

January 30, 2023

Mr. Larry Forester
Chairperson, Lexington Fayette Urban County Planning Commission
c/o Hal Baillie, Planning Staff
101 East Vine Street, 7th Floor
Lexington, Kentucky 40507

Re: *Zone Map Amendment Justification for the rezoning of 1008 South Broadway*

Dear Chairperson Forester,

We represent Dutch Bros, LLC, which is requesting a zone change from P-1 (Professional Office) zone to the B-1 (Neighborhood Business) zone for .57 acres of land located at 1008 South Broadway. Until recently, this property was the location of an older home which had been converted to office use. For the past several years, the building was vacant until it was recently demolished. There are no existing structures on the subject property and, thus, no existing utilization of the property.

The subject property is located at the corner of Virginia Avenue and South Broadway. The subject property is bordered to the northeast (across Virginia Avenue) by property zoned B-1 and B-4 (Wholesale and Warehouse Business). The property to the northwest of the subject property (across South Broadway) is zoned B-1 with a sliver of property zoned B-4. The property to the southwest, south and southeast is zoned B-1 (after a recent zone change). The subject property currently has one point of ingress and egress located on Virginia Avenue, which will be relocated approximately 16 feet farther *away from* the South Broadway intersection. Additionally, it should be noted that this section of Virginia Avenue is on the LFUCG trail map as a proposed trail connection. This development will add a pedestrian-oriented use to a road slated as part of the trail system. Moreover, the preliminary development plan accompanying this application proposes a rain garden and public art easement at the south end of the building, which will add interest to the trail and create a “stopping point” for pedestrians to enjoy the garden and hopefully have some coffee.

The proposed zone map amendment request is in compliance with the following Themes, Goals and Objectives of the 2018 Comprehensive Plan:

THEME A
GROWING SUCCESSFULL NEIGHBORHOODS

Goal 2. Support infill and redevelopment throughout the Urban Services Area as a strategic component of growth.

Goal 3. Provide well-designed neighborhoods and communities.

As to this Theme and its Goals and Objectives, the Comprehensive Plan states, “Successful neighborhoods are the building blocks of a desirable community. Lexington’s neighborhoods, and more importantly the neighbors themselves, make up the foundation of the city. Creating diversity within these neighborhoods is key to their long-term sustainability and success. Diversity within housing types, housing affordability, land uses, transportation options, and recreational opportunities is crucial, as is creating welcoming spaces for people of all races, ethnicities, and age groups.” The subject property is located next to a new high-density residential development which will include approximately 256 market-rate one- and two-bedroom units. Thus, consistent with Theme A, the requested zone change of the subject property to B-1 for use as a coffee shop would promote “[d]iversity within ... land uses”, and will create a welcoming space by providing citizens within the surrounding community with a viable neighborhood business use with significant pedestrian connectivity and functionality, as shown by the walk-up window/patio depicted in the accompanying preliminary development plan. At the same time, it would also promote a use of the subject property that would maintain consistency with the character of the other surrounding properties and those in the close vicinity, which have been put to retail and commercial uses for many years.

Additionally, the preliminary development plan accompanying this application shows that the subject property’s single entrance point will remain on Virginia Avenue but will be moved approximately 16 feet farther *away from* the South Broadway intersection. This will ease congestion at that intersection while ensuring no disruption to the historical traffic flow to and from the subject property and no disruption to pedestrian foot-traffic over existing sidewalks along South Broadway and Virginia Avenue. Likewise, the subject property is located along one of Lexington’s major corridors which has mass transit. The preliminary development plan provides safe pedestrian and bicycle access to the proposed coffee shop. This would render the rezoning and proposed use of the subject property compliant with and complimentary of Design Policy #1, which is to Utilize a People-First Design, and would place pedestrians, bicycle riders and mass transit on the same level as automobiles.

THEME B
PROTECTING THE ENVIRONMENT

Goal 2: Reduce Lexington-Fayette County’s Carbon Footprint.

Goal 3: Apply environmentally sustainable practices to protect, conserve & restore landscapes & natural resources.

Objective d. of Goal 2 of Theme B states: “Prioritize multimodal options that de-emphasize single-occupancy vehicle dependence.” Objective d. of Goal 3 of Theme B states: “Coordinate interrelated planning, programs and activities that impact the protection, conservation and restoration of landscapes and natural resources.” As explained, this development is specifically designed to accommodate and promote customers accessing the property by non-vehicular modes, specifically through walk-up and bicycle access to the coffee shop. Additionally, the subject property is located in a section of Virginia Avenue that is on the LFUCG trail map as a proposed trail connection. This development will add a pedestrian-oriented use to a road slated as part of the trail system. Moreover, the preliminary development plan accompanying this application proposes a rain garden and public art easement at the south end of the building which will add interest to the trail and create a “stopping point” for pedestrians to enjoy the garden and hopefully have some coffee. The foregoing considerations brings the applicant’s proposed use in line with the Goals and Objectives of Theme B and much more so than other commercial uses in the area, including other nearby coffee shops.

