

ORDINANCE NO. 003 - 2023

AN ORDINANCE CHANGING THE ZONE FROM A HIGH DENSITY APARTMENT (R-4) ZONE TO A PROFESSIONAL OFFICE (P-1) ZONE, FOR 0.768 NET (1.027 GROSS) ACRES, FOR PROPERTY LOCATED AT 203 E. FOURTH STREET. (ELMWOOD OZ FUND LLC; COUNCIL DISTRICT 1).

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WHEREAS, at a Public Hearing held on November 17, 2022, a petition for a zoning ordinance map amendment for property located at 203 E. Fourth Street from a High Density Apartment (R-4) zone to a Professional Office (P-1) zone, for 0.768 net (1.027 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change by a vote of 9-1; and

WHEREAS, the Urban County Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 203 E. Fourth Street from a High Density Apartment (R-4) zone to a Professional Office (P-1) zone, for 0.768 net (1.027 gross) acres, being more fully described in Exhibit “A” which is attached hereto and incorporated herein by reference.

Section 2 – That under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are imposed via conditional zoning:

- a. The following uses shall be prohibited:
  - i. Drive-through facilities.
  - ii. Banks and other financial institutions.
  - iii. Community Center.
  - iv. Funeral parlor.

Section 3 – That the Lexington-Fayette Urban County Planning Commission is directed to show the amendment on the official zone map atlas and to make reference to the number of this Ordinance.

Section 4 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: January 31, 2023

*Linda Gorton*

\_\_\_\_\_  
MAYOR

ATTEST:

*[Signature]*

\_\_\_\_\_  
CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: February 9, 2023-1t

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Rec'd by \_\_\_\_\_  
Date: \_\_\_\_\_

**RECOMMENDATION OF THE**  
**URBAN COUNTY PLANNING COMMISSION**  
**OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY**

**IN RE:** **PLN-MAR-22-00018: ELMWOOD OZ FUND LLC** - a petition for a zone map amendment from a High Density Apartment (R-4) zone, to a Professional Office (P-1) zone, for 0.768 net (1.027 gross) acres, for property located at 203 E. Fourth Street. (Council District 1)

Having considered the above matter on **November 17, 2022**, at a Public Hearing, and having voted **9-1** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL** of this matter for the following reasons:

1. The requested Professional Office (P-1) zone is in agreement with the 2018 Comprehensive Plan's Goals, Objectives and Policies, for the following reasons:
  - a. The proposed development encourages infill and redevelopment (Theme A, Goal #2), while providing for a well-designed neighborhoods (Theme A, Goal #3) that protects historic resources while incentivizing the renovation, restoration, development and maintenance of historic residential and commercial structures (Theme D, Goal #3).
  - b. The proposed project reduces the parking on site, which allowing the conservation of the significant trees on site, and promotes the use of the in-place multi-modal options for employees and clients, which can reduce Lexington-Fayette Urban County's carbon footprint (Theme B, Goal #2).
  - c. The proposed rezoning will allow the inclusion of the office use can support and showcase local assets to further the creation of a variety of jobs (Theme C, Goal #1), which will support the creation of jobs and prosperity (Theme C, Goal #2).
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 site creates a job producing space within the historic and built context that supports pedestrian mobility, deemphasizes the impact of parking, and provides activated and usable space.
  - b. The proposed rezoning is located in an area with established safe facilities for the potential users. By requesting the variance to the parking reductions, integrating the site with the established trail facilities, and promoting the established transit stops nearby the site, the applicant is addressing the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
  - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it will maintain the tree canopy coverage and reduce the impact of the built environment by not adding any addition impervious surfaces.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are recommended via conditional zoning:
  - a. Prohibited uses:
    - i. Drive-through facilities.
    - ii. Banks and other financial institutions.

- iii. Community center
- iv. Funeral parlor.

These restrictions are appropriate and necessary to reduce the potential impact of vehicular flow on established pedestrian facilities and the Legacy trail.

- 4. This recommendation is made subject to approval and certification of PLN-MJDP-22-00064: Barnes Subdivision (Elmwood Oz Fund, LLC), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

ATTEST: This 6<sup>th</sup> day of January, 2023.

  
Secretary, Jim Duncan

LARRY FORESTER  
CHAIR

Note: The corollary development plan, PLN-MJDP-22-00064: BARNES SUBDIVISION (ELMWOOD OZ FUND LLC) was approved by the Planning Commission on November 17, 2022 and certified on December 1, 2022.

K.R.S. 100.211(7) requires that the Council take action on this request by February 15, 2023.

Note: A parking variance was approved by the Planning Commission on November 17, 2022.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Scott Schuette, attorney.**

**OBJECTORS**

**OBJECTIONS**

**VOTES WERE AS FOLLOWS:**

AYES:	(9)	Barksdale, Bell, Forester, Michler, Meyer, Nicol, Penn, Pohl, and Worth
NAYS:	(1)	de Movellan
ABSENT:	(1)	Davis
ABSTAINED:	(0)	
DISQUALIFIED:	(0)	

Motion for **APPROVAL** of **PLN-MAR-22-00018** carried.

Enclosures:      Application  
                         Justification  
                         Legal Description  
                         Plat  
                         Staff Report  
                         Applicable excerpts of minutes of above meeting

## MAP AMENDMENT REQUEST (MAR) APPLICATION

**1. CONTACT INFORMATION (Name, Address, City/State/Zip & Phone No.)**

<b>Applicant:</b> ELMWOOD OZ FUND LLC, 461 NORTH LIMESTONE, LEXINGTON, KY 40508
<b>Owner(s):</b> ELMWOOD OZ FUND LLC, 461 NORTH LIMESTONE, LEXINGTON, KY 40508
<b>Attorney:</b> SCOTT SCHUETTE, 201 E. MAIN STREET, LEXINGTON, KY 40507 PH: 859-420-4344

**2. ADDRESS OF APPLICANT'S PROPERTY**

203 FOURTH STREET, LEXINGTON, KY 40508
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**3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY**

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
R-4	Vacant	P-1	Professional Office	0.768	1.027

**4. COMPREHENSIVE PLAN**

a. Utilizing Placebuilder, what Place-Type is proposed for the subject site?	2ND TIER URBAN
b. Utilizing Placebuilder, what Development Type is proposed for the subject site? If residential, provide the proposed density	MEDIUM DENSITY NON-RESIDENTIAL / MIXED USE

**5. EXISTING CONDITIONS**

a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
b. Have any such dwelling units been present on the subject property in the past 12 months?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
c. Are these units currently occupied by households earning under 40% of the median income? If yes, how many units? If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing.	<input type="checkbox"/> YES <input type="checkbox"/> NO

**6. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided)**

Roads:	LFUCG
Storm Sewers:	LFUCG
Sanity Sewers:	LFUCG
Refuse Collection:	LFUCG
Utilities:	<input checked="" type="checkbox"/> Electric <input checked="" type="checkbox"/> Gas <input checked="" type="checkbox"/> Water <input checked="" type="checkbox"/> Phone <input checked="" type="checkbox"/> Cable



October 3, 2022

Mr. Larry Forester, Chairman  
Lexington-Fayette Urban Co Planning Commission  
200 E. Main Street  
Lexington, KY 40507

Dear Chairman Forester:

Please be advised I am writing on behalf of my client and the applicant, Elmwood Oz Fund, LLC (hereinafter the "Applicant"), a Kentucky limited liability company, which has filed a Zone Change Application and an associated Development Plan for property located at 203 E. Fourth Street in Lexington, Kentucky (the "Property"). The Property is a single lot of 1.027 acres (gross area), 0.768 acres (net area), currently zoned High Density Apartments (R-4). The property is bounded by rights-of-way on three sides: N. Martin Luther King Boulevard to the west, North Martin Luther King Boulevard to the east and E. Fourth Street to the south. The Applicant is seeking a zone change from the current R-4 designation to Professional Office (P-1) as more particularly explained below. In addition to the Zone Change request, the Applicant is also seeking a variance to reduce the required parking by two (2) spots as is more thoroughly explained herein.

