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Lexington-Fayette Urban County Planning Commission
Lexington-Fayette Urban County Government
101 East Vine Street
Lexington, KY 40507

Justification Letter for the Conditional Zoning Restriction Modification Request for War Admiral Place.

Dear Members of the Planning Commission:

On behalf of War Admiral Place, LLC, ("Applicant") we have filed a zoning modification request to remove one of the Conditional Zoning Restrictions in the Planned Shopping Center (B-6P) zone implemented by MAR 2004-45, for the properties located at 2317, 2300, 2320, and 2350 Grey Lag Way, 2320 and 2344 Elkhorn Road, 2200, 2201, 2212, 2217, 2235, 2251, and 2277 War Admiral Way, (the "Properties"). The Properties consists of approximately 56.27 net (71.45 gross) acre.

While it is presently zoned Planned Shopping Center (B-6P), there is a Conditional Zoning Restriction on the site that states "The subject property shall be limited to a maximum of 532,000 square feet of gross building area." The Applicant requests the removal of this Conditional Zoning Restriction as it is inappropriate to continue restricting the Property in light of the major economic, physical, and societal changes to commercial centers and in our community's desire to allow more density on our major corridors and to better utilize our developable acreage as further discussed below. Due to this restriction, War Admiral Place is unable to develop an existing vacant out parcel (2317 Grey Lag Way) or redevelopment large parking areas as the Properties have reached the gross building area limit. To demonstrate what could be possible without any type of adverse impact on the surrounding area, Applicant is proposing a 3-story retail/office building at approximately 19,500 SF that is able to meet the minimum Floor Area Ratio despite a floodplain 50' buffer, building lines, and existing easements on 0.85-acre lot. The Applicant is not requesting the removal of the other Conditional Zoning Restriction governing the vehicle fueling facility and canopy with this request.

To provide some context of how restrictive this CZR is on the Properties, the existing rules of the B-6P at the time of the zone change had a maximum lot coverage of 35% allowing for approximately 853,000 SF of gross building area across the Properties. The 532,000 SF cap represented just 62% of the allowable area under the governing rules at that time. This disparity only increases when comparing the developable floor area under today's rules. The new B-6P regulations provide a maximum lot coverage of 30% and a *minimum* Floor Area Ratio of 0.5. The existing CZR now prevents the Properties from building approximately 203,000 SF of additional gross building area – but, more importantly it ensures that there cannot be any type

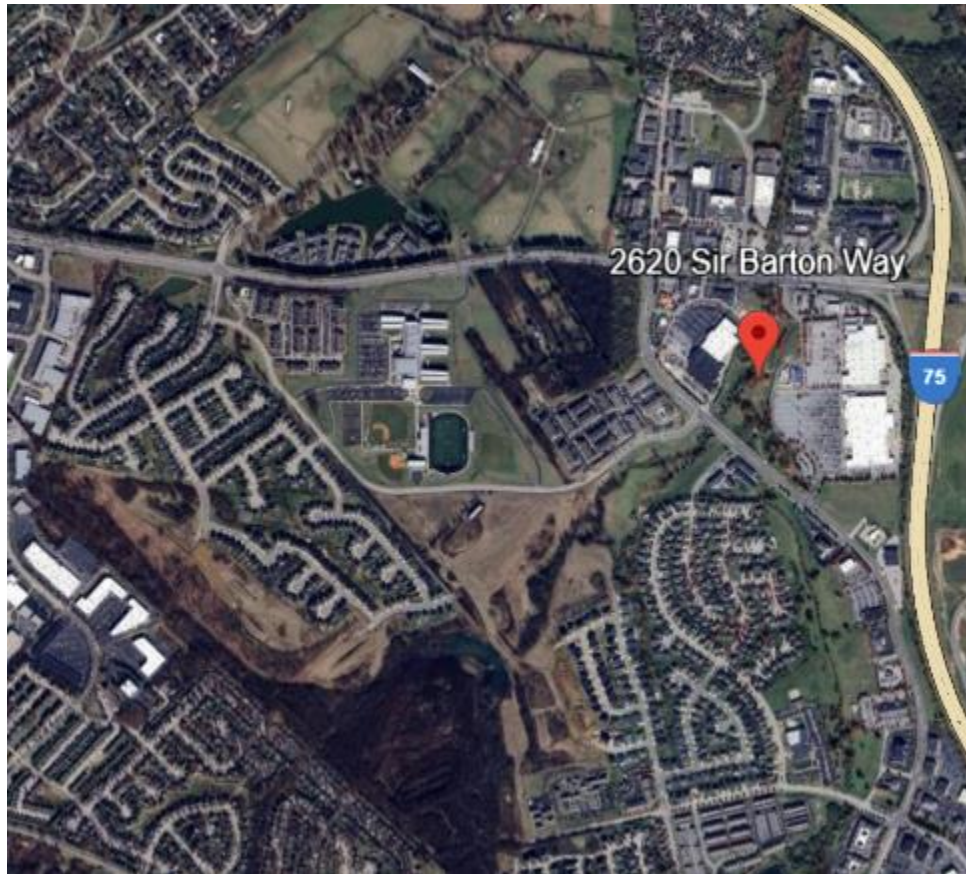
of vertical element added to War Admiral Place without demolishing existing commercial buildings that are 100% occupied today.

