

## 1. 763 NEWTOWN, LLC AND A-1 SANITATION SERVICE & EDSTER PROPERTY DEVELOPMENT PLAN

- a. **PLN-MAR-23-00006: 763 NEWTOWN, LLC** – a petition for a zone map amendment from a Highway Service Business (B-3) zone to a Wholesale and Warehouse Business (B-4) zone, for 0.91 net (1.16 gross) acres, for property located at 763 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.

This petitioner is proposing a restricted Wholesale and Warehouse Business (B-4) zone in order to construct an additional structure within an existing warehousing project. As proposed, this portion of the development will consist of a new 10,080 square-foot building, divided into four (4) separate bays, along with corresponding parking areas and landscaping.

The Zoning Committee Recommended: **Approval.**

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

1. A restricted Wholesale and Warehouse Business (B-4) zone is in agreement with the 2018 Comprehensive Plan's Goals, Objectives, and Policies for the following reasons:
  - a. The proposed project will support infill and redevelopment by intensifying a vacant and underutilized portion of the property within the Urban Service Boundary (Theme A, Goal #2).
  - b. The proposed facility strengthen job opportunities (Theme C, Goal #2) by providing additional warehouse space for small businesses and contractors to operate (Theme C, Goal #2.b), similar to the existing units on the site.
  - c. The proposal strengthens the Newtown corridor by redeveloping the vacant portion of the property closest to the roadway. (Theme E, Goal 1.c)(Theme D, Goal #2.c).
  - d. The proposal supports the redevelopment of underutilized property (Growth Policy #10).
  - e. The request creates a development that is sensitive to the surrounding context (Design Policy #4).
2. 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 proposal expands employment opportunities for shops of special trade, minimizes the impact on environmentally sensitive areas, and avoids overparking.
  - b. The proposed rezoning meets the criteria for Transportation and Pedestrian Connectivity, as the proposal will provide pedestrian connectivity throughout the entire development, and will connect into the existing pedestrian networks along Newtown Pike.
  - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it will decrease the overall amount of impervious surface, increase tree canopy coverage, and protects the natural features on the site, including the Royal Springs Aquifer.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are recommended via conditional zoning:

### Prohibited Uses:

- i. Ice Plants.
- ii. Tire re-treading and re-capping.
- iii. Outdoor storage and display of equipment and inventory associated with establishments and lots for rental, repair or sale of automobiles, trucks, mobile homes, recreational vehicles, motorcycles or boats.
- iv. Truck terminals and freight yards.
- v. Automobile service stations.
- vi. Establishments for the display and sale of pre-cut, pre-fabricated, or shell homes.
- vii. Circuses and carnivals.
- viii. Mining.
- ix. Kennels and animal hospitals.

- x. Major or minor automobile and truck repair.
- xi. Parking lots and structures as principal uses.
- xii. All above ground and underground storage tanks.

Landscaping and Buffering

- 1. A 50-foot building setback shall be established from any mobile home (at their present locations; excluding any porches, stairs or attached accessory structures) located within the mobile home park to the north of the subject property.
- 2. A 10-foot land use buffer shall be provided along the property line adjoining the mobile home park, consisting of a 6-foot tall privacy fence, with one tree per 20 feet, planted on center.
- 3. There shall be no outside loudspeakers.
- 4. Exterior lighting shall be designed to prevent light shining directly from the source to the adjoining mobile home park to the north.

These restrictions are appropriate and necessary for the following reasons:

- 1. The restrictions help protect and buffer the adjoining residential and public uses from potentially incompatible land uses and development.
  - 2. These restrictions help preserve the integrity of the Royal Springs Aquifer Recharge Area,
  - 3. The modification of the permitted uses maintains consistency with existing conditional use restrictions in this area, and helps promote employment that is appropriate along Lexington's designated freight corridor.
4. This recommendation is made subject to approval and certification of PLN-MJDP-23-00026: A-1 Service and Edster Property (AMD), 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-23-00026: A-1 SERVICE AND EDSTER PROPERTY (AMD) (7/29/2023)\* - located at 763 NEWTOWN PIKE, LEXINGTON, KY  
Council District: 1  
Project Contact: MHL Civil

Note: The purpose of this amendment is to depict development of the site, in support of the requested zone change from a Highway Service (B-3) zone, to a Wholesale and Warehouse Business (B-4) zone.

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

- 1. Provided the Urban County Council approves the zone change to B-4; 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. Denote required canopy coverage in site statistics.
- 9. Complete all required tree inventory information per Article 26.
- 10. Denote compliance with Article 20 open space requirements.
- 11. Discuss Placebuilder criteria.

Staff Presentation – Mr. Daniel Crum 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 Highway Service Business (B-3) zone to a Wholesale and Warehouse Business (B-4) zone, for 0.91 net (1.16 gross) acres, for property located at 763 Newtown Pike. Mr. Crum indicated that the applicant's proposed zone, as well as the Industry & Production Center Place-Type, and the Industrial & Production Non-Residential Development Type would be appropriate and are in line with the Comprehensive Plan.

Mr. Crum highlighted the conditional zoning restrictions placed on the property in the preceding zone change in order to protect the residential properties near the site and indicated that the pawn shops, aboveground storage tanks, conditions would not be restricted for the front portion of the site.

Additionally, Mr. Crum indicated that the language on condition 11 would be changed to all major and minor automobile and truck repair uses. Mr. Crum also stated that the applicant asked the language on condition 11 also include, "except for vehicles used accessory to the business", and indicated that Staff was agreeable to this modification.

Mr. Crum concluded his presentation by stating that Staff is recommending approval and could answer any questions from the Planning Commission.

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 proposed project is development of specialty shops of trade and that the parking would be oriented towards the front of the building. Mr. Martin also identified the open space and detention on site.

Mr. Martin concluded his presentation stating that the Subdivision Committee had recommended approval, and that Staff is recommending approval as well.

Commission Questions – Mr. Penn asked if access was limited to right-in, right out for the gasoline storage property, if the tanks that were previously on the site were removed, and if the soil was tested at this property. Mr. Martin indicated that the property has full access to Newtown Pike and that the gasoline storage tanks were removed some time ago when the previous use closed.

Applicant Presentation – Nick Nicholson, attorney for the applicant, stated that the language on the conditional zoning restrictions is from the same restrictions on the rear of the property and they wanted the conditions to match for the entire property.

Mr. Nicolson ended his remarks by stating that the applicant agrees with Staff's recommendations and could answer any questions from the Planning Commission.

Action – A motion was made by Mr. Michler, seconded by Mr. Bell and carried 9-0 (Nicol and Pohl absent) to approve PLN-MAR-23-00006: 763 NEWTOWN, LLC with the Zoning Committee's recommendation for the conditional zoning restrictions as the applicant has requested.

Action – A motion was made by Mr. Michler, seconded by Mr. Bell and carried 9-0 (Nicol and Pohl absent) to approve PLN-MJDP-23-00026: A-1 SERVICE AND EDSTER PROPERTY with 10 conditions, deleting #11 since it had been discussed.