**A. Goals and Objectives:**

We believe that the Applicant's proposed development is in agreement with the 2018 Comprehensive Plan, specifically the Goals and Objectives that encourage infill and redevelopment (Theme A, Goal #2); provide for well-designed neighborhoods (Theme A, Goal #3); address community facilities at a neighborhood scale (Theme A, Goal #4); reduce Lexington-Fayette Urban County's carbon footprint (Theme B, Goal #2); apply environmentally sustainable practices to protect, conserve and restore landscapes and natural resources (Theme B, Goal #3); support and showcase local assets to further the creation of a variety of jobs (Theme C, Goal #1); support the creation of jobs and prosperity (Theme C, Goal #2); work to achieve an effective and comprehensive transportation system (Theme D, Goal #1); and more specifically, protecting historic resources while incentivizing the renovation, restoration, development and maintenance of historic residential and commercial structures (Theme D, Goal #3).

**B. Engagement:**

Although pre-application engagement is not required by the Zoning Ordinance or Comprehensive Plan, the Applicant proactively engaged property owners not only within five hundred (500) feet of the Property, but also engaged every member of the Martin Luther King Homeowners Association (the "HOA"). Accordingly, the Applicant and its

Law Offices: Lexington | Louisville

Mr. Larry Forester, Chairman  
October 3, 2022  
Page 2

team participated in a neighborhood meeting, via Zoom, on Monday, July 25, 2022, to provide information to the neighboring property owners as to the proposed Zone Change and development. At this initial meeting, neighbors participated and were presented with a presentation highlighting the proposed zone change and representations of what the development could ultimately look like. At this time, the Applicant was prepared to move forward with a Zone Change to the Neighborhood Business (B-1) Zone. However, at this meeting, the HOA and its members voiced concerns as to the numerous uses which would be incompatible with the neighborhood in the B-1 Zone. The HOA advised they would be much more welcoming to a request for zone change to the P-1 Zone. Accordingly, the Applicant advised the HOA and participants it would go back to the drawing board, confer with planning staff, and determine if a change to P-1 would be possible.

After having discussed with planning staff and taking to heart what the HOA had to say at the initial meeting, the Applicant had a second HOA meeting on August 31, 2022. At this second meeting the Applicant not only agreed to adjust its request from B-1 to P-1, but that it would also consider restrictive conditions as to principal uses if the zoning was changed to P-1. Thus, the Applicant asked the HOA to submit which uses in the P-1 Zone they would not be comfortable with.

Thereafter, the HOA had a third meeting, which planning staff representatives attended, to determine which uses in the P-1 Zone would be incompatible with the neighborhood. As a result of these communications and neighborhood engagement, the HOA and Applicant agreed the following uses would be incompatible for this Property; banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies; funeral parlors; community centers and private clubs; hospitals, nursing homes, personal care facilities and assisted living facilities; day shelters; drive through facilities; and parking lots and structures.

**C. Restricted Uses:**

As is discussed above, the Applicant after working with the HOA, has agreed to restrict certain uses on the Property should the zone be changed to P-1. The Applicant agrees with the HOA that the uses highlighted above would be incompatible for their own varying reasons. Specifically, a banking institution or other financial institution would likely require drive through accommodations to support this use. However, the current design of the Property would not be able to accommodate drive through facilities and is why the Applicant also agrees a principal use utilizing drive through facilities would be incompatible and undevelopable. This is premised on the desire of the Applicant to not disturb the historic nature of the building currently located on the Property.

Mr. Larry Forester, Chairman  
October 3, 2022  
Page 3

Further, funeral parlors, community centers and private clubs, hospitals, nursing homes, personal care facilities and assisted living facilities would require parking accommodations which are not feasible on the Property. In addition, the current infrastructure could not handle these uses in its current state. Again, it is the Applicant's desire to keep the Property and the building located thereon in its natural historic nature. Allowing one of the above uses would require an entire overhaul of the Property and infrastructure which would undeniably require alterations to the structure, which is was originally built in 1908.

In addition, the Applicant wishes to be a good neighbor and seamlessly integrate into the neighborhood. The Applicant and HOA agree that the uses outlined above would disrupt the historic nature of this neighborhood and detrimentally impact the neighborhood. Accordingly, the Applicant, through working with the HOA, would request that the above cited uses being restricted if the Property is rezoned to P-1.

**D. Site Description:**

The subject site is located just outside the downtown area with primary road access onto East Fourth Street and a proposed secondary access onto Kleiser Alley. The immediate surrounding zones are a mix of R-4 (High Density Apartments), and R-3 (Planned Neighborhood Residential). The contextual surroundings include R-3 (Planned Neighborhood Residential), R-4 (High Density Apartment), B-1 (Neighborhood Business), and one elementary school (Lexington Traditional Magnet School). The subject property has been vacant for about the last year as the previous occupant was The Episcopal Church in the Diocese of Lexington, Inc. who utilized the Property as a religious office space.

The Applicant is mindful of the surrounding neighborhood and residents as evidenced by the extensive pre-application work with the neighborhood. Thus, the Applicant wishes to seamlessly integrate this use into the neighborhood while also maintaining the structure on the Property which was built in 1908. The Property and structure, as currently designed, provides a great space for professional office space which will eliminate the concerns of the neighborhood while also limiting the impact created by a new use. Accordingly, in order to preserve the historic nature of the Property while also accommodating the HOA, the Applicant believes a professional office space will provide a great transition between the residential neighborhood and the downtown core and the more burdensome developments on the neighborhood.

**E. Place-Type, Development Type & Requested Zone:**

Placebuilder defines seven place-types within the Urban Service Area boundary. Based upon the surrounding land-use type and zoning, this location is best suited for the 2<sup>nd</sup> Tier Urban place-type, which is defined as:



Mr. Larry Forester, Chairman  
October 3, 2022  
Page 4

*Where significant infill and redevelopment opportunities exist in order to complement the urban core, generally situated within the established Infill and Redevelopment Boundary. While not expected to be as intensely developed as the downtown core, high-rise opportunities are not precluded provided that measures are taken to address the adjacent context. The forward trend for development in the 2nd tier urban areas should be towards more walkability, intensity, and appropriate stewardship of the available opportunities that will accommodate Lexington's future growth, first and foremost. (Page 279)*

Further, the 2<sup>nd</sup> Tier Urban place-type identifies medium density residential, medium-high density residential, high density residential, high density non-residential/mixed use as well as medium density non-residential/mixed use land use within the place-type. The most appropriate place-type for the site is 2<sup>nd</sup> Tier Urban because of the context of the site: this site is prime for infill and redevelopment by repurposing the Property to a professional office space while avoiding the destruction of the structure built in 1908; is a great buffer from the more intensely developed downtown area; provides connections to multi-modal network beyond the property boundaries; acts an appropriate steward for the protection of this historical structure; and promotes walkability to surrounding neighborhood and downtown area.

The proposed development will enhance the surrounding environs by creating a transition from the single-family housing to the north and the more intense development to east & south of the subject property. The proposed development will also strengthen the multimodal transportation network towards and will utilize the already existing bike path, LexTran bus stop and sidewalks. This proposed project will meet the community's needs, and the proposed facilities provide positive economic impact for area businesses.

While Placebuilder recommends the following potential zoning categories associated with the proposed 2<sup>nd</sup> Tier Urban place-type: B-1, MU-1, MU-2, MU-3, R-4 and R-5 zones. The zone that most closely aligns with the applicant's vision for the site is the Professional Office (P-1) zone, due to the communications with the HOA and the intended use of the Property. P-1 and B-1 are similar classifications regarding medium density non-residential/mixed use, but the P-1 Zone provides for less principle uses which eases the concerns of the neighborhood, which the Applicant is agreeable with.

