

December 28, 2022

Urban County Planning Commission
Division of Planning – Planning Services Section
101 E Vine Street, Floor 7
Lexington, KY 40507

Re: Revised Justification Letter – Caller Properties, LLC
2400 Versailles Road / PIDN 22206700
From: Neighborhood Business (B-1) Zone (with conditional zoning)
To: Neighborhood Business (B-1) Zone with the right to have Drive-thru Facilities
AND
Variance Request: Increase the maximum front yard from 20’ to 40’ in a Neighborhood
Business (B-1) Zone

Dear Members of the Planning Commission:

We submit this revised justification letter for Caller Properties, LLC’s (“Applicant”) application for a zone map amendment request for 2400 Versailles Road, along with a variance from Zoning Ordinance Section 8-16(h)b. to increase the maximum front yard from 20’ to 40’ in a Neighborhood Business (B-1) Zone. In the alternative to Applicant’s original application for a zone map amendment request, this request is for a more limited application for a modification to the existing B-1 Zone (with conditional zoning) to permit drive-thru facilities. Applicant is not requesting relief from any of the other conditional zoning restrictions related to subject property. Applicant’s request is based on new evidence, primarily in the form of a traffic impact study, that was not considered by the Planning Commission at the time the conditional zoning restrictions were placed on the subject property and new circumstances of an economic and social nature that were not anticipated in 2016.

The 2016 zone change permitted the construction of a 6,000 SF retail strip center to serve 2 to 4 small businesses (such as professional and medical offices, retail, restaurants, hair stylists, etc.). The then-applicant does not appear to have either proposed drive-thru facilities or studied the traffic impact that such facilities may have had on the area. The record for the application contains no information that would demonstrate that the prohibition on drive-thru facilities was based on the benefit of data-driven analysis for the site or proposed uses.

Applicant continues to propose to develop a quick service coffee business (Scooter’s Coffee). The property is vacant and underutilized and this project would allow the property to be developed to serve the needs of the community within the Urban Service Boundary (Theme A, Goal 2a.; Theme E, Goal 4b. and Pillar II Stewardship). As further analyzed below and in the

Placebuilder section, this portion of the Versailles Road corridor consists exclusively of low to medium density uses, and this development and buffering is sensitive to that context (Theme A, Goal 2b.).

The project will continue to provide enhanced buffering between this use and the adjoining residential properties (Theme A, Goal 2b.). The nearest residence to the immediate west of the subject property is several hundred feet from this project, and there is a substantial area of creek and floodplain related to the Gardenside Tributary of Wolf Run Creek that further serves to separate the residential nature of The Colony neighborhood from the subject property. The southern boundary of the subject property is directly adjacent to the back yard of a single-family residence at 1527 Parkers Mill Road. The project will have a significant 35-foot wide, heavily landscaped, buffer adjacent to this southern boundary (this is 10' more buffering than required by the conditional zoning). The typical Scooter's Coffee closes by 8 p.m., and any lighting in parking areas will be arranged so as to reflect away from the adjoining residential properties. No free-standing lighting will be taller than twelve (12) feet in height. The menu board's speaker will have a system that reduces outbound volume on the system when the ambient noise levels naturally decrease early in the morning and night. To further buffer the southern property, Applicant is proposing new trees along its development. Even with the drive-thru facilities, the residential land uses will continue to be protected from the commercial use.

While not required for this project under the Zoning Ordinance, Applicant has had a Traffic Impact Study ("TIS") completed for its development. The TIS demonstrates that the immediate intersections along the corridor will continue to operate within acceptable levels of service after completion of this project. Further, the TIS determined that no traffic improvements were warranted for this development.

Applicant's proposed development is designed to increase functionality and safety of the drive-thru facilities and to mitigate the potential adverse impact on pedestrians and traffic along the corridor (Theme D, Goal 1.b). Applicant is proposing to adopt the cross-section proposed in the Versailles Road Corridor Study (February 2015), which will include a bicycle lane with traffic separator, landscape and utility strip to separate pedestrians from the road, and a 6' wide sidewalk. Applicant's access is designed to allow right in, right out and left in traffic movements. It will not allow left turns to exit the property onto Versailles Road. Applicant has proposed two drive through lanes, which will allow 20 cars (including car at window, two cars at order station, and 17 cars in stacking) to be to stacked and stored on its site (significantly reducing the risk of vehicles blocking Versailles Road). While Applicant's proposed user will have one-half the sales of a Starbucks, the subject property will have double the stacking and storage of the immediate Starbucks. Applicant's revised right-of-way improvements will also enhance the multi-modal functionality on Versailles Road. Applicant's design will enhance the streetscape and multi-modal facilities and mitigate the potential negative impacts on the roadway.

