

May 5, 2025

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

Re: Justification Letter  
PLN-MAR-25-00008: 1811 Winchester Road, Lexington, Kentucky

- (1) Zone Change Request for Lots 8 and 9  
From: Planned Neighborhood Residential (R-3) Zone; and  
Neighborhood Business (B-1) Zone  
To: Commercial Center (B-6P) Zone
- (2) Variance Request to increase the maximum vehicle use area between a building and a street from 60' feet to 110' on Lot 8
- (3) Removal of Conditional Zoning Restrictions from Neighborhood Business (B-1) Zone on Lots 2 through 6

Dear Members of the Planning Commission:

We submit this justification letter for RD Property Group, LLC's ("Applicant") applications related to a new development for a portion of 1811 Winchester Road. The zone change is a request to rezone a portion of the property from (i) Planned Neighborhood Residential (R-3) Zone (Net: 10.06 Acres, Gross: 10.06 Acres) and Neighborhood Business (B-1) Zone (Net: 14.19 Acres, Gross: 14.19 Acres) to (ii) a Commercial Center (B-6P) Zone for a community commercial center for Lots 8 and 9. The Applicant is proposing a preliminary development plan for a mixed-use development on Lots 8 and 9, consisting of a Kroger Marketplace ("Kroger") and an apartment community. In conjunction with the zone change request, as permitted under the Zoning Ordinance, Applicant is requesting a variance for Lot 8 to increase the maximum vehicle use area between a building and a street from 60' feet to 110' to permit the pharmacy drive-up window facilities and grocery pick-up facilities, and delivery truck access to the rear of the building.

Applicant is also requesting to remove zoning restrictions from Lots 2 through 6 but to retain the Neighborhood Business (B-1) Zone (Net: 8.05 Acres, Gross: 10.03 Acres) on that property. At this time, Applicant does not have end-users for Lots 2 through 6, but it anticipates that the property will have restaurants, retailers, and/or professional services.

## INTRODUCTION

In 1981, Warren W. Rosenthal purchased what was then known as Patchen Wilkes Farm located along Winchester Road. Mr. Rosenthal was a renowned businessman and restaurateur. During Mr. Rosenthal's ownership, Patchen Wilkes Farm was notable for producing rare-pure-white thoroughbreds. In the mid-aughts, Mr. Rosenthal had Patchen Wilkes Farm rezoned to permit the development of Patchen Wilkes ("Patchen Wilkes Development")—a large mixed-use development. Over the next fifteen years, Mr. Rosenthal continued agricultural operations but developed small portions of the Patchen Wilkes Development with single-family homes and townhomes. In 2019, Mr. Rosenthal passed away, and his successors are ready to fully develop the property. Applicant is assisting the owner with developing the balance of the mixed-use development, which will consist of additional single-family homes and townhomes and new apartments and a commercial area. The current requests relate to the portion of Patchen Wilkes Development, focusing on new apartments and the commercial area.

The property is located across from Frederick Douglas High School. It is anticipated that the intersection of the high school's access road, Charleston Drive, and Winchester Road will be signalized with pedestrian facilities located on Charleston Drive and a connection to the existing 10' road trail connection along Winchester Road. The traffic count on Winchester Road is approximately 37,000 trips a day, but this proposal will not negatively affect the area. There are a number of existing traffic impact studies for this area that have contemplated the Patchen Wilkes Development. Lexington Area MPO has confirmed that this project does not require a new traffic impact study.

Although Patchen Wilkes Development is not fully developed, the properties around the site have undergone major development over the decades, consisting of a middle school, a high school, residential neighborhoods, and a commercial area. Winchester Road is along the southern boundary of the development. To the northern boundary, Crawford Middle School is located. Bluegrass Wilkes Neighborhood and businesses are located along Executive Drive to the east. Eastland Park and Dixie Plantation Neighborhoods and Patchen Wilkes single-family homes and townhomes are located to the west. Patchen Wilkes Development is proposed to connect to road networks for those existing areas, except that no direct access is proposed for Patchen Wilkes single-family homes and townhomes.

The context/character and urban form of the surrounding area is suburban and fully developed. This is not an urban core area with high-density residential and commercial developments. Most of the residential dwellings were developed with low-density lotting patterns, and the commercial buildings on Executive Drive are mostly one and two-stories.

## GOALS AND OBJECTIVES OF THE COMPREHENSIVE PLAN

Applicant is proposing a Kroger Marketplace and an apartment community on the B-6P property. The B-1 Zone property area will have restaurants, retailers, and/or professional services. The B-6P Zone is intended to promote commerce and retail along major corridors and incorporate

new residential opportunities. The B-6P Zone will permit a mixture of commercial and residential uses, and as shown on the preliminary development plan, the full commercial area is located on Winchester Road—a major corridor. As discussed below, the rezoning request to the B-6P Zone agrees with the Comprehensive Plan.

This project will provide new retail and food service to residents and additional housing options to the surrounding area. Kroger intends to construct a 122,000 SF building substantially similar to its Kroger Marketplace at Newtown Springs (enclosed herein is a copy of Kroger’s conceptual elevations for that other store). The apartment community is proposed to have two buildings with 154 dwelling units (or ~ 53 dwelling units per acre), with a mix of one-bedroom and two-bedroom units. The apartment community will have typical amenities—community mailboxes, open spaces, bicycle parking, lounges, office space, and fitness area—that will be designed during the final development process.

Lexington is growing, but Lexington has chosen to control its outward growth. To accommodate this growth, development in Lexington will continue to require the identification of parcels of land that are available for infill and redevelopment. The Comprehensive Plan is clear that increased density and intensity are important considerations along our corridors to accommodate population growth and land use efficiency, but the Comprehensive Plan does not relegate context/character to a second-class consideration. Within the Comprehensive Plan, density/intensity and context/character are equally to be balanced for each development.