The Development Plan shows that the Applicant has no intention of altering or developing the Property in a way which would impact the currently existing structure. As is discussed above, the Property was built in 1908 and that historic nature is sought to be preserved by the Applicant, while also bearing in mind the economic side of development. Accordingly, the Applicant does not wish to demolish this historic structure for high rise apartments and wishes to find a use that is congruent with the neighborhood

Mr. Larry Forester, Chairman  
October 3, 2022  
Page 5

and accepted by the neighborhood. Accordingly, the Applicant believes the P-1 Zone achieves these goals.

As further evidence, the proposed development has answered the intent of the proposed P-1 zone, and the project provides a valid and realistic development to save the historic structure while accommodating the requests of the neighborhood. This project will also use an under-utilized parcel. The requested P-1 zone advances the multimodal and walkability goals of the comprehensive plan by reducing the impact of parking on land use consumption. Given the request for P-1 zoning, the Applicant wishes to not have to overdevelop the Property with excessive and unneeded parking. Further, this Property and use will utilize the already existing infrastructure for walkability, public transit, and biking. There is currently a LexTran bus stop across the street, usable sidewalks throughout the neighborhood, and a bike path along E. Fourth Street.

The Applicant understands the vision of the community, as outlined in Imagine Lexington: The 2018 Comprehensive Plan. The mission statement, goals and objectives, and the Placebuilder criteria are well-served by the proposed redevelopment of the property. The applicant believes that the request is in accord with the Comprehensive Plan, based upon the context of the site location, and that the site most closely aligns with the 2<sup>nd</sup> Tier Urban place-type. We consider the proposed Professional Office (P-1) zone to be an acceptable zone for this property and development. It is a suitable development typology, which will also act as a conceptual bridge between the various surrounding zones and their land use functions.

**F. Variance Requested.**

Under the P-1 Zone and based upon the structure's square footage, thirty (30) total parking spaces are required. However, the Applicant will be utilizing bike storage areas and the location of the public transit bus stop to reduce the required parking from thirty (30) total spaces to twenty-eight and a half spots (28.5). Therefore, the Applicant is requesting a variance for two (2) parking spaces to make the required parking spots for the Property twenty-seven (27) total spots.

Given the location of the Property, the available walking trails and bike paths, as well as public transit stops, this requested variance will not adversely impact the public health, safety or welfare. Further, requiring the installation of thirty (30) parking spots will require for more greenspace and landscaping on this historic property to be disturbed and removed. Further, the requested variance arises from special circumstances in that the Applicant wishes to keep the historic structure on the Property and requiring thirty (30) parking spots endangers the viability of the building. A strict application of the zoning ordinance and parking requirements would result in the Property being undevelopable. Lastly, the Applicant has spoken with the Lexington Living Arts & Science Center, located directly across E. Fourth Street, and they are agreeable to allowing the Applicant

Mr. Larry Forester, Chairman  
 October 3, 2022  
 Page 6

to utilize its parking lot if additional spots are needed. Likewise, the Applicant will allow the visitors of the Lexington Living Arts & Science Center to utilize their parking lot when needed.

Therefore, the Applicant, in conjunction with its Zone Change and Development Plan approval request, specifically ask for a variance of two (2) parking spots for this Property.

**G. Development Criteria:**

The following information supports our assertion that the proposed zone change is in agreement with Imagine Lexington: The 2018 Comprehensive Plan.

<i>Site Design, Building Form &amp; Location</i>	
A-DS3-1	<p><i>Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.</i></p> <p>The applicant intends to meet the multi-family design standards as the standards apply to the development of the proposed P-1 zone change. The following outlines the proposed site and building elements included in this mixed-use development project:</p> <p>Site Planning:</p> <ul style="list-style-type: none"> <li>• The Property fronts on N MLK and E. Fourth Street and does not back into any street. (SP.1)</li> <li>• The structure on the Property faces E. Fourth Street with a front walkway leading directly from the entrance to E. Fourth Street. (SP.2)</li> <li>• The structure on the Property will not be moved or altered maintaining the current setbacks. (SP.4)</li> <li>• The Property has bike paths and walkable sidewalks which will promote continuous pedestrian networks. (SP.5)</li> <li>• As on the development plan, parking will be located on the side of the Property to allow frontage on E. Fourth Street and N. MLK Boulevard. (SP.5)</li> <li>• Pedestrian and bike paths are located throughout the neighborhood and encourage walkable and public</li> </ul>

	<p>transit (SP.13)</p> <ul style="list-style-type: none"><li>• The proposed parking area will be appropriately lit while also taking into consideration the surrounding single family residences. (SP.7, SP.8)</li></ul> <p>Open Space &amp; Landscaping:</p> <ul style="list-style-type: none"><li>• As noted on the development plan, the Property has a large front yard and side yard which will be utilized as open space and is easily accessible by visitors and employees. (OS.1)</li><li>• The Property currently has large and older trees located along the entrance point, rear of the property and along the N. MLK side which provide a clear boundary for the Property. (OS.4)</li><li>• The Property currently has many large and older trees which will be maintained to preserve the historic nature of the Property. (OS.5)</li><li>• Again, the existing landscaping provides a buffer for the parking area and the development plan shows the implementation of additional landscaping to increase the buffer. (OS.6)</li><li>• The current landscaping and proposed additional landscaping will create a canopy for the E. Fourth Street entrance (OS.11)</li><li>• New site lighting will be a part of the development project and will take into account surrounding single family residences. (OS.12, OS.13)</li></ul> <p>Architecture Design:</p> <ul style="list-style-type: none"><li>• Given the there be no new development or redesign of the existing structure, much of Architecture Design criteria are inapplicable but the following are pertinent;</li><li>• The existing structure provides a great step down from the urban core and provides a buffer to the existing residential area. AD.1</li><li>• The size and scope of the current structure is appropriate for the neighborhood and tearing this structure down for high density apartments would be</li></ul>
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Mr. Larry Forester, Chairman  
 October 3, 2022  
 Page 8

	<p>out of character for the area. AD.2</p> <ul style="list-style-type: none"> <li>The historic structure will be maintained and the side façade will not be altered. AD.8</li> </ul>
A-DS5-3	The Property currently has an existing entrance point on E. Fourth Street with direct access thereto via the illuminated walkway from the front door to E. Fourth Street.
A-DS5-4	The Property has an activated ground level for entry points at two locations.
A-DS7-1	Parking is located on the side and rear to provide greater buffer to residential areas.
A-DS7-2	There is currently numerous large and older trees providing a buffer and more trees will be added to the Property.
A-DN2-2	The current structure is in conformity as to size, scale and scope of the surrounding area and this zone change will allow for this structure to remain.
A-Dn3-1	This commercial development will be incorporated into a residential area and promotes walkability.
A-EQ3-1	This Property provides a great buffer from the more highly developed downtown area and the 2 <sup>nd</sup> tier urban areas of Lexington.
B-PR9-1	The existing topography will remain and no disturbances to the existing environment will occur.
B-SU11-1	Additional trees and landscaping will be added to the Property.
C-DI1-1	P-1 zoning allows for varying professionals and jobs.
C-DI5-1	This is the quintessential adaptive reuse of a 1908 structure without diminishing the historic nature thereof.
C-PS9-2	This Property was originally used by a religious organization as a professional office and this use will expand thereon.
C-PS10-2	While there is no written agreement, the Lexington Living Arts & Science Center has agreed to allow the Applicant to use its parking area as needed for additional parking.
D-PL2-1	This professional office space is non-existent in the surrounding neighborhood.

Mr. Larry Forester, Chairman  
 October 3, 2022  
 Page 9

D-PL7-1	The Applicant met numerous times with stakeholders to determine the most appropriate use.
D-PL9-1	The structure, built in 1908, will be preserved.
E-GR4-1 and E-GR5-1	This development will reuse and adapt the already existing structure.
E-GR9-2	This use will be low intensity so as to accommodate the surrounding neighborhood.
E-GR9-4	This Property is currently vacant and will seek to use an underutilized property within the infill and redevelopment zone.
E-GR10-2	This development will further walkability to commercial areas.