Versailles Road Corridor Study was a study of existing conditions and recommendations to enhance pedestrian and bicycle facilities, increase safety and provide for beautification along the corridor. The study area consisted of the corridor from Parkers Mill Road to Oliver Lewis Way. The subject property was not included within the study area, but the project will adopt many of its

recommendations. Applicant is proposing to adopt the cross-section proposed in the study, which will include a bicycle lane with traffic separator, landscape and utility strip to separate pedestrians from the road, and a 6' wide sidewalk (Theme D, Goal 1.b). The project will enhance the streetscape with new street trees and proposed public art (Theme D, Goal 4). The project will include facilities for bicyclists and pedestrians to be served near the proposed patio. This project will further the goals of the study and the Comprehensive Plan by providing for an inviting and walkable corridor.

The world has dramatically changed since the original zone change in 2016. Historically, drive-thrus capitalized on convenience and quick ordering, but the COVID-19 pandemic caused a significant, and unforeseen change, of social norms and business landscapes. COVID-19 shifted consumer habits and preferences with their interactions with restaurants. As it relates to COVID-19, a drive-thru allows limited physical contact between employees and customers. Furthermore, Centers for Disease Control and Prevention identified restaurants with drive-thrus as essential retailers during the lock-down. The average American relies on drive-thrus to assist with its fast-paced and busy life, spending over \$1,200 on drive-thru food annually. Drive-thrus now provide the public with convenience, quick ordering and essential retail with limited physical contact.

For the foregoing reasons, removing the prohibition on drive-thru facilities will not reduce compliance with the Comprehensive Plan or reduce the protections to the adjacent residential land uses.

DEVELOPMENT CRITERIA / PLACEBUILDER

We continue to provide that the subject property be classified as Medium Density Non-Residential / Mixed Use Density for the sole purpose of demonstrating compliance with Placebuilder. Keeping the B-1 Zone, would allow Applicant the possibility of increasing the density of the site, in the future, with the possible addition of residential units above the proposed retail. At this time, Applicant is not proposing such residential units. Applicant is relying upon its original analysis of the Placebuilder given the majority of the redesign is related to the improvements along the Versailles Road corridor, and the below is supplemental information based upon discussions at the Zoning Sub-Committee.

Standards That Are Applicable

SITE DESIGN, BUILDING FORM, & LOCATION

A-DS4-2 The proposed development clearly represents the context of the surrounding area and provides adequate transition from the residential area, and the buffering and isolation of the property will allow for a transition and step-down between the commercial and residential areas. The surrounding commercial and residential areas are predominantly low density, and the proposed development provides adequate transition and buffering from the residential areas. The majority of the commercial uses between Gardenside Tributary of Wolf Run Creek and Alexandria Drive are to serve the traveling public and have floor area ratios of 0.10 or less. The residence to the immediate west sits on a 9.75 acres lot, and the residence to the immediate south sits on a large

lot and has a floor area ratio of 0.05. Further, the western property is separated from the proposed development by 250' of floodplain (and related vegetation and setbacks), and there is almost 1/10 of a mile separating the parking area from that residence. The southern residence will have 35' floodplain and vegetative buffer. There is no direct access between the subject property and residential area. The subject property has natural limitations to its medium scale development (other than as a strip retail center or office). It has the smallest true developable area of the commercial properties in the area due to the floodplain and various setbacks. Applicant is limited to constructing the proposed structure within an area that is approximately 1/3 acres. All of the immediate structures in the vicinity are less than 2 stories. This is the only vacant commercial land in the vicinity, and its adoption of some of the recommendations of the Versailles Road Corridor Study, will promote the desired context of this corridor.