THEME C
CREATING JOBS AND PROSPERITY

Goal 1. Support and showcase local assets to further the creation of a variety of jobs.

Goal 2. Attract the World’s finest jobs, encourage an entrepreneurial spirit, & enhance our ability to recruit & retain a talented, creative workforce by establishing opportunities that embrace diversity with inclusion in our community.

The proposed zone change to revitalize the subject property with a neighborhood business use will create new jobs for students who live near the site as well as others seeking employment near the University of Kentucky campus or along a major corridor. The subject property is currently being under-utilized and has no employees. The requested zone change and accompanying preliminary development plan will promote Objective d. of Goal 2 of this Theme by providing entertainment and other quality of life opportunities that attract young, and culturally diverse professionals, and a work force of all ages and talent to Lexington.

THEME D
IMPROVING A DESIRABLE COMMUNITY

Goal 1. Work to achieve an effective and comprehensive transportation system.

Goal 2. Support a model of development that focuses on people-first to provide accessible community facilities and services to meet the health, safety and quality of life needs of Lexington-Fayette County’s residents and visitors.

The proposed coffee shop will accommodate both motor vehicles and pedestrians. As mentioned, maintaining the existing ingress and egress on Virginia Avenue will preserve current traffic flow and safety. Pedestrian connections near and on the subject property will be preserved and enhanced via the proposed preliminary development plan.

Further, Objective d. of Goal 1 of Theme D states: “Develop a viable network of accessible transportation alternatives for residents and commuters, which may include the use of mass transit, bicycles, walkways, ride-sharing, greenways and other strategies.” As discussed above, this development is specifically designed to accommodate pedestrian access, *i.e.*, customers arriving by foot and bicycle, which will be integrated into nearby sidewalks and pedestrian connections. Additionally, as discussed, this development will promote and enhance the development of “a viable network of accessible transportation alternatives for residents” including “the use of ... bicycles, walk-ways, [and] greenways” by adding a development designed toward a pedestrian-oriented and focused use to a road slated as part of the trail system. And, as mentioned, the proposed rain garden and public art easement on the property will add interest to the trail and create a “stopping point” for pedestrians to enjoy the garden and hopefully have some coffee.

THEME F
IMPLEMENTING THE PLAN FOR LEXINGTON-FAYETTE COUNTY
AND THE BLUEGRASS

Goal 1. Engage and educate the residents of Lexington-Fayette County in the planning process.

Goal 2. Implement the 2018 Comprehensive Plan.

At least one neighborhood meeting will be held before the Technical Review Committee meeting. Additionally, information about the proposed coffee shop will be sent to all property owners and renters within 500 feet of the subject property. Although not required, written notice is also being mailed to homes believed to be occupied by renters as it is believed there are numerous students and University of Kentucky employees who live within the notification area but who do not own property within this area. We want to make sure they are also aware and knowledgeable of the proposed land use change. The culmination of this application will be to further the implementation of the Comprehensive Plan by having a zone map amendment that is in compliance with the plan and its PlaceBuilder elements.

COMPLIANCE WITH PLACEBUILDER CRITERIA:
CORRIDOR/MEDIUM DENSITY NON RESIDENTIAL MIXED USE

This proposal fits within the Corridor category, as a place-type under the PlaceBuilder portion of the 2018 Comprehensive Plan. The subject property is located within a highly commercialized area along South Broadway, which serves two hospitals, one major healthcare provider, Red Mile, the largest university in the Commonwealth, downtown and thousands of nearby residential units (including the new 256-unit apartment complex being constructed next door). The application is therefore consistent with the development criteria set out in PlaceBuilder’s Corridor/Medium Density Non Residential Mixed Use. Although, the Comprehensive Plan calls for increasing density for properties along these corridors, the lot size of the subject property, at .57 of an acre, severely limits the ability for extreme intensification of the historical office-use property while also being compatible with the existing neighborhood, particularly in light of the new 256-unit apartment complex being developed next door. That said, this zone change will increase intensity of the existing use which is currently nonexistent.

Also, the proposed preliminary development plan will, again, maintain the ingress and egress point on Virginia Avenue and, thus, enhance the viability and improve the safety of the mass transit which services this busy corridor in general and the subject property in particular. This is one of the goals of the Corridor place type. Likewise, another goal of the Corridor place type is to redevelop underutilized property. The most suitable development type for the subject property is medium density nonresidential mixed use. The proposed coffee shop use will provide a continuation of a nonresidential use which has complimented the existing neighborhood for years. Similarly the proposed B-1 rezoning is one of the recommended zoning classifications for a Corridor/Non-residential rezoning.