**Transportation & Pedestrian Connectivity**

A-DS1-1	A LexTran bus stop is already located across E. Fourth Street from the Property.
A-DS1-2	A public sidewalk directly connects the Property to the bus stop.
A-DS5-1	There is ample space for walkers and bikers to access the property without risk of vehicular involvement.
A-EQ7-2	There is public transit located in close proximity to the Property.
C-PS10-1	The Lexington Living Arts & Science Center and the Applicant will share parking spaces as needed by each entity.
D-CO2-1	There will be bike parking and ample parking for every type of user and visitor.
D-CO2-2	All ADA requirements will be met.

**Greenspace & Environmental Health**

A-DS4-3	The existing landscaping will remain and will simply be added to while preserving the existing trees.
A-EQ7-3	Any private spaces will be so delineated.
B-PR7-2, B-PR7-3 and B-RE1-1	Additional trees will be added to the existing canopy.

Mr. Larry Forester, Chairman  
 October 3, 2022  
 Page 10

Since this proposed project is a mixed-use development, a number of the Placebuilder development criteria are not applicable to the proposed zone change. Those are listed below, along with a brief explanation of why they are not pertinent to proposed redevelopment of the building and/or the site.

Site Design, Building Form & Location	
A-DS4-2	There is no new construction.
A-DS7-3	There will be no parking structure.
A-DS8-1	There will be no housing.
A-DS10-1	There will be no residential units.
A-DS11-1	This development will not create a focal point.
A-DN2-1	There will be no residential aspect.
A-DN3-2	There will be no residential development.
A-EQ7-1	This will not develop a school site.
C-LI6-1	This will not be a residential development.
C-LI6-2	This will not be a residential development.
C-LI7-1	This development will not create a mixed use neighborhood, but will create a new use in a neighborhood.
C-PS10-2	There will be no overparking.
D-PL10-1	There will be no public art easements.
D-SP3-1	There is adequate infrastructure and wireless communication is provided.
D-SP3-2	There will be no development of an antennae.
D-SP9-1	There is no residential aspect for this development.
E-GR9-1	There is no residential aspect for this development.
E-GR9-3	There is no residential aspect for this development.
E-GR10-3	There is no common commercial space.

Transportation & Pedestrian Connectivity	
A-DS5-2	There will be no development of new roadways.
A-DS10-2	This development will not create a focal point.
A-EQ3-2	This development is not along a corridor.
B-SU4-1	There is community space and greenspace within walking distance.
D-CO1-1	There is no creation of rights-of-way.
D-CO4-2	There is no development of new roadways as existing roadways are sufficient.
D-CO5-1	There is no development of roadways.
D-SP1-3	Multimodal transportation infrastructure already exists and is sufficient.

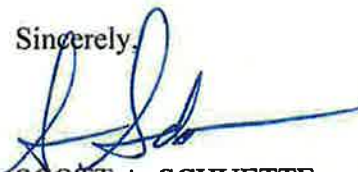
Mr. Larry Forester, Chairman  
October 3, 2022  
Page 11

E-ST3-1	This development is not along a corridor.
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Greenspace and Environmental Health	
B-PR2-1	For this development project, no environmentally sensitive areas have been identified.
B-PR2-2	For this development project, no floodplain is located on the property.
B-PR2-3	For this development project, no floodplain is located on the property.
B-PR7-1	Connections already exist in the surrounding neighborhood.
B-RE2-1	The neighborhood already has existing green infrastructure which will not be impacted.
D-SP2-1	There will be no school site.
D-SP2-2	There will be no school site.
E-GR3-1	Connections to greenways already exist.
E-GR3-2	This development will not create a focal point.

**H. Conclusion:**

We ask, on behalf of the Applicant, that the Planning Staff and Planning Commission favorably consider the proposed zone change and its relationship to fulfilling the mission, goals, objectives, and policies of Imagine Lexington: The 2018 Comprehensive Plan. Thank you in advance for your consideration of our proposed zone change and we look forward to presenting our case in full at a public hearing. We will be pleased to answer any questions about our proposal between now and the public hearing.

Sincerely,  
  
SCOTT A. SCHUETTE

SAS/ss



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ALSO ADMITTED IN FLORIDA



201 EAST MAIN STREET, SUITE 900  
LEXINGTON, KY 40507  
859.231.8780 EXT. 1018

October 6, 2022

Mr. Larry Forester, Chairman  
Lexington-Fayette Urban Co Planning Commission  
200 E. Main Street  
Lexington, KY 40507

**My Client:** Elmwood Oz Fund, LLC  
**Re:** Supplemental Justification for Variance

Dear Chairman Forester:

Please be advised I am writing on behalf of my client and the applicant, Elmwood Oz Fund, LLC (hereinafter the "Applicant"), a Kentucky limited liability company, which has filed a Zone Change Application and an associated Development Plan for property located at 203 E. Fourth Street in Lexington, Kentucky (the "Property"). The Property is a single lot of 1.027 acres (gross area), 0.768 acres (net area), currently zoned High-Density Apartments (R-4). The property is bounded by rights-of-way on three sides: N. Martin Luther King Boulevard to the west, North Martin Luther King Boulevard to the east and E. Fourth Street to the south. The Applicant is seeking a zone change from the current R-4 designation to Professional Office (P-1). In addition to the Zone Change request, the Applicant is also seeking a variance to reduce the minimum required parking by seven (7) spots as is more thoroughly explained herein.

Under the P-1 Zone and based upon the structure's square footage, thirty-five (35) total parking spaces are required. However, the Applicant will be utilizing bike storage areas and the location of the public transit bus stop to reduce the minimum required parking from thirty-five (35) total spaces to thirty-four spaces (34). Therefore, the Applicant is requesting a variance for seven (7) parking spaces to make the minimum required parking spots for the Property twenty-seven (27) total spots.

Given the location of the Property, the available walking trails and bike paths, as well as public transit stops, this requested variance will not adversely impact the public health, safety or welfare. In fact, this will promote the walkability, bike paths, and public transit in the area by preventing unneeded and excessive parking areas thereby implicitly promoting the health and welfare of the general public. Further, requiring the installation of thirty-four (34) parking spots will require for more greenspace and landscaping on this historic property to be disturbed and removed. Requiring thirty-four (34) parking spots will essentially deprive the Applicant of use of this Property and likely require renovations and/or demolition to the existing historic structure simply to provide additional parking spaces, when they are currently not needed for the intended use.

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Mr. Larry Forester, Chairman  
October 6, 2022  
Page 2

Further, the requested variance arises from special circumstances in that the Applicant wishes to keep the historic structure on the Property and requiring thirty-four (34) parking spots endangers the viability of the building. A strict application of the zoning ordinance and parking requirements would result in the Property being undevelopable. This is clear from reviewing the size of the Property and the layout of the existing structure. It is simply not feasible to place thirty-four (34) parking spaces without removing greenspace and/or the entire front yard. These actions would result in loss of a structure built in 1908 and trees and landscaping that have flourished on the Property.

Lastly, the Applicant has spoken with the Lexington Living Arts & Science Center, located directly across E. Fourth Street, and they are agreeable to allowing the Applicant to utilize its parking lot if additional spots are needed. Likewise, the Applicant will allow the visitors of the Lexington Living Arts & Science Center to utilize their parking lot when needed. This has not been reduced to a formal written agreement, but the Applicant is excited to be a good neighbor to the Lexington Living Arts & Science Center and assist with overflow parking for their larger events. Likewise, the Applicant is thankful to the Center for allowing them to use their lot for overflow parking as well.

Therefore, the Applicant, in conjunction with its Zone Change and Development Plan approval request, specifically ask for a variance reducing the minimum required parking spaces from thirty-four (34) to twenty-seven (27).