#### THEME A: GROWING & SUSTAINING SUCCESSFUL NEIGHBORHOODS.

This development will increase residential density within an area with new commercial activity and provide new businesses that serve the existing area. This land is currently vacant, and this is an opportunity for mixed-use development that is context sensitive to the suburban-scale of the area (Theme A, Goal 2, Objective a.) (“High density development is not appropriate in every context” (Comprehensive Plan at Page 70)). The apartment community will provide higher-density-apartment living and add to the mixture of housing types in the area (Theme A, Goal 1, Objective b.). This is a commercial center within a short walking distance of existing and proposed residential neighborhoods, and it will provide multi-modal infrastructure to integrate neighborhoods with the commercial center (Theme A, Goal 5, Objective a.). The apartment community will provide safe and accessible dwelling units for both disabled residents and our aging population (looking to down-size or age in Lexington) (Theme A, Goal 1, Objective c.). This project will expand housing options (new apartments) in a suburban area dominated with single family detached and attached homes (Theme A, Goal 3, Objective a.). The Kroger Marketplace will have a large common open space with a shelter that includes benches and a bike repair station (enclosed herein is a copy of Kroger’s conceptual plan for the shelter at Newtown Springs), and the apartment community is proposed to have a large-park-like entry (Theme A, Goal 2, Objective c.). It is anticipated that, in the future, the Patchen Wilkes Development will connect roads between the existing neighborhoods to provide a strong road network and missing pedestrian facilities in this area (Theme A, Goal 3, Objective e.). At this time, Applicant is designing Charleston Drive

and Thunderstick Drive to the roundabout (as shown on the preliminary development plan), which will be built in conjunction with this project. The full sections of Charleston Drive and Thunderstick Drive will be completed during future phases of the development. These new road connections will reduce emergency service times for the area (Theme A, Goal 4, Objective c.). The development will increase connectivity in the surrounding areas, with new sidewalks and bike lanes provided within the rights-of-way (as shown on the preliminary development plan). Those improvements will connect to the existing 10' trail connection along Winchester Road and to the future shared-use trail to be constructed north of the property (Theme A, Goal 3, Objective b.). The vehicle use areas are designed to fulfill the anticipated needs of the development, and they comply with the zoning ordinance and other regulations applicable to preliminary development plans. Applicant has identified mitigation strategies for the vehicle use areas for this project (as discussed below) (Theme A, Design Policy #2; and Theme B, Sustainability Policy #4). Internal sidewalks will provide cross-access between the out-lots and the Kroger Marketplace—with an opportunity for future connections to Executive Drive and/or Winchester Road as the properties to the east are developed and/or redeveloped. This project will promote the growth and sustainability of the surrounding neighborhoods, while keeping within the context of those built areas.

#### THEME B: PROTECTING THE ENVIRONMENT.

The vehicle use areas are designed to fulfill the anticipated needs of the development, but the Zoning Ordinance requires certain strategies to mitigate the adverse effects of impervious areas in new development (as recommended in Theme B of the Comprehensive Plan). The commercial center will have a minimum of 20% tree canopy (or ~ 4.42 acres of tree canopy) and a minimum of 15% (or ~ 3.32 acres) of vegetated open space and additional common open space area—which is proposed to have a shelter, benches and a bike repair station. The vehicle use areas will have perimeter buffering, interior landscaping, and tree canopy. The project is retaining a 30' Tree Protection Area along Winchester Road, as shown on the preliminary development plan. As shown on the cross-sections on the preliminary development plan, the new public roads will also have street trees. Each lot will manage its own water stormwater quantity and quality management, and it is anticipated that underground retention with pervious pavement will be utilized in the vehicle use areas to manage stormwater. In addition to stormwater management, pervious pavement permits water and evaporation pores to lower the temperature of parking lots. These areas of landscaping, tree canopy, and pervious pavement will reduce the heat island effect of the development, manage water quality, and lead to a more environmentally sustainable development.

#### THEME C: CREATING JOBS AND PROSPERITY.

The project will create new employment opportunities and new healthy-fresh food options. The Kroger Marketplace and other businesses will create jobs within a short walk of where people live in the surrounding area (Theme C, Goal 2, Objective a.). Kroger offers its Lexington employees (i) affordable, comprehensive medical, dental, vision and prescription coverage, and union-scale wages through collective bargaining agreements, and (ii) industry-leading training programs and a college-tuition-assistance program, which provide opportunities for a living-wage

and upward mobility (Theme C, Goal 2, Objective f.). The nearest grocery store and pharmacy on this side of Winchester Road is the Kroger at Bryan Station Road. The Kroger Marketplace will provide new options for affordable and nutritious food in the area, eliminating a food desert (Theme C, Goal 3, Objective b.). This project will create jobs and prosperity for all with new employment opportunities and new healthy-fresh food options.

#### THEME D: IMPROVING A DESIRABLE COMMUNITY.

The project is expanding the transportation network for all users, with sidewalks and bike lanes provided within the new public roads (as shown on the preliminary development plan) and connections to the existing 10' trail connection along Winchester Road (Theme D, Goal 1, Objective b.). Internal sidewalks will provide cross-access within and from the commercial center to the surrounding neighborhoods. The Kroger Marketplace will have a large common open space with a shelter that includes benches and a bike repair station (enclosed herein is a copy of Kroger's conceptual plan for the shelter at Newtown Springs), for use as a transit shelter when a transit route is located in this area in the future (Theme D, Goal 1, Objective c.). These multi-modal improvements will provide a wide option of new-affordable transportation modes within the area (Theme D, Goal 1, Objective f.).

#### THEME E: MAINTAINING A BALANCE BETWEEN PLANNING FOR URBAN USES AND SAFEGUARDING RURAL LAND.

This property is currently vacant land, and this project will develop an underutilized area of a major corridor (Theme E, Goal 1, Objective d.). This project is activating a large tract within the Urban Service Boundary (Theme E, Goal 1, Objective f.). Kroger is a participant in the Kentucky Proud program, and sells products from Kentucky Proud producers, supporting the local-agricultural economy (Theme E, Goal 2).