A-DS5-3 Applicant is proposing to adopt the cross-section proposed in the Versailles Road Corridor Study, which will include a bicycle lane with traffic separator, landscape and utility strip to separate pedestrians from the road, and a 6' wide sidewalk. The project will include a walk-up window to allow bicyclist and pedestrians to be served at the site from the parking area and Versailles Road. There is no direct access between the subject property and residential or commercial properties. Applicant is proposing a note to provide for a potential future access to the commercial property to the immediate east of this site. Given the narrow width of the 1/3 of an acre on which the proposed building must sit, the building is oriented toward the side.

A-DS5-4 The project will include a pedestrian crossing to a walk-up window to allow bicyclist and pedestrians to be served at the site from the parking area and Versailles Road. There is also proposed bicycle parking along the corridor.

A-DN3-2 Applicant is not proposing any residential units, but remaining a B-1 Zone would allow the construction of residential units above the retail space in the future. However, all of the immediate structures in the vicinity are less than 2 stories, and a multi-story building may be out of context for the vicinity.

A-EQ3-1 The proposed development clearly represents the context of the surrounding area and provides adequate transition from the residential area, and the buffering and isolation of the property will allow for a transition and step-down between the commercial and residential areas. The surrounding commercial and residential areas are predominantly low density, and the proposed development provides adequate transition and buffering from the residential areas. The majority of the commercial uses between Gardenside Tributary of Wolf Run Creek and Alexandria Drive are to serve the traveling public and have floor area ratios of 0.10 or less. The residence to the immediate west sits on a 9.75 acres lot, and the residence to the immediate south site on a large lot and has a floor area ratio of 0.05. Further, the western property is separated from the proposed development by 250' of floodplain (and related vegetation and setbacks), and there is almost 1/10 of a mile separating the parking area from that residence. The southern residence has 35' floodplain and vegetative buffer. There is no direct access between the subject property and residential area. The subject property has natural limitations to its medium scale development (other than as a strip retail center or office). It has the smallest true developable area of the commercial properties in the area due to the floodplain and various setbacks. Applicant is limited to constructing the proposed

structure within an area that is approximately 1/3 acres. All of the immediate structures in the vicinity are less than 2 stories. This is the only vacant commercial land in the vicinity, and its adoption of some of the recommendations of the Versailles Road Corridor Study, will promote the desired context of this corridor.

C-LI6-1 It is anticipated that the project will enhance pedestrian access and streetscape along Versailles Road corridor. The project will include a pedestrian crossing to a walk-up window to allow bicyclist and pedestrians to be served at the site from the parking area and Versailles Road. Applicant is proposing to adopt the cross-section proposed in the Versailles Road Corridor Study, which will include a bicycle lane with traffic separator, landscape and utility strip to separate pedestrians from the road, and a 6' wide sidewalk. Applicant is not proposing any residential units, but remaining a B-1 Zone would allow the construction of residential units above the retail space in the future. However, all of the immediate structures in the vicinity are less than 2 stories, and a multi-story building may be out of context for the vicinity.

D-PL7-1 We have spoken with leadership of the Holiday Hills & Valley Heights Neighborhood Association, The Colony Neighborhood Association and Friends of Wolf Run, Inc. None of those leaders had objections to the proposed plan, and we offered to meet with those groups should their membership desire. At this time, all of the owners within the 500' radius should have received the written notices of this zone map amendment request.

E-GR10-2 Applicant is proposing to adopt the cross-section proposed in the Versailles Road Corridor Study, which will include a bicycle lane with traffic separator, landscape and utility strip to separate pedestrians from the road, and a 6' wide sidewalk. The project will include a walk-up window to allow bicyclist and pedestrians to be served at the site from the parking area and Versailles Road. There is no direct access between the subject property and residential or commercial properties; provided, Applicant is proposing a note to provide for a potential future access to the commercial property to the immediate east of this site. Given the narrow width of the 1/3 of an acre on which the proposed building must sit, the building is oriented toward the side.