Sincerely,



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201 EAST MAIN STREET, SUITE 900  
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October 20, 2022

Mr. Larry Forester, Chairman  
Lexington-Fayette Urban Co Planning Commission  
200 E. Main Street  
Lexington, KY 40507

Dear Chairman Forester:

Please be advised I am writing on behalf of my client and the applicant, Elmwood Oz Fund, LLC (hereinafter the "Applicant"), a Kentucky limited liability company, which has filed a Zone Change Application and an associated Development Plan for property located at 203 E. Fourth Street in Lexington, Kentucky (the "Property"). The Property is a single lot of 1.027 acres (gross area), 0.768 acres (net area), currently zoned High Density Apartments (R-4). The property is bounded by rights-of-way on three sides: N. Martin Luther King Boulevard to the west, North Martin Luther King Boulevard to the east and E. Fourth Street to the south. The Applicant is seeking a zone change from the current R-4 designation to Professional Office (P-1) as more particularly explained below. In addition to the Zone Change request, the Applicant is also seeking a variance to reduce the minimum required parking spots from thirty-four (34) to twenty (20) for a total reduction of fourteen (14) spots as is more thoroughly explained herein.

**A. Goals and Objectives:**

We believe that the Applicant's proposed development is in agreement with the 2018 Comprehensive Plan, specifically the Goals and Objectives that encourage infill and redevelopment (Theme A, Goal #2); provide for well-designed neighborhoods (Theme A, Goal #3); address community facilities at a neighborhood scale (Theme A, Goal #4); reduce Lexington-Fayette Urban County's carbon footprint (Theme B, Goal #2); apply environmentally sustainable practices to protect, conserve and restore landscapes and natural resources (Theme B, Goal #3); support and showcase local assets to further the creation of a variety of jobs (Theme C, Goal #1); support the creation of jobs and prosperity (Theme C, Goal #2); work to achieve an effective and comprehensive transportation system (Theme D, Goal #1); and more specifically, protecting historic resources while incentivizing the renovation, restoration, development and maintenance of historic residential and commercial structures (Theme D, Goal #3).

**B. Engagement:**

Although pre-application engagement is not required by the Zoning Ordinance or Comprehensive Plan, the Applicant proactively engaged property owners not only within five hundred (500) feet of the Property, but also engaged every member of the Martin

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Mr. Larry Forester, Chairman  
October 20, 2022  
Page 2

Luther King Homeowners Association (the "HOA"). Accordingly, the Applicant and its team participated in a neighborhood meeting, via Zoom, on Monday, July 25, 2022, to provide information to the neighboring property owners as to the proposed Zone Change and development. At this initial meeting, neighbors participated and were presented with a presentation highlighting the proposed zone change and representations of what the development could ultimately look like. At this time, the Applicant was prepared to move forward with a Zone Change to the Neighborhood Business (B-1) Zone. However, at this meeting, the HOA and its members voiced concerns as to the numerous uses which would be incompatible with the neighborhood in the B-1 Zone. The HOA advised they would be much more welcoming to a request for zone change to the P-1 Zone. Accordingly, the Applicant advised the HOA and participants it would go back to the drawing board, confer with planning staff, and determine if a change to P-1 would be possible.

After having discussed with planning staff and taking to heart what the HOA had to say at the initial meeting, the Applicant had a second HOA meeting on August 31, 2022. At this second meeting the Applicant not only agreed to adjust its request from B-1 to P-1, but that it would also consider restrictive conditions as to principal uses if the zoning was changed to P-1. Thus, the Applicant asked the HOA to submit which uses in the P-1 Zone they would not be comfortable with.

Thereafter, the HOA had a third meeting, which planning staff representatives attended, to determine which uses in the P-1 Zone would be incompatible with the neighborhood. As a result of these communications and neighborhood engagement, the HOA and Applicant agreed the following uses would be incompatible for this Property; banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies; funeral parlors; community centers and private clubs; hospitals, nursing homes, personal care facilities and assisted living facilities; day shelters; drive through facilities; and parking lots and structures.

**C. Restricted Uses:**

As is discussed above, the Applicant after working with the HOA, has agreed to restrict certain uses on the Property should the zone be changed to P-1. The Applicant agrees with the HOA that the uses highlighted above would be incompatible for their own varying reasons. Specifically, a banking institution or other financial institution would likely require drive through accommodations to support this use. However, the current design of the Property would not be able to accommodate drive through facilities and is why the Applicant also agrees a principal use utilizing drive through facilities would be incompatible and undevelopable. This is premised on the desire of the Applicant to not disturb the historic nature of the building currently located on the Property.

Mr. Larry Forester, Chairman  
October 20, 2022  
Page 3

Further, funeral parlors, community centers and private clubs, hospitals, nursing homes, personal care facilities and assisted living facilities would require parking accommodations which are not feasible on the Property. In addition, the current infrastructure could not handle these uses in its current state. Again, it is the Applicant's desire to keep the Property and the building located thereon in its natural historic nature. Allowing one of the above uses would require an entire overhaul of the Property and infrastructure which would undeniably require alterations to the structure, which is was originally built in 1908.

In addition, the Applicant wishes to be a good neighbor and seamlessly integrate into the neighborhood. The Applicant and HOA agree that the uses outlined above would disrupt the historic nature of this neighborhood and detrimentally impact the neighborhood. Accordingly, the Applicant, through working with the HOA, would request that the above cited uses being restricted if the Property is rezoned to P-1.

**D. Site Description:**

The subject site is located just outside the downtown area with primary road access onto East Fourth Street and a proposed secondary access onto Kleiser Alley. The immediate surrounding zones are a mix of R-4 (High Density Apartments), and R-3 (Planned Neighborhood Residential). The contextual surroundings include R-3 (Planned Neighborhood Residential), R-4 (High Density Apartment), B-1 (Neighborhood Business), and one elementary school (Lexington Traditional Magnet School). The subject property has been vacant for about the last year as the previous occupant was The Episcopal Church in the Diocese of Lexington, Inc. who utilized the Property as a religious office space.

The Applicant is mindful of the surrounding neighborhood and residents as evidenced by the extensive pre-application work with the neighborhood. Thus, the Applicant wishes to seamlessly integrate this use into the neighborhood while also maintaining the structure on the Property which was built in 1908. The Property and structure, as currently designed, provides a great space for professional office space which will eliminate the concerns of the neighborhood while also limiting the impact created by a new use. Accordingly, in order to preserve the historic nature of the Property while also accommodating the HOA, the Applicant believes a professional office space will provide a great transition between the residential neighborhood and the downtown core and the more burdensome developments on the neighborhood.

**E. Place-Type, Development Type & Requested Zone:**

Placebuilder defines seven place-types within the Urban Service Area boundary. Based upon the surrounding land-use type and zoning, this location is best suited for the 2<sup>nd</sup> Tier Urban place-type, which is defined as:

Mr. Larry Forester, Chairman  
October 20, 2022  
Page 4

*Where significant infill and redevelopment opportunities exist in order to complement the urban core, generally situated within the established Infill and Redevelopment Boundary. While not expected to be as intensely developed as the downtown core, high-rise opportunities are not precluded provided that measures are taken to address the adjacent context. The forward trend for development in the 2nd tier urban areas should be towards more walkability, intensity, and appropriate stewardship of the available opportunities that will accommodate Lexington's future growth, first and foremost. (Page 279)*

Further, the 2<sup>nd</sup> Tier Urban place-type identifies medium density residential, medium-high density residential, high density residential, high density non-residential/mixed use as well as medium density non-residential/mixed use land use within the place-type. The most appropriate place-type for the site is 2<sup>nd</sup> Tier Urban because of the context of the site: this site is prime for infill and redevelopment by repurposing the Property to a professional office space while avoiding the destruction of the structure built in 1908; is a great buffer from the more intensely developed downtown area; provides connections to multi-modal network beyond the property boundaries; acts an appropriate steward for the protection of this historical structure; and promotes walkability to surrounding neighborhood and downtown area.