#### PUBLIC ENGAGEMENT

Applicant has invited several neighborhood associations to an initial public meeting on May 14, 2025: Eastland Parkway Neighborhood Association, Liberty Area Neighborhood Association, East Pointe Homeowners Association, Inc., Patchen Wilkes Townhomes Owners Association and Patchen Wilkes single-family homes area. The meeting will be held in person at Frederick Douglass High School. Applicant emailed information related to the meeting to each association's registered contact with the city. Applicant has also sent information related to the public meeting to Councilmember Denise Gray to allow her the opportunity to share the meeting information with her constituents in District 6. Planning staff are invited to attend. Applicant intends to continue to promote that scheduled meeting, and it is willing to have additional meetings with interested stakeholders.

## DEVELOPMENT CRITERIA / PLACEBUILDER

This proposal fits within the Corridor Place-type and within the Medium Density Non-Residential/Mixed-Use (MNR-MU) development type. The project is for the development of an underutilized property located on Winchester Road—a major corridor. This is a community-serving development with commercial uses, services, and employment opportunities and new dwelling units. The Comprehensive Plan recommends the B-6P Zone within the Corridor Place-type. This development will attract external users to the various commercial and employment opportunities and provide new multi-modal connections for the residents located within close proximity. As recommended by Corridor Place-type, the majority of the parking areas are located internally to the site, with large open spaces, street trees as shown on the preliminary development plan, and buildings separating external parking from the public roads. The project complies with all applicable zoning regulations related to mass and form.

Enclosed herein is a color-coded reflection of how we have addressed the design criteria listed in that Placebuilder category. Items highlighted in green are represented graphically on the preliminary development plan, items with no color are addressed in this letter, and items highlighted in orange are not applicable to our proposal and address in this letter.

### LAND USE

A-DN3-1 This commercial center is within a short walking distance of residential neighborhoods, and it will provide multi-modal infrastructure for new and future connections to those areas.

C-LI7-1 LexTran does not fully serve this section of Winchester Road. This project will provide infrastructure that LexTran could use in the future, e.g., a proposed shelter in the Common Open Space. The development will provide multi-modal infrastructure for new and future connections to surrounding neighborhoods.

C-PS9-1 Not Applicable. There is no existing office space.

D-PL7-1 Applicant has a neighborhoods meeting scheduled for May 14, 2025.

E-ST8-2 Not applicable. No community services are offered for this project.

E-GR3-1 Not applicable. There are no planned parks.

E-GR10-1 This commercial center and its higher density housing is in close proximity to a partial transit route. It is anticipated that the increased residential density and the Kroger Marketplace will encourage Lextran to bring a full-service route to the development.

### TRANSPORTATION, CONNECTIVITY, AND WALKABILITY

A-DS5-2 Street trees are proposed on Charleston Drive and Thunderstick Drive as shown on the preliminary development plan. The apartment buildings are being proposed close to those roads.

A-DS10-1 The Kroger Marketplace will have a large common open space with a shelter that includes benches and a bike repair station (enclosed herein is a copy of Kroger's conceptual plan for the shelter at Newtown Springs), and the apartment community is proposed to have a large-park-like entry. The residential portions of the future phases of Patchen Wilkes



Development will include greenways and natural areas, which will have connections to the commercial center.

A-EQ5-2 The development will have direct bicycle and pedestrian access to Winchester Road and an opportunity for future connections to the adjacent neighborhoods. This project will provide infrastructure that LexTran could use in the future, e.g., a proposed shelter in the Common Open Space. It is anticipated that the increased residential density and the Kroger Marketplace will encourage Lextran to bring a full-service route to the development.

C-PS10-1 Not Applicable. Applicant is not proposing shared parking.

D-CO2-2 Not Applicable. Lexington has not adopted a Complete Streets Policy.

D-SP6-1 Not Applicable. No such facilities are proposed.

#### ENVIRONMENTAL SUSTAINABILITY AND RESILIENCY

B-PR2-1 Not Applicable. There are no environmentally sensitive areas.

B-PR2-2 Not Applicable. No greenways are on this property.

B-PR3-1 Not Applicable. No conservation properties adjoin the property.

B-PR9-1 Not Applicable. There are no key natural features on the property or high slopes being graded.

B-PR10-1 The development will avoid over-lighting and upward directed lighting.

B-SU4-1 It is anticipated that underground retention with pervious pavement will be utilized in the vehicle use area to manage stormwater during weather events.

B-SUB5-1 Not Applicable. Neither Kroger nor Applicant has designed or engineered the site at this time.

B-SUP-1 It is anticipated that underground retention with pervious pavement will be utilized in the vehicle use area to manage stormwater during weather events. In addition, the project will have new trees within the commercial center.

B-SU11-1 Not Applicable. Applicant has not planned the landscaping at this time, but its future plans will comply with the Planting Manual.

B-RE2-1 Not Applicable. There are no greenways on the property or proposed for the future.

B-RE5-1 Not Applicable. There are no floodplains on the property.

B-RE5-2 Not Applicable. There are no floodplains on the property.

B-RE5-3 Not Applicable. The property is not within that area.

D-SP10-1 Street trees are being planted in the planting strip as shown on the preliminary development plan.

#### SITE DESIGN

A-DS5-4 The development will provide various multi-modal facilities, with 6' sidewalks and bike lanes on Charleston Drive. Street trees are proposed on Charleston Drive and Thunderstick Drive as shown on the preliminary development plan. The apartment buildings are being proposed close to those roads. Internal sidewalks will provide cross-access between the outlots and the Kroger Marketplace—with an opportunity for sidewalk connections to Executive Drive and/or Winchester Road as the properties to the east are development and/or redeveloped.

A-DS9-1 The Kroger Marketplace will have a large common open space with a shelter that includes benches and a bike repair station (enclosed herein is a copy of Kroger's conceptual plan for the shelter at Newtown Springs), and the apartment community is proposed to have a large-park-like entry.