TRANSPORTATION & PEDESTRIAN CONNECTIVITY

A-EQ3-2 The subject property is a compromised site, with limited 1/3 acres on which to construct a building. Applicant is proposing improvements to offset some of the inherent limitations in relation to its quick service restaurant with drive-thru facilities. Applicant is using the cross-section proposed in the Versailles Road Corridor Study, which will include a bicycle lane with traffic separator, landscape and utility strip to separate pedestrians from the road, and a 6' wide sidewalk. The project will include a walk-up window to allow bicyclist and pedestrians to be served at the site from the parking area and Versailles Road. There is no direct access between the subject property and residential or commercial properties; provided, Applicant is proposing a note to provide for a potential future access to the commercial property to the immediate east of this site. While on a bus transit route, currently, there is not the ridership to justify a bus transit stop at the subject property. There is a bus transit stop at Alexandria Drive.

D-CO2-1 Applicant is proposing improvements to offset some of the safety concerns in relation to its quick service restaurant with drive-thru facilities. Applicant is using the cross-section proposed in the Versailles Road Corridor Study, which will include a bicycle lane with traffic separator, landscape and utility strip to separate pedestrians from the road, and a 6' wide sidewalk. Applicant's access is designed to allow right in, right out and left in traffic movements. It will not allow left turns to exit the property onto Versailles Road. The project will include a walk-up window to allow bicyclist and pedestrians to be served. Internal pedestrian access will be oriented closer to Versailles Road and clearly marked. ADA compliant ramps will be provided in relation to transitions between pedestrian access points.

D-CO2-2 The development will expand and improve multi-modal facilities along Versailles Road. Applicant is using the cross-section proposed in the Versailles Road Corridor Study, which will include a bicycle lane with traffic separator, landscape and utility strip to separate pedestrians from the road, and a 6' wide sidewalk. The new street trees will enhance streetscape with future shade. The project will include a walk-up window to allow bicyclist and pedestrians to be served at the site from the parking area and Versailles Road. Internal pedestrian access will be oriented closer to Versailles Road and clearly marked. ADA compliant ramps will be provided in relation to transitions between pedestrian access points.

GREENSPACE & ENVIRONMENTAL HEALTH

B-PR2-3 The floodplain area was not proposed to be an activated space or incorporated into the design of the 2016 development due to the limitations at this site. The placement of the building to allow proper setback from the floodplain created a large separation between the spaces. The floodplain was surrounded by privately owned residential property, and permitting activities in the floodplain would have counteracted the purpose of the enhanced buffering to separate the subject users with the adjacent residential uses. Based upon conversations with Friend of Wolf Run, Inc., that organization desires to continue to limit activity in the floodplain area. There has been no change to these circumstances, and the floodplain area continues to be benefitted as a separated space that is naturally designed as a preservation/habitat area for wildlife.

B-PR7-3 Applicant does not own or control the subject property at this time. Applicant only has a purchase agreement on the subject property. The trees referenced in planning staff report were proposed for removal in both of the prior development plans, due to the limited area in which a building may be placed on the subject property. The Applicant will provide additional street trees along Versailles Road. Applicant is proposing new trees, which includes the replacement of some trees that were previously removed. The development will exceed the 20% tree canopy requirement under the Zoning Ordinance.

VARIANCE REQUEST

Pursuant to Zoning Ordinance Sections 6-4(c) and 7-6(b), Applicant is requesting a variance from Zoning Ordinance Section 8-16(h)b. to increase the maximum front yard from 20' to 40' in a Neighborhood Business (B-1) Zone to develop a quick service coffee business

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(Scooter's Coffee). Applicant is proposing to locate its drive-thru / bypass lanes and patio within the proposed 40' set back. The subject property is approximately 1.15 acres (net 0.92 acres); provided, however, structures are limited to an area that is approximately 1/3 of an acre. Due to the floodplain and various other setbacks, Applicant is limited to an area of approximately 1/3 acres in which it can place its building. Both the residential properties to the west and commercial properties to the east of the subject property have front yards that exceed 40' maximum, and very few properties in this area have a 20' front yard. Many of those subdivisions occurred prior to the existing Zoning Ordinance, and consequently, numerous properties in the vicinity are legally non-conforming with respect to front building setbacks. The granting of this variance will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the applicant has applied for the necessary variance as soon as it was determined that it was needed, and prior to beginning construction. Granting the variance should not adversely affect the public health, safety, or welfare of the general vicinity, nor alter the character of the general vicinity.

Sincerely,



P. Branden Gross

cc: Caller Properties, LLC