, 3608 Hartland Parkway, opposed stated she was this zone change due to safety concerns from tractor-trailers, as well as the amount of traffic this site will bring, and the sidewalk connection at rear of the site.

Jonas Bastien, attorney for the Midland Homeowners Association, is not against the development, but has concerns with the traffic, the lack of commercial space, and asked that the buffer fence to the south have brick columns.

Chad Walker, 250 Walton Ave, stated that he supported the development, and hopes that it will calm speeds on Midland Avenue, provide pedestrian friendly services to the community, and it will make a massively underutilized area look very nice.

Applicant Rebuttal – Chris Clendenen, attorney for the applicant, stated it was his understanding that if Mr. Simpson wanted more time, he had to request it on Tuesday and objected that he was given that time. Mr. Clendenen also entered into the record an email from the Division of Water Quality that the applicant's condition about sanitary sewer access was sufficient for the department at this stage of the proposed development.

In regard to pedestrian safety, Mr. Clendenen stated that Owens Avenue is a public street and it seems like the businesses are using it as their personal parking lot, and that there will be a five-foot pedestrian walkway at the site. Additionally, Mr. Clendenen stated that they would not be generating any tractor-trailers, they are already there. Mr. Clendenen emphasized that the implication that the applicant does not care about pedestrian safety is disingenuous.

Mr. Shapiro came back up and stated that there was an issue on Owens Street, but it is an issue of enforcement, not one that the applicant is creating. Additionally, Mr. Shapiro indicated they had pledged to the Wyland family on Owens Street to help with this problem.

Public Rebuttal – According to Mr. Simpson, the Director of Water Quality stated that under no circumstances would the sanitary sewer line be approved for a sleeve. He opined that it would be a mistake for the Planning Commission to approve this zone change.

Staff Rebuttal – Mr. Baillie began his rebuttal by pointing to note # 16 on the plan that states that the sanitary sewer has to be relocated or protected and the applicant has multiple options until the final development plan. Mr. Baillie referred to the zone map which showcased that there is current mixed-use in the area. Mr. Baillie confirmed that Owens Street is a public street and the applicant would need to provide a pedestrian connection on their development to all public streets.

Mr. Baillie indicated that the applicant was making positive changes for pedestrian safety on Winchester Road and where they are required to make them. Additionally, Mr. Baillie indicated that this development does not reach the level of a required traffic impact study, and could only be requested by the subdivision committee.

Mr. Baillie concluded stating that Staff vehemently disagrees with Mr. Simpson's portrayal of the pedestrian safety and a sanitary sewer line and could answer any questions from the Planning Commission.

Commission Questions – Ms. Meyer asked to hear from Mr. Greg Lubeck, Deputy Director of the Division of Water Quality, about Mr. Simpson's portrayal and the communications with the applicant. Mr. Lubeck indicated that there were a few options by modifying the building around the southern portion or go between the buildings where the other lines are. Additionally, Mr. Lubeck indicated this was done at the expense of the developer.

Ms. Worth asked if this was illegal to approve because of the sanitary sewer issue and if they had what they needed legally to approve this development. Ms. Brittany Smith indicated that the Planning Commission had what they needed.

Mr. Michler asked the applicant for a comment about the lack of retail space. Mr. Ganahl indicated that it's always a balancing act for parking with the residential units. Mr. Ganahl indicated that there was not a lot of street parking so they focused the first floor of their property for parking so that everyone with a residential unit can park there so the retail component took a backseat. Additionally, Mr. Ganahl indicated that the retail side was intentionally kept small to make it feel more like a neighborhood business.

Mr. Pohl asked if there was interior parking for bicycles and if the applicant was intending to get LEED Certification programs and Mr. Ganahl indicated there was interior parking in Building B and that they had not looked into it as of yet.

Action – A motion was made by Mr. Nicol, seconded by Mr. de Movellan and carried 9-0 (Barksdale and Penn absent) to approve PLN-MAR-23-00004: UCD MIDLAND, LLC for reasons provided by Staff.

Action – A motion was made by Mr. Nicol, seconded by Ms. Worth and carried 9-0 (Barksdale and Penn absent) to approve PLN-MJDP-23-00015: ARTHUR E. ABSHIRE PROPERTY (LEXINGTON CUT STONE & MARBLE TILE CO.) with the 18 Staff conditions and changing #16 from "discuss" to "resolve."