A-DS9-2 The residential portions of the future phases of Patchen Wilkes Development will include greenways and natural areas, which will have connections to the commercial center. The Kroger Marketplace will have a large common open space with a shelter that includes benches and a bike repair station (enclosed herein is a copy of Kroger's conceptual plan for the shelter at Newtown Springs), and the apartment community is proposed to have a large-park-like entry.

A-EQ9-1 Not Applicable. No school is being proposed.

C-LI2-2 Not Applicable. There are no gateways at the property.

C-LI2-3 Not Applicable. There are no gateways at the property.

C-LI2-4 Not Applicable. None of those areas are present.

C-LI8-1 The Kroger Marketplace will have a large common open space with a shelter that includes benches and a bike repair station (enclosed herein is a copy of Kroger's conceptual plan for the shelter at Newtown Springs), and the apartment community is proposed to have a large-park-like entry. It is anticipated that, in the future, the Patchen Wilkes Development will connect roads between the existing adjacent neighborhoods to provide a strong road network and pedestrian facilities in this area.

C-PS10-2 Applicant is proposing parking that is necessary for the success of the project, and the proposed parking areas will comply with the parking maximum in the B-6P Zone.

D-PL4-1 The Kroger Marketplace will have a large common open space with a shelter that includes benches and a bike repair station (enclosed herein is a copy of Kroger's conceptual plan for the shelter at Newtown Springs).

D-PL10-1 Not Applicable. Applicant is not proposing public art at this time.

D-SP3-1 Adequate facilities are provided.

D-SP3-2 Not Applicable. There are no cellular towers.

#### BUILDING FORM

A-DS3-1 The Multi-Family Design Standards are addressed below.

A-DS4-2 This project is within scale of the existing neighborhoods.

A-DN2-2 This project is within scale of the existing neighborhoods. Charleston Drive and Thunderstick Drive will function as a transition between this project and future residential development. There are no historic areas or neighborhoods adjoined to the project.

D-PL2-1 All of the buildings will have active first floor uses.

A-EQ5-1 This project is within scale of the existing neighborhoods. Charleston Drive and Thunderstick Drive will function as a transition between this project and future residential development. More intensive uses are closer to the corridor.

D-PL2-1 The development will have active first floor uses.

E-GR4-1 Not Applicable. The agricultural structure is being removed for the property.

E-GR5-1 Not Applicable. There are no historically significant structures.



## MULTI-FAMILY DESIGN STANDARDS

### SITE PLANNING

- SP.1 Applicant is proposing buildings located along a new public road.
- SP.2 Applicant has not started designing or engineering for the apartment buildings. This will be done where feasible. Applicant will continue to work with planning staff, and these items will be resolved at the final development plan process.
- SP.3 Applicant has not started designing or engineering the apartment buildings. This will be done where feasible. Applicant will continue to work with planning staff, and these items will be resolved at the final development plan process.
- SP.4 Applicant is proposing buildings located along a new public road.
- SP.5 The development will have continuous multi-modal connections to the Kroger Marketplace and general vicinity.
- SP.6 Applicant has not started designing or engineering for the apartment buildings. This will be done where feasible. Applicant will continue to work with planning staff, and these items will be resolved at final development plan process.
- SP.7 The apartment community is proposed to have a large-park-like entry, and the buildings are close to the roads. This will be done where feasible.
- SP.8 The parking lots are being separated, and the apartment community is proposed to have a large-park-like entry. This will be done where feasible.
- SP.9 The apartment community is proposed to have a large-park-like entry. This will be done where feasible.
- SP.10 It is anticipated that, in the future, the Patchen Wilkes Development will connect roads between the existing adjacent neighborhoods to provide a strong road network and pedestrian facilities in this area. Charleston Drive and Thunderstick Drive will have multi-modal facilities.
- SP.11 It is anticipated that, in the future, the Patchen Wilkes Development will connect roads between the existing adjacent neighborhoods to provide a strong road network and pedestrian facilities in this area. Charleston Drive and Thunderstick Drive will have multi-modal facilities. Overly long blocks are not proposed.
- SP.12 The development includes a roundabout, medians, and street trees to function as traffic calming features as shown on the preliminary development plan. The roads narrow as they transition from the commercial area to the residential areas.
- SP.13 Charleston Drive and Thunderstick Drive will have multi-modal facilities, including 6' sidewalks and bike paths on the former.
- SP.14 The project includes sidewalks, planting strips, and street trees as shown on the preliminary development plan.
- SP.15 Applicant will provide well-lit parking lot but not negatively impact surrounding buildings.
- SP.16 The apartment community will provide safe and accessible dwelling units for disabled residents.
- SP.17 Applicant anticipates that both sides of the street will balance.

## OPEN SPACE & LANDSCAPING

OS.1 Applicant has not fully designed the site, but it will provide such space as feasible. Applicant will continue to work with planning staff, and these items will be resolved at the final development plan process.

OS.2 Applicant has not fully designed the site, but it will provide such space as feasible. The apartment community is proposed to have a large-park-like entry. Applicant will continue to work with planning staff, and these items will be resolved at the final development plan process.

OS.3 Applicant has not fully designed the site, but it will provide such space as feasible. Applicant will continue to work with planning staff, and these items will be resolved at the final development plan process.

OS.4 Applicant has not fully designed the site, but it will provide such space as feasible. Applicant will continue to work with planning staff, and these items will be resolved at the final development plan process.

OS.5 Applicant will provide buffering around and trees within the parking areas.

OS.6 There are no adjacent single-family properties.

OS.7 Applicant has not fully designed the site, but it will provide such space as feasible. Applicant will continue to work with planning staff, and these items will be resolved at the final development plan process.

OS.8 Applicant has not fully designed the site, but it is anticipated that underground retention with pervious pavement will be utilized in the vehicle use area to manage stormwater during weather events.

OS.9 Applicant is proposing 6' sidewalks along the roads and internal paths.

OS.10 Not Applicable. Only two roads are proposed.