The Development Criteria for Medium Density Non-Residential Mixed Use are addressed in this application as follows:

A-DS3-1 There will not be any residential uses on the subject property but the subject property is directly adjacent to a high-intensity residential use development. This proposed zoning will reactivate a property along a major corridor with a commercial use which will compliment the neighborhood.

A-DS4-2 The proposed coffee shop building will be designed so that it is context sensitive to the surrounding neighborhood.

A-DS5-3 The proposed building will be oriented towards South Broadway with ample pedestrian connections to accommodate the residents who live in the area and the students attending and commuting by foot or bicycle to the University of Kentucky.

A-DS5-4 This development as reflected on the preliminary development plan provides a concerted focus on pedestrian accessibility at the ground level from South Broadway.

A-DS7-1 The focus of the proposed coffee shop is to pedestrians and persons in motor vehicles. The parking spaces which are provided will be appropriately landscaped and screened from the streetscape view and adjacent properties as provided for in the zoning ordinance.

A-DS7-2 See above.

A-DS7-3 There are no parking structures

A-DS8-1 There are no residential units.

A-DS10-1 This does not apply. There are no residential units proposed.

A-DS11-1 This criterion does not apply as no parks or schools or public uses are being proposed.

- A-DN2-1 This criterion does not apply.
- A-DN2-2 The proposed development will be designed in a context sensitive form and proposed elevations will be tendered to the Planning Staff prior to the Technical Review Committee meeting.
- A-DN3-1 There are existing sidewalks from the neighborhood which will be safely connected to the proposed development as set out on the preliminary development plan.
- A-DN3-2 This criterion does not apply as there are no residential units other than those already offered in the existing neighborhood, including a new 256-unit apartment complex next door. The proposed coffee shop will be designed in such a style that is context sensitive.
- A-EQ7-1 This criterion does not apply as no school sites are proposed.
- B-PR9-1 This criterion does not apply. There are no environmentally sensitive areas on the subject property.
- B-SU11-1 Green infrastructure will be considered but at this time no commitment can be made.
- C-DI1-1 Due to the limited size of the property and its historical use, the B-1 zone provides the best employment options. Currently, there is no employment on the site.
- C-DI5-1 This criterion does not apply.
- C-LI2-2 This criterion does not apply.
- C-LI2-3 This criterion does not apply except that the design of the coffee shop will enhance the property and be context sensitive.
- C-LI2-4 This criterion does not apply. The only signs will be those permitted by the zoning ordinance.
- C-LI6-1 This criterion does not apply except that this coffee shop will provide walkable access to a neighborhood asset.
- C-LI7-1 This application will continue to provide a mixed use neighborhood that has been stalled for several years. Safe pedestrian access will be provided as depicted on the preliminary development plan.
- C-PS9-2 This criterion does not apply. There are no offices proposed.

C-PS10-2 This criterion does not apply as there are no opportunities for shared parking and there will be no excessive parking.

C-PS10-3 There will be no over-parking.

D-PL7-1 Stakeholders will be consulted, including renters before the Technical Review Committee

D-PL9-1 There are no historic structures on the property.

D-PL-10-1 The applicant has proposed rain garden and public art easement on an area south of the building shown on the preliminary development plan being submitted herewith.

D-SP3-1 There is adequate right of way, lease areas and easements to address wireless communication needs of the public and the employees.

D-SP3-2 There will be no cellular towers on the property.

D-SP9-1 This criterion does not apply as housing units are not proposed for the subject property. We will be integrating into the existing residential neighborhood.

E-GR4-1 This criterion does not apply because there are no existing structures.

E-GR5-1 There are no historic structures on the property.

E-GR9-1 This criterion does not apply as no residential units are proposed but there will be a live/work option created for the existing neighborhood.

E-GR9-4 This application will significantly intensify the use of the underutilized site, which currently has no utilization.

E-GR10-2 The proposed coffee shop will provide walkable service to the nearby neighborhoods and students attending the University of Kentucky, in addition to service by automobile, and thus will provide walkable service and an amenity-oriented commercial space.

E-GR10-3 This criterion does not apply as there is no shared common space.

A-DS1-1 There are no plans for a shelter at this time. There are multiple other nearby businesses which could join together to fund such a structure and the applicant would be pleased to equitably participate.