The proposed development will enhance the surrounding environs by creating a transition from the single-family housing to the north and the more intense development to east & south of the subject property. The proposed development will also strengthen the multimodal transportation network towards and will utilize the already existing bike path, LexTran bus stop and sidewalks. This proposed project will meet the community's needs, and the proposed facilities provide positive economic impact for area businesses.

While Placebuilder recommends the following potential zoning categories associated with the proposed 2<sup>nd</sup> Tier Urban place-type: B-1, MU-1, MU-2, MU-3, R-4 and R-5 zones. The zone that most closely aligns with the applicant's vision for the site is the Professional Office (P-1) zone, due to the communications with the HOA and the intended use of the Property. P-1 and B-1 are similar classifications regarding medium density non-residential/mixed use, but the P-1 Zone provides for less principle uses which eases the concerns of the neighborhood, which the Applicant is agreeable with.

The Development Plan shows that the Applicant has no intention of altering or developing the Property in a way which would impact the currently existing structure. As is discussed above, the Property was built in 1908 and that historic nature is sought to be preserved by the Applicant, while also bearing in mind the economic side of development. Accordingly, the Applicant does not wish to demolish this historic structure for high rise apartments and wishes to find a use that is congruent with the neighborhood

Mr. Larry Forester, Chairman  
October 20, 2022  
Page 5

and accepted by the neighborhood. Accordingly, the Applicant believes the P-1 Zone achieves these goals.

As further evidence, the proposed development has answered the intent of the proposed P-1 zone, and the project provides a valid and realistic development to save the historic structure while accommodating the requests of the neighborhood. This project will also use an under-utilized parcel. The requested P-1 zone advances the multimodal and walkability goals of the comprehensive plan by reducing the impact of parking on land use consumption. Given the request for P-1 zoning, the Applicant wishes to not have to overdevelop the Property with excessive and unneeded parking. Further, this Property and use will utilize the already existing infrastructure for walkability, public transit, and biking. There is currently a LexTran bus stop across the street, usable sidewalks throughout the neighborhood, and a bike path along E. Fourth Street.

The Applicant understands the vision of the community, as outlined in Imagine Lexington: The 2018 Comprehensive Plan. The mission statement, goals and objectives, and the Placebuilder criteria are well-served by the proposed redevelopment of the property. The applicant believes that the request is in accord with the Comprehensive Plan, based upon the context of the site location, and that the site most closely aligns with the 2<sup>nd</sup> Tier Urban place-type. We consider the proposed Professional Office (P-1) zone to be an acceptable zone for this property and development. It is a suitable development typology, which will also act as a conceptual bridge between the various surrounding zones and their land use functions.

**F. Variance Requested.**

Under the P-1 Zone and based upon the structure's square footage, thirty-five (35) total parking spaces are required. However, the Applicant will be utilizing bike storage areas and the location of the public transit bus stop to reduce the minimum required parking from thirty-five (35) total spaces to thirty-four spaces (34). Therefore, the Applicant is requesting a variance for fourteen (14) parking spaces to make the minimum required parking spots for the Property twenty (20) total spots. Twenty (20) parking spots is more than ample parking to for the future tenant, Integrity/Architecture PLLC. Therefore, instead of losing substantial greenspace, existing landscaping, and older fully developed trees, the Applicant is seeking to keep the exact parking spaces currently located on the Property.

Given the location of the Property, the available walking trails and bike paths, as well as public transit stops, this requested variance will not adversely impact the public health, safety or welfare. In fact, this will promote the walkability, bike paths, and public transit in the area by preventing unneeded and excessive parking areas thereby implicitly promoting the health and welfare of the general public. Further, requiring the installation of thirty-four (34) parking spots will require for more greenspace and landscaping on this

Mr. Larry Forester, Chairman  
October 20, 2022  
Page 6

historic property to be disturbed and removed. Requiring thirty-four (34) parking spots will essentially deprive the Applicant of use of this Property and likely require renovations and/or demolition to the existing historic structure simply to provide additional parking spaces, when they are currently not needed for the intended use.

Currently located on the Property and surrounding the parking area are large trees. The Applicant is mindful of these trees and wishes to have them remain on the Property. Accordingly, the twenty (20) parking spaces is what currently exists on the Property and will allow for the greenspace, trees and landscaping to remain as is. Further, twenty (20) parking spaces will be more than ample to meet the parking needs for the intended tenant, Integrity/Architecture PLLC, to effectively operate its business without spillover onto the street or overburdening the neighborhood with overflow parking.

Further, the requested variance arises from special circumstances in that the Applicant wishes to keep the historic structure on the Property and requiring thirty-four (34) parking spots endangers the viability of the building as well as the existing landscaping. A strict application of the zoning ordinance and parking requirements would result in the Property being undevelopable. This is clear from reviewing the size of the Property and the layout of the existing structure. It is simply not feasible to place thirty-four (34) parking spaces without removing greenspace and/or the entire front yard. These actions would result in loss of a structure built in 1908 and trees and landscaping that have flourished on the Property.

Lastly, the Applicant has spoken with the Lexington Living Arts & Science Center, located directly across E. Fourth Street, and they are agreeable to allowing the Applicant to utilize its parking lot if additional spots are needed. Likewise, the Applicant will allow the visitors of the Lexington Living Arts & Science Center to utilize their parking lot when needed. This has not been reduced to a formal written agreement, but the Applicant is excited to be a good neighbor to the Lexington Living Arts & Science Center and assist with overflow parking for their larger events. Likewise, the Applicant is thankful to the Center for allowing them to use their lot for overflow parking as well.

Therefore, the Applicant, in conjunction with its Zone Change and Development Plan approval request, specifically ask for a variance reducing the minimum required parking spaces from thirty-four (34) to twenty (20).

**G. Development Criteria:**

The following information supports our assertion that the proposed zone change is in agreement with Imagine Lexington: The 2018 Comprehensive Plan.

*Site Design, Building Form & Location*



A-DS3-1	<p><i>Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.</i></p> <p>The applicant intends to meet the multi-family design standards as the standards apply to the development of the proposed P-1 zone change. The following outlines the proposed site and building elements included in this mixed-use development project:</p> <p><b>Site Planning:</b></p> <ul style="list-style-type: none"><li>• The Property fronts on N MLK and E. Fourth Street and does not back into any street. (SP.1)</li><li>• The structure on the Property faces E. Fourth Street with a front walkway leading directly from the entrance to E. Fourth Street. (SP.2)</li><li>• The structure on the Property will not be moved or altered maintaining the current setbacks. (SP.4)</li><li>• The Property has bike paths and walkable sidewalks which will promote continuous pedestrian networks. (SP.5)</li><li>• As on the development plan, parking will be located on the side of the Property to allow frontage on E. Fourth Street and N. MLK Boulevard. (SP.5)</li><li>• Pedestrian and bike paths are located throughout the neighborhood and encourage walkable and public transit (SP.13)</li><li>• The proposed parking area will be appropriately lit while also taking into consideration the surrounding single family residences. (SP.7, SP.8)</li></ul> <p><b>Open Space &amp; Landscaping:</b></p> <ul style="list-style-type: none"><li>• As noted on the development plan, the Property has a large front yard and side yard which will be utilized as open space and is easily accessible by visitors and employees. (OS.1)</li><li>• The Property currently has large and older trees located along the entrance point, rear of the property and along the N. MLK side which provide a clear</li></ul>
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	<p>boundary for the Property. (OS.4)</p> <ul style="list-style-type: none"> <li>• The Property currently has many large and older trees which will be maintained to preserve the historic nature of the Property. (OS.5)</li> <li>• Again, the existing landscaping provides a buffer for the parking area and the development plan shows the implementation of additional landscaping to increase the buffer. (OS.6)</li> <li>• The current landscaping and proposed additional landscaping will create a canopy for the E. Fourth Street entrance (OS.11)</li> <li>• New site lighting will be a part of the development project and will take into account surrounding single family residences. (OS.12, OS.13)</li> </ul> <p>Architecture Design:</p> <ul style="list-style-type: none"> <li>• Given the there be no new development or redesign of the existing structure, much of Architecture Design criteria are inapplicable but the following are pertinent;</li> <li>• The existing structure provides a great step down from the urban core and provides a buffer to the existing residential area. AD.1</li> <li>• The size and scope of the current structure is appropriate for the neighborhood and tearing this structure down for high density apartments would be out of character for the area. AD.2</li> <li>• The historic structure will be maintained and the side façade will not be altered. AD.8</li> </ul>
A-DS5-3	The Property currently has an existing entrance point on E. Fourth Street with direct access thereto via the illuminated walkway from the front door to E. Fourth Street.
A-DS5-4	The Property has an activated ground level for entry points at two locations.
A-DS7-1	Parking is located on the side and rear to provide greater buffer to residential areas.
A-DS7-2	There is currently numerous large and older trees providing a buffer and more trees will be added to the Property.