OS.11 The apartment community is proposed to have a large-park-like entry.

OS.12 Applicant has not fully designed the site, but it will provide such features as feasible. Applicant will continue to work with planning staff, and these items will be resolved at the final development plan process.

OS.13 Applicant has not fully designed the site, but it will avoid light spillage and glare. Applicant will continue to work with planning staff, and these items will be resolved at the final development plan process.

## ARCHITECTURAL DESIGN

AD.1 Applicant has not started the design or engineering for the apartment buildings. The project complies with all applicable zoning regulations related to mass and form.

AD.2 The proposed buildings are within scale to the surrounding area.

AD.3 Applicant has not started the design or engineering for the apartment buildings. The project complies with all applicable zoning regulations related to mass and form.

AD.4 Applicant has not started the design or engineering for the apartment buildings. The project complies with all applicable zoning regulations related to mass and form.

AD.5 Applicant has not started the design or engineering for the apartment buildings. The project complies with all applicable zoning regulations related to mass and form.

AD.6 Applicant has not started the design or engineering for the apartment buildings. The project complies with all applicable zoning regulations related to mass and form.

AD.7 Applicant has not started the design or engineering for the apartment buildings. The project complies with all applicable zoning regulations related to mass and form.

AD.8 Applicant has not started designing or engineering for the apartment buildings. The project complies with all applicable zoning regulations related to mass and form.

AD.9 Applicant has not started the design or engineering for the apartment buildings. The project complies with all applicable zoning regulations related to mass and form.

As discussed above, the rezoning request is in accord with many of the goals and objectives of the Comprehensive Plan. This rezoning will actually enhance the area with additional commercial uses and residential dwellings along a major corridor.

### VARIANCE REQUEST

Applicant is requesting a variance to increase the maximum vehicle use area between a building and a street from 60' (Article 16-6(a)(2)) to 110' to permit the layout of the proposed Kroger Marketplace. The Kroger Marketplace will be similar in size and have similar amenities to the Kroger Marketplace located at Newtown Springs. A Kroger Marketplace is a complex operation, involving various other services and goods, to attract customers. A Kroger Marketplace relies upon pharmacies, fuel stations, health clinics, spirits stores, banks, and other services to diversify its revenue to increase its economic viability. Both the internal building and outdoor spaces of Kroger Marketplaces are designed to integrate these services within a larger development.

This variance will permit the construction of a drive aisle for delivery trucks, drive-up window facilities for a pharmacy, and grocery pick-up facilities between the building and Charleston Drive. This design will separate these more intense vehicle uses (pharmacy, pick-up, and delivery trucks) from the parking lot, which will be busy with pedestrians and other customer traffic. Isolating these activities in this area will separate them from the area where pedestrians and other customer traffic are expected, reducing conflicts with between vehicular traffic and pedestrians. Applicant is agreeable to provide enhanced landscaping along the vehicle use area to buffer the additional paved areas and discourage pedestrians from entering that paved area. The separation of vehicle-only uses from the main parking lot will make the overall site safer for both pedestrians and motorists.

The requested variance will not cause an unreasonable circumvention of the requirements of the Zoning Ordinance in that Applicant is requesting this variance in conjunction with a zoning change request. None of the underlying circumstances of this request is the result of any actions taken by Applicant in that this is vacant land that Applicant is proposing to develop. This variance will not negatively affect the public health, safety, or welfare, nor alter the character of the general vicinity or cause a nuisance to the public.

## REMOVAL OF ZONING RESTRICTIONS

In 2004, in conjunction with a zoning change request from an Agricultural Urban (A-U) Zone (21.21 net acres) and from a Planned Neighborhood Residential (R-3) Zone (1.38 net acres) to a Neighborhood Business (B-1) Zone the Urban County Council imposed the below zoning restrictions. Applicant is requesting that a portion of the property in the B-1 Zone be rezoned to the B-6P Zone, which will remove the zoning restrictions from that portion of the property. As to the balance of the property to be retained as the B-1 Zone (8.05 acres), Applicant is requesting that the zoning restrictions be removed as discussed below:

1. *There shall be a minimum of 125 residential dwelling units in the B-1 zone.*

The 2001 Comprehensive Plan recommended that the property have a medium-density development, meaning 5-10 dwelling units per acre, based upon the future land use map. The entire proposed project for the B-6P Zone and the B-1 Zone properties will have a density of over 7 dwelling unit per acre—within the recommended range when this zoning restriction was adopted. Further, one of the purposes of that Urban Growth Management ZOTA was to relocate drive-through facilities from our local roadway systems to the city's major corridors—such as Winchester Road, meaning that this is now one of the limited locations at which the community permits them. In conjunction with the B-6P Zone property, the property will be utilized as out-lots for restaurants, retailers, and/or professional services. Since COVID, consumer preferences for drive-through, pickup, and delivery services have substantially increased, and users have responded with smaller more efficient buildings. The new layout for these types of users is no longer conducive for dwelling units over the anticipated buildings in the B-1 Zone. As demonstrated with the Summit at Fritz Farm, residential over retail has struggled in Lexington outside of the urban core and campus area.

2. *Signage shall be provided only as per the B-6P zone.*

This restriction applied to a development with 22.59 acres—a large development. With approval of the zone change, the affected property will now only be 8.05 acres—a much smaller area. It would not make sense for the proposed out-lots to have a single-free standing sign. It makes more sense for the out-lots to have permitted signage in line with the B-1 Zone—signage that has been appropriate within our lowest intensity commercial zones and that is permitted in our neighborhoods.