- A-DS1-2 Direct pedestrian connection to mass transit will be provided.
- A-DS4-1 The subject property fronts South Broadway, which is planned for multimodal improvements in the future.
- A-DS5-1 The building itself will ensure adequate separation between vehicular movement on the subject property from other modes of transportation, *e.g.*, bicycles and pedestrian foot traffic. As shown in the preliminary development, the front patio is directly connected to the public sidewalk. The patio is spacious enough to accommodate pedestrians and bicycles. All vehicular movements are in the rear of the property.
- A-DS5-2 There will be compliance with the zoning requirements for street scape in this area.
- A-DS10-2 The proposed coffee shop will provide walkable service to the nearby neighborhoods and students attending the University of Kentucky, in addition to service by automobile, and thus will provide multimodal connections to surrounding neighborhoods.
- A-DS13-1 This criterion does not apply. There are no stub streets.
- A-EQ3-2 The proposed use is consistent with its historical use as a small commercial site along the corridor and will be internally walkable. Mass transit is available now.
- A-EQ7-2 Multimodal transit is scheduled to be provided along the corridor in the future.
- B-SU4-1 This criterion does not apply to this .57 of an acre site.
- C-PS10-1 This criterion does not apply to this small site.
- D-CO1-1 This criterion does not apply.
- D-CO2-1 There will safe pedestrian and motor vehicle access per the preliminary development plan.
- D-CO2-2 The development is located along an existing multimodal transportation network, and is designed to accommodate visitors entering and traversing the site accordingly.
- D-CO4-2 This criterion does not apply to this small site.
- D-CO5-1 This criterion does not apply to this small site.

D-SP1-3 This criterion does not apply to this small site. Mass transit is currently available.

E-ST3-1 This criterion does not apply to this small site.

A-DS4-3 The proposed development will try and keep as much as the existing landscape as practical and then enhance it with additional landscape features.

A-EQ7-3 This criterion does not apply to this small site.

B-PR2-1 There are no environmentally sensitive areas on the property or nearby that this development will impact.

B-PR2-2 There are no floodplains on the property.

B-PR2-3 There are no floodplains on the property.

B-PR7-1 The site is adjacent to a proposed trail connection and is within walking distance to Picadome.

B-PR7-2 Trees will be incorporated into the development as provided by the zoning ordinance.

B-PR7-3 The tree canopy will be in compliance with the zoning ordinance.

B-RE1-1 Street trees will be provided per the zoning ordinance.

B-RE2-1 By this application and the accompanying preliminary development plan, the applicant is proposing a rain garden on a development along a trail system.

D-SP2-1 This criterion does not apply to this property.

D-SP2-2 This criterion does not apply to this property.

E-GR3-1 The trail system connects this development to surrounding greenways. The project will add density along an existing trail system at an appropriate scale for the site acreage.

E-GR3-2 The rain garden and public art will provide a focal point for the area.

ALTERNATIVELY, THE EXISTING ZONING OF THE PROPERTY AS P-1 IS INAPPROPRIATE AND THE PROPOSED ZONING AS B-1 IS APPROPRIATE

While we believe the proposed zone change for the subject property is in agreement with the 2018 Comprehensive Plan, we alternatively submit that the requested zone change should be

approved pursuant to KRS 100.213(1)(a) because the existing zoning of the subject property as P-1 (Professional Office) is inappropriate and the proposed zoning of B-1 is appropriate.

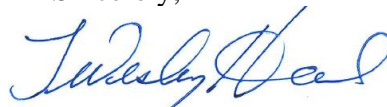
First, the current zoning of the subject property is out of character with respect to the zoning classifications of properties surrounding and in the general vicinity of the subject property. Surrounding properties and those in the general vicinity are, by land area, primarily zoned either B-1 or B6-P (*i.e.*, Recommended Zones for the Corridor Place-Type) or B-4. Second, the current P-1 zoning of the subject property is not a Recommended Zone for the “Corridor” Place-Type, and there is only one other property zoned P-1 within a 1,000-foot radius of the subject property (a older home converted to an office located at 860 S. Broadway). Based on these considerations, a zone classification of P-1 for the subject property (or any other property in the general area of the subject property) should be deemed inappropriate for purposes of KRS 100.213(1)(a).

Second, this application seeks a zone change to B-1, which is a Recommended Zone for the “Corridor” Place-Type under the 2018 Comprehensive Plan. Further, a B-1 zone classification for the subject property would be consistent with the character and zone classifications of the properties surrounding and in the near vicinity of the subject property, as mentioned above. Based on these considerations, a zone classification of B-1 for the subject property should be deemed appropriate for purposes of KRS 100.213(1)(a).

Based on the foregoing, we would alternatively submit that if the Planning Commission does not make a finding that the proposed zone change is in agreement with the Comprehensive Plan, then the Planning Commission should alternatively make a finding that the existing P-1 zone classification of the subject property is inappropriate and that the proposed B-1 zone classification is appropriate.

In light of the justification set forth above, I respectfully request the Planning Commission to recommend approval of this rezoning application. I look forward to presenting the full application to you at the appropriate time.

Sincerely,



J. Wesley Harned