Mr. Larry Forester, Chairman  
 October 20, 2022  
 Page 9

A-DN2-2	The current structure is in conformity as to size, scale and scope of the surrounding area and this zone change will allow for this structure to remain.
A-Dn3-1	This commercial development will be incorporated into a residential area and promotes walkability.
A-EQ3-1	This Property provides a great buffer from the more highly developed downtown area and the 2 <sup>nd</sup> tier urban areas of Lexington.
B-PR9-1	The existing topography will remain and no disturbances to the existing environment will occur.
B-SU11-1	Additional trees and landscaping will be added to the Property.
C-DI1-1	P-1 zoning allows for varying professionals and jobs.
C-DI5-1	This is the quintessential adaptive reuse of a 1908 structure without diminishing the historic nature thereof.
C-PS9-2	This Property was originally used by a religious organization as a professional office and this use will expand thereon.
C-PS10-2	While there is no written agreement, the Lexington Living Arts & Science Center has agreed to allow the Applicant to use its parking area as needed for additional parking.
D-PL2-1	This professional office space is non-existent in the surrounding neighborhood.
D-PL7-1	The Applicant met numerous times with stakeholders to determine the most appropriate use.
D-PL9-1	The structure, built in 1908, will be preserved.
E-GR4-1 and E-GR5-1	This development will reuse and adapt the already existing structure.
E-GR9-2	This use will be low intensity so as to accommodate the surrounding neighborhood.

Mr. Larry Forester, Chairman  
 October 20, 2022  
 Page 10

E-GR9-4	This Property is currently vacant and will seek to use an underutilized property within the infill and redevelopment zone.
E-GR10-2	This development will further walkability to commercial areas.

Transportation & Pedestrian Connectivity	
A-DS1-1	A LexTran bus stop is already located across E. Fourth Street from the Property.
A-DS1-2	A public sidewalk directly connects the Property to the bus stop.
A-DS5-1	There is ample space for walkers and bikers to access the property without risk of vehicular involvement.
A-EQ7-2	There is public transit located in close proximity to the Property.
C-PS10-1	The Lexington Living Arts & Science Center and the Applicant will share parking spaces as needed by each entity.
D-CO2-1	There will be bike parking and ample parking for every type of user and visitor.
D-CO2-2	All ADA requirements will be met.

Greenspace & Environmental Health	
A-DS4-3	The existing landscaping will remain and will simply be added to while preserving the existing trees.
A-EQ7-3	Any private spaces will be so delineated.
B-PR7-2, B-PR7-3 and B-RE1-1	Additional trees will be added to the existing canopy.

Since this proposed project is a mixed-use development, a number of the Placebuilder development criteria are not applicable to the proposed zone change. Those are listed below, along with a brief explanation of why they are not pertinent to proposed redevelopment of the building and/or the site.

Site Design, Building Form & Location	
A-DS4-2	There is no new construction.
A-DS7-3	There will be no parking structure.
A-DS8-1	There will be no housing.
A-DS10-1	There will be no residential units.
A-DS11-1	This development will not create a focal point.

Mr. Larry Forester, Chairman  
 October 20, 2022  
 Page 11

A-DN2-1	There will be no residential aspect.
A-DN3-2	There will be no residential development.
A-EQ7-1	This will not develop a school site.
C-LI6-1	This will not be a residential development.
C-LI6-2	This will not be a residential development.
C-LI7-1	This development will not create a mixed use neighborhood, but will create a new use in a neighborhood.
C-PS10-2	There will be no overparking.
D-PL10-1	There will be no public art easements.
D-SP3-1	There is adequate infrastructure and wireless communication is provided.
D-SP3-2	There will be no development of an antennae.
D-SP9-1	There is no residential aspect for this development.
E-GR9-1	There is no residential aspect for this development.
E-GR9-3	There is no residential aspect for this development.
E-GR10-3	There is no common commercial space.

Transportation & Pedestrian Connectivity	
A-DS5-2	There will be no development of new roadways.
A-DS10-2	This development will not create a focal point.
A-EQ3-2	This development is not along a corridor.
B-SU4-1	There is community space and greenspace within walking distance.
D-CO1-1	There is no creation of rights-of-way.
D-CO4-2	There is no development of new roadways as existing roadways are sufficient.
D-CO5-1	There is no development of roadways.
D-SP1-3	Multimodal transportation infrastructure already exists and is sufficient.
E-ST3-1	This development is not along a corridor.

Greenspace and Environmental Health	
B-PR2-1	For this development project, no environmentally sensitive areas have been identified.
B-PR2-2	For this development project, no floodplain is located on the property.
B-PR2-3	For this development project, no floodplain is located on the property.
B-PR7-1	Connections already exist in the surrounding neighborhood.

Mr. Larry Forester, Chairman  
October 20, 2022  
Page 12

B-RE2-1	The neighborhood already has existing green infrastructure which will not be impacted.
D-SP2-1	There will be no school site.
D-SP2-2	There will be no school site.
E-GR3-1	Connections to greenways already exist.
E-GR3-2	This development will not create a focal point.

**H. Conclusion:**

We ask, on behalf of the Applicant, that the Planning Staff and Planning Commission favorably consider the proposed zone change and its relationship to fulfilling the mission, goals, objectives, and policies of Imagine Lexington: The 2018 Comprehensive Plan. Thank you in advance for your consideration of our proposed zone change and we look forward to presenting our case in full at a public hearing. We will be pleased to answer any questions about our proposal between now and the public hearing.

Sincerely,



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**Re:** Supplemental Justification for Variance

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Please be advised I am writing on behalf of my client and the applicant, Elmwood Oz Fund, LLC (hereinafter the "Applicant"), a Kentucky limited liability company, which has filed a Zone Change Application and an associated Development Plan for property located at 203 E. Fourth Street in Lexington, Kentucky (the "Property"). The Property is a single lot of 1.027 acres (gross area), 0.768 acres (net area), currently zoned High-Density Apartments (R-4). The property is bounded by rights-of-way on three sides: N. Martin Luther King Boulevard to the west, North Martin Luther King Boulevard to the east and E. Fourth Street to the south. The Applicant is seeking a zone change from the current R-4 designation to Professional Office (P-1). In addition to the Zone Change request, the Applicant is also seeking a variance to reduce the minimum required parking by fourteen (14) spots as is more thoroughly explained herein.

Under the P-1 Zone and based upon the structure's square footage, thirty-five (35) total parking spaces are required. However, the Applicant will be utilizing bike storage areas and the location of the public transit bus stop to reduce the minimum required parking from thirty-five (35) total spaces to thirty-four spaces (34). Therefore, the Applicant is requesting a variance for fourteen (14) parking spaces to make the minimum required parking spots for the Property twenty (20) total spots. Twenty (20) parking spots is more than ample parking to for the future tenant, Integrity/Architecture PLLC. Therefore, instead of losing substantial greenspace, existing landscaping, and older fully developed trees, the Applicant is seeking to keep the exact parking spaces currently located on the Property.