3. *Sixty percent (60%) of all commercial square footage shall be in multi-story buildings with a mixture of residential units.*

The 2001 Comprehensive Plan recommended that the property have a medium-density development, meaning 5-10 dwelling units per acre, based upon the future land use map. The entire proposed project for the B-6P Zone and the B-1 Zone properties will have a density of over 7 dwelling unit per acre—within the

recommended range when this zoning restriction was adopted. In conjunction with the B-6P Zone property, the property will be utilized as out-lots for restaurants, retailers, and/or professional services. Since COVID, consumer preferences for drive-through, pickup, and delivery services have substantially increased, and users have responded with smaller more efficient buildings. The new layout for these types of users is no longer conducive for dwelling units over the anticipated buildings in the B-1 Zone. As demonstrated with the Summit at Fritz Farm, residential over commercial has struggled in Lexington outside of the urban core and campus area.

4. *Existing trees within 30 feet of Winchester Road right-of-way are to be preserved, except those trees that are diseased or dying, and those needed to be removed for right-of-way improvements.*

In 2024, Lexington revised its Zoning Ordinance with a significant amendment to Article 26 (Tree Protections Standards) with the Landscaping and Tree Protection Standards ZOTA. The Division of Planning summarized the amendment as follows: “The amendment consolidated enforcement and citation regulations (Zoning Ordinance Article 5), updated landscaping regulations (Zoning Ordinance Article 18), and provided clearer and modernized definitions for tree protection standards (Zoning Ordinance Article 26) — all incentivizing green infrastructure best management practices. Those amendments have strengthened the regulatory oversight and enhanced the process for tree protections.” Applicant has agreed to retain this area as a Tree Protection Area, as shown on the preliminary development plan, which protected area would be regulated under Article 26 and with oversight from the Urban Forester and Planning Commission. Given these significant changes to the Zoning Ordinance, and Applicant’s agreement, this zoning restriction is no longer needed.

5. *The sale of gasoline shall be restricted only to one business, only as an accessory use to a convenience store, with no more than eight gasoline pumps.*

In 2024, the Urban Growth Management ZOTA amended the B-1 Zone to prohibit new fuel stations in the B-1 Zone. Given this amendment, this zoning restriction is no longer needed.

6. *No more than four drive-through facilities shall be provided on the subject property.*

In 2004, when this zoning restriction was adopted, drive-through facilities were a by-right accessory use (meaning no additional review and approval was necessary) in the B-1 Zone. This restriction also applied to a development with 22.59 acres—a large development. With approval of the zone change, the affected property will now only be 8.05 acres—a much smaller area. In 2024, the Urban Growth Management ZOTA amended the B-1 Zone to make new drive-through facilities only permitted as conditional uses, with special restrictions, in the B-1 Zone, and

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new drive-through facilities are only permitted after review and approval of the Board of Adjustment. Further, one of the purposes of that ZOTA was to relocate drive-through facilities from our local roadway systems to the city's major corridors—such as Winchester Road, meaning that this is now one of the limited locations at which the community permits them. Given these developments, this zoning restriction is no longer needed.

Based on the major change of an economic, physical or social nature on the subject property or within the area in which the subject property is located, which was not anticipated at the time the binding restrictions were imposed, and which has substantially altered the basic character of such area, the restrictions are no longer appropriate or proper.

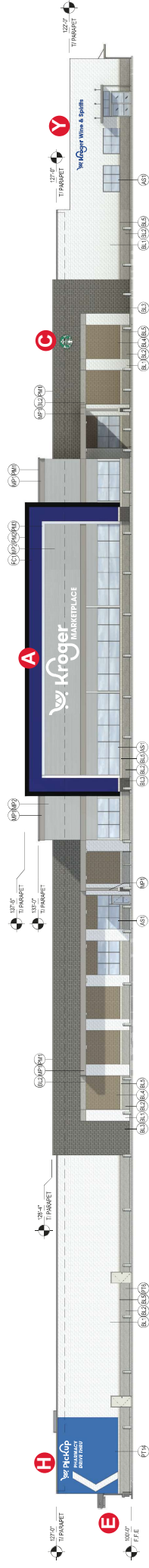
I appreciate your consideration of these matters.