The new Intent of the B-6P zone challenges Lexington to incorporate new residential opportunities in B-6P properties and emphasizes the need to protect and enhance the investments of existing B-6P developments by providing redevelopment opportunities that unlock additional potential to better utilize existing zoned land. Simply put, the existing CZR directly contradicts the economic and social shift that Lexington and the B-6P zones have undergone since the time this CZR was implemented. As such, it is appropriate to remove this condition limiting the Property's maximum square footage to bring the Property in line with the updated regulations for the B-6P zone and allow for additional infill of the existing commercial area.

The Applicant is the original developer of the Property and well versed with today's market trends in the residential, retail, and commercial space. It is inarguable that the Properties' commercial zoning, and allowable uses, have undergone significant social and economic changes in the past 20 years. Not surprisingly, the surrounding area has also undergone physical changes in that time period. The below aerial was taken 4 months prior to the approval of zone change that implemented the CZR in question:



Here is the most recent aerial available of the same area in question. Without question, that surrounding area has undergone substantial physical changes from the implementation of the initial square footage restriction.



This was the first B-6P site to be established in Lexington. As such it is understandable that there was a guardrail put in place to see how Lexington would develop what was proposed to be the densest commercial property outside of the Downtown Core. As an aside, this is no longer close to being true today. While that guardrail might have been necessary while Lexington observed how the surrounding area would develop, it is clear now that this restriction is no longer necessary. While general growth in this area might have been likely, the reality is that the cause of concern that resulted in this square footage restriction has been addressed with substantial infrastructure improvements throughout this area and the need for neighborhood supportive uses only grows with each new project that comes online in this sector of Lexington.

Indeed since 2005, Lexington's mindset on density and utilizing commercial acreage – especially in the B-6P zone – has shifted dramatically. Our community has supported implementing parking maximums while encouraging multi-family residential uses in the B-6P. We've also lowered the Lot Coverage maximum, while establishing a minimum on floor area to implement the change in the social desires of our community while addressing the concerns that led to the CZR at issue. With two decades of hindsight since the decision to restrict the Properties, it is clear that War Admiral Place is an asset to Lexington and should be allowed to partake in our community's goals for appropriate increased growth on our major corridors. It is just as clear, that loosening the restriction to allow the Properties to develop a conforming structure with today's rules on an existing out-parcel is in keeping with the social and economic realities of today and the physical reality of the surrounding area.

While we are not justifying the zone change request on compliance with the Comprehensive Plan, the Applicant firmly believes that this proposal is in keeping with the Goals and Objectives of the Comprehensive Plan. As a policy document for the entire community, the Plan doesn't really lay out goals and objectives relating to this specific of a change for an existing commercial property. However, many of the ideals discussing smarter utilization of existing properties and encouraging more density on our corridors are at the heart of this application. As noted in the Plan: *"The overriding emphasis of Imagine Lexington is significantly overhauling the intensity of the major corridors. The future of Lexington's corridors lies in accommodating the shifting retail economic model by incorporating high density residential and offering substantial flexibility to available land uses."* The Applicant is requesting an opportunity to bring development plans that fulfill this exact emphasis.

We will be at the August public hearing in order to make a complete presentation of this application and request your favorable consideration.

Best Regards;

Stoll Keenon Ogden PLLC

A handwritten signature in blue ink, appearing to read 'N. Nicholson', is written over the printed name.

Nick Nicholson