Sincerely,

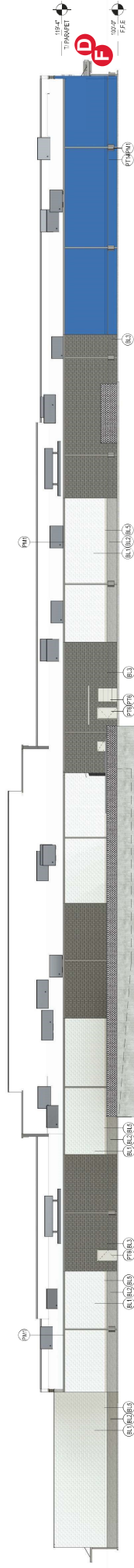


P. Branden Gross

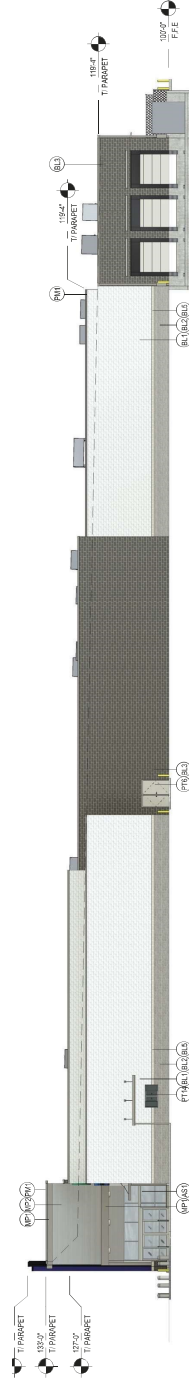




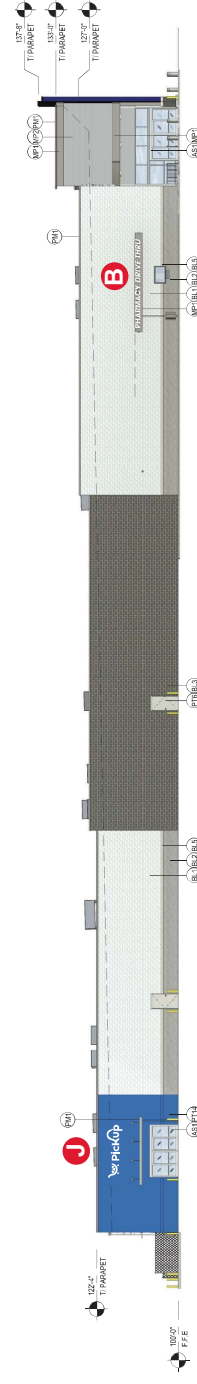
FRONT ELEVATION



REAR ELEVATION



## SIDE ELEVATION



## SIDE ELEVATION

**SCALE: 1" = 35'**

**KROGER #797  
NEWTON PIKE & CITATION BLVD.  
LEXINGTON, KY**



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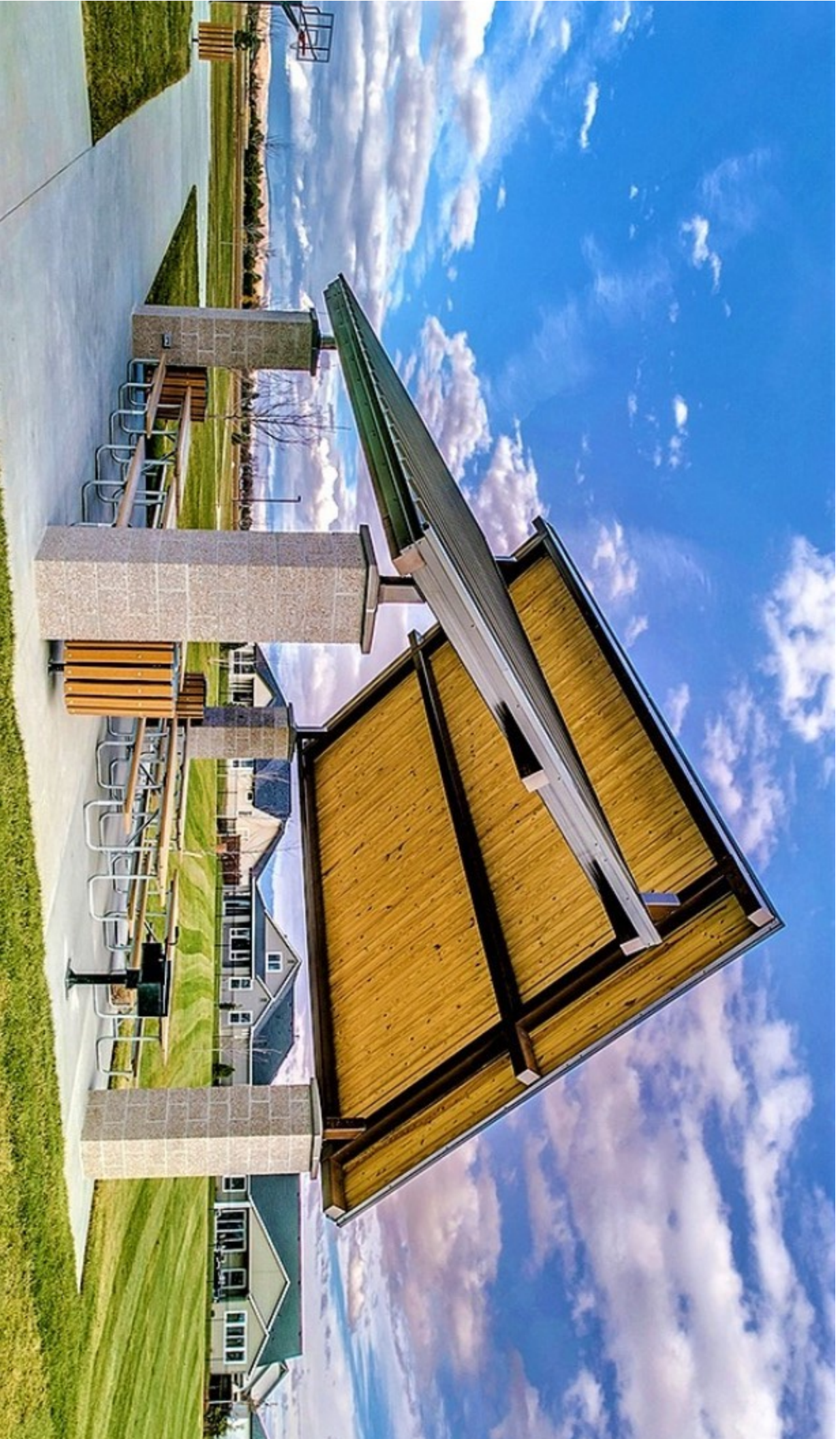
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DATE: 12.2.2024







# CORRIDOR

## CORRIDOR - MEDIUM DENSITY NON-RESIDENTIAL/MIXED USE

### LAND USE

**A-DS12-1** Development should be located nearest to neighborhood serving commercial areas.

**A-DN2-1** Infill residential should aim to increase density.

**A-DN3-1** Pedestrian-oriented commercial opportunities and other services should be incorporated within residential neighborhoods.

**A-DN3-2** Development should incorporate residential units in commercial centers.

**C-LI7-1** Developments should create mixed-use neighborhoods with safe access to community facilities, greenspace, employment, businesses, shopping, and entertainment.

**C-PS9-1** Where possible, developments should modify current office space to include complementary uses, with a specific focus on the inclusion of residential.

**C-PS15-2** Improve options for affordable and nutritious food where not currently available.

**D-CO3-1** Development should increase density and intensity adjacent to transit.

**D-PL7-1** Stakeholders should be consulted to discuss site opportunities and constraints prior to submitting an application.

**E-ST8-2** Development should provide community oriented places and services.

**E-GR3-1** Development should meet recreational needs by following the recommendations of the Parks Master Plan.

**E-GR10-1** Transit oriented development (TOD) should be provided.

### TRANSPORTATION, CONNECTIVITY, AND WALKABILITY

**A-DS1-1** Mass transit infrastructure such as seating and shelters should be provided/enhanced along transit routes.

**A-DS1-2** Accessible pedestrian linkages to transit should be provided.

**A-DS4-1** A plan for a connected multi-modal network to adjacent neighborhoods, greenspaces, developments and complementary uses should be provided.

**A-DS5-1** Safe multi-modal facilities should be provided to ensure vehicular separation from bicycles, pedestrians and other modes of transport.

## CORRIDOR - MEDIUM DENSITY NON-RESIDENTIAL/MIXED USE

**A-DS5-2** Developments should incorporate vertical elements, such as street trees and buildings, to create a walkable streetscape.

**A-DS10-1** New developments should incorporate clear and dedicated connections to nearby community anchors.

**A-DS11-1** Street layouts should provide clear, visible access to neighborhood-focused open space and greenspaces.

**A-DS13-1** Stub streets should be connected.

**A-EQ5-2** Development should be transit-oriented (dense & intense, internally walkable, connected to adjacent neighborhoods, providing transit infrastructure & facilities).

**C-PS10-1** Flexible parking and shared parking arrangements should be utilized.

**D-CO1-1** Rights-of-way and multimodal facilities should be designed to reflect and promote the desired place-type.

**D-CO2-1** Development should create and/or expand a connected multimodal transportation network that satisfies all users' needs.

**D-CO2-2** Development should comply with Lexington's Complete Streets Policy.

**D-CO5-1** Streets should be designed with shorter block lengths, narrower widths, and traffic calming features.

**D-SP6-1** Social services and community facilities should be accessible via mass transit, bicycle and pedestrian transportation modes.

### ENVIRONMENTAL SUSTAINABILITY AND RESILIENCY

**B-PR2-1** Impact on environmentally sensitive areas should be minimized within and adjacent to the proposed development site.

**B-PR2-2** Development should include regularly spaced access with an adequate width to the greenway network and conservation areas.

**B-PR3-1** Minimize impact of development adjacent to land conservation properties through buffering.

**B-PR7-1** Developments should be designed to minimize tree removal and to protect and preserve existing significant trees.

**B-PR9-1** Minimize grading and topsoil disturbance by utilizing the existing topography to the greatest extent possible and preserving key natural features.

**B-PR10-1** Development should avoid overlighting and upward directed lighting.

**B-SU4-1** Development should minimize and/or mitigate impervious surfaces.



## CORRIDOR - MEDIUM DENSITY NON-RESIDENTIAL/MIXED USE

- B-SU5-1** Developments should incorporate energy efficient systems and renewable energy resources (i.e. wind, solar, etc.).
- B-SU9-1** Green Stormwater Infrastructure (GSI) should be implemented in new development.
- B-SU11-1** Development should incorporate low impact landscaping and native plant species.
- B-RE1-1** Developments should improve the tree canopy.
- B-RE2-1** Lexington's green infrastructure network, including parks, trails, greenways, or natural areas should be highly visible and accessible.
- B-RE5-1** Dividing floodplains into privately owned parcels with flood insurance should be avoided.
- B-RE5-2** Floodplains should be incorporated into accessible greenspace, and additional protection should be provided to areas around them.
- B-RE5-3** Developments within the Royal Springs Aquifer should consult with the Royal Springs Water Supply Protection Committee.
- D-SP10-1** Prioritize street trees in the planting strip.

## SITE DESIGN

- A-DS5-4** Development should provide a pedestrian-oriented and activated streetscapes.
- A-DS7-1** Parking should be oriented to the interior or rear of the property for non-residential or multi-family developments.
- A-DS9-1** Development should provide active and engaging amenities within neighborhood focused open spaces.
- A-DS9-2** Where neighborhood open space or parks are not located within walking distance of a new development, applicants should incorporate these facilities.
- A-EQ9-1** School sites should be appropriately sized.
- A-EQ9-2** Shared open spaces should be easily accessible and clearly delineated from private open spaces.
- C-LI2-2** Non-agricultural uses at or near potential and existing gateways, as mapped in the Rural Land Management Plan, should be buffered.
- C-LI2-3** Design should create a positive gateway character at existing and proposed gateways as identified in the Rural Land Management Plan.

## CORRIDOR - MEDIUM DENSITY NON-RESIDENTIAL/MIXED USE

- C-LI2-4** Setbacks, signage, and screening should complement the iconic Bluegrass landscape along Historic Turnpikes, Scenic Byways, Turnpikes, and other scenic roads listed in the RLMF.
- C-LI8-1** Development should enhance a well-connected and activated public realm.
- C-PS10-2** Over-parking of new developments should be avoided.
- D-PL4-1** Enhance open space through the provision of programmatic elements and amenities.
- D-PL10-1** Activate the streetscape or publicly visible areas by designating public art easements in prominent locations.
- D-SP3-1** Adequate right-of-way, lease areas and easements for infrastructure, with emphasis on wireless communication networks should be provided to create reliable service throughout Lexington.
- D-SP3-2** Cellular tower antennae should be located to minimize intrusion and negative aesthetic impacts, and stealth towers and landscaping used to improve the visual impact from the roadway and residential areas.

## BUILDING FORM

- A-DS3-1** Multi-family residential developments should comply with the Multi-family Design Standards in Appendix A.
- A-DS4-2** New construction should be at an appropriate scale to respect the context of neighboring structures; however, along major corridors, it should set the future context.
- A-DS5-3** Building orientation should maximize connections with the street and create a pedestrian-friendly atmosphere.
- A-DN2-2** Development should minimize significant contrasts in scale, massing and design, particularly along the edges of historic areas and neighborhoods.
- A-EQ5-1** Development should create context sensitive transitions between intense corridor development and existing neighborhoods.
- D-PL2-1** Development should provide active first floor uses whenever adjacent to a street, pedestrian facility, or community focused open space.
- E-GR4-1** Developments should incorporate reuse of viable existing structures.
- E-GR5-1** Structures with demonstrated historic significance should be preserved or adapted.