Given the location of the Property, the available walking trails and bike paths, as well as public transit stops, this requested variance will not adversely impact the public health, safety or welfare. In fact, this will promote the walkability, bike paths, and public transit in the area by preventing unneeded and excessive parking areas thereby implicitly promoting the health and welfare of the general public. Further, requiring the installation of thirty-four (34) parking spots will require for more greenspace and landscaping on this historic property to be disturbed and removed. Requiring thirty-four (34) parking spots

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Mr. Larry Forester, Chairman  
October 20, 2022  
Page 2

will essentially deprive the Applicant of use of this Property and likely require renovations and/or demolition to the existing historic structure simply to provide additional parking spaces, when they are currently not needed for the intended use.

Currently located on the Property and surrounding the parking area are large trees. The Applicant is mindful of these trees and wishes to have them remain on the Property. Accordingly, the twenty (20) parking spaces is what currently exists on the Property and will allow for the greenspace, trees and landscaping to remain as is. Further, twenty (20) parking spaces will be more than ample for the intended tenant, Integrity/Architecture PLLC, to effectively operate its business without spillover onto the street parking or overburdening the neighborhood with overflow parking.

Further, the requested variance arises from special circumstances in that the Applicant wishes to keep the historic structure on the Property and requiring thirty-four (34) parking spots endangers the viability of the building as well as the existing landscaping. A strict application of the zoning ordinance and parking requirements would result in the Property being undevelopable. This is clear from reviewing the size of the Property and the layout of the existing structure. It is simply not feasible to place thirty-four (34) parking spaces without removing greenspace and/or the entire front yard. These actions would result in loss of a structure built in 1908 and trees and landscaping that have flourished on the Property.

Lastly, the Applicant has spoken with the Lexington Living Arts & Science Center, located directly across E. Fourth Street, and they are agreeable to allowing the Applicant to utilize its parking lot if additional spots are needed. Likewise, the Applicant will allow the visitors of the Lexington Living Arts & Science Center to utilize their parking lot when needed. This has not been reduced to a formal written agreement, but the Applicant is excited to be a good neighbor to the Lexington Living Arts & Science Center and assist with overflow parking for their larger events. Likewise, the Applicant is thankful to the Center for allowing them to use their lot for overflow parking as well.

Therefore, the Applicant, in conjunction with its Zone Change and Development Plan approval request, specifically ask for a variance reducing the minimum required parking spaces from thirty-four (34) to twenty (20).

Sincerely,



SCOTT A. SCHUETTE

SAS/ss



THE FOLLOWING DESCRIPTION IS INTENDED FOR ZONING PURPOSES ONLY. THE DESCRIPTION REPRESENTS INFORMATION DEPICTED ON DOCUMENTS OF RECORD FOUND IN THE FAYETTE COUNTY CLERK'S OFFICE. THIS DESCRIPTION DOES NOT REPRESENT A BOUNDARY SURVEY AND SHOULD NOT BE USED FOR REAL ESTATE CONVEYANCE OR TRANSFER.

**Elmwood Oz Fund, LLC  
Zone Change from R-4 to P-1  
203 East Fourth Street  
Lexington, KY 40508**

A TRACT OF LAND LYING AT THE SOUTHEAST INTERSECTION OF EAST FOURTH STREET AND NORTH MARTIN LUTHER KING BOULEVARD WITHIN THE CITY OF LEXINGTON, COUNTY OF FAYETTE, COMMONWEALTH OF KENTUCKY AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHEAST RIGHT OF WAY LINE OF NORTH MARTIN LUTHER KING BOULEVARD, BEING THE NORTHWEST CORNER ON LOT 2 OF BARNES SUBDIVISION OF RECORD AT PLAT CABINET E, SLIDE 10 OF THE FAYETTE COUNTY CLERK'S RECORDS, SAID POINT FURTHER BEING ON THE EXISTING R-4 ZONE DELINEATION; THENCE WITH THE WESTERN LINE OF SAID LOT 2 FOR ONE (1) CALL:

1. SOUTH 41°52'05" EAST A DISTANCE OF 165.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 2 AND BEING ON THE NORTHERN LINE OF KLEISER ALLEY (F.K.A. BARNES ALLEY) AS DEPICTED ON AMENDED FINAL RECORD PLAT OF BARNES SUBDIVISION, LOT 12 OF RECORD AT PLAT CABINET I, SLIDE 527; THENCE CONTINUING WITH SAID EXISTING R-4 ZONE DELINEATION FOR ONE (1) CALL:
2. SOUTH 41°43'55" EAST A DISTANCE OF 7.50 FEET TO THE CENTERLINE OF SAID KLEISER ALLEY; THENCE WITH SAID CENTERLINE, CENTERLINE PROJECTED AND CONTIUIING WITH SAID EXISTING R-4 ZONE DELINEATION FOR TWO (2) CALLS:
3. SOUTH 48°16'05" WEST A DISTANCE OF 204.00 FEET;
4. SOUTH 49°00'00" WEST A DISTANCE OF 26.15 FEET TO A POINT ON THE CENTERLINE OF EAST FOURTH STREET; THENCE WITH SAID CENTERLINE AND SEVERING SAID EXISTING R-4 ZONE DELINEATION FOR ONE (1) CALL:
5. NORTH 41°00'00" WEST A DISTANCE OF 195.80 FEET TO THE POINT OF INTERSECTION OF SAID EAST FOURTH STREET CENTERLINE AND THE CENTERLINE OF NORTH MARTIN LUTHER KING BOULEVARD; THENCE WITH SAID NORTH MARTIN LUTHER KING BOULEVARD CENTERLINE AND CONTIUIING R-4 ZONE DELINEATION SEVERANCE FOR ONE (1) CALL:
6. NORTH 48°33'02" EAST A DISTANCE OF 227.36 FEET TO A POINT ON THE EXISTING R-4 ZONE DELINEATION LINE; THENCE WITH SAID ZONE DELINEATION LINE FOR ONE (1) CALL:
7. SOUTH 41°26'58" EAST A DISTANCE OF 22.49 FEET TO THE POINT OF BEGINNING, CONTAINING 1.027 ACRES GROSS AND 0.768 ACRE NET.



*[Handwritten Signature]*  
9/29/22

# STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-22-00018: ELMWOOD OZ FUND, LLC

## DESCRIPTION OF ZONE CHANGE

Zone Change: From a High Density Apartment (R-4) zone  
To a Professional Office (P-1) zone  
Acreage: 0.768 net (1.027 gross) acres  
Location: 203 East Fourth Street



## EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Property	R-4	Vacant
To North	R-4 / R-3	Residential
To East	R-3	Residential
To South	R-4 / R-3	Residential / Community Center
To West	R-4	Residential

## URBAN SERVICE REPORT

**Roads** - The subject property is located on the intersection of East Fourth Street and North Martin Luther King Boulevard. East Fourth Street is a minor arterial roadway that carries significant vehicular, bicycle, and pedestrian traffic between the East End and Newtown Pike. The Legacy Trail runs along East Fourth Street with a delineated area for cyclists. North Martin Luther King Boulevard is a collector roadway that connects between downtown and East Seventh Street.

**Curb/Gutter/Sidewalks** - East Fourth Street and North Martin Luther Kind Boulevard were both constructed with curb, gutter and sidewalk facilities.

**Utilities** - All utilities, including natural gas, electric, water, phone, cable television, and internet are available in the area, and are available to serve the site.

**Storm Sewers** - The subject property is located within the Town Branch watershed. There are no FEMA Special Flood Hazard Areas on the property or in the immediate vicinity. Storm sewers exist in this portion of the Urban Service Area.

**Sanitary Sewers** - The subject property is located within the Town Branch sewershed and will be serviced by the Town Branch Wastewater Treatment Facility, located on Lisle Industrial Avenue inside New Circle Road, between Leestown Road and Old Frankfort Pike. Capacity of the sewer system will need to be verified prior to construction of any use on the subject property.

**Refuse** - The Urban County Government serves this area with refuse collection on Tuesdays. However, supplemental service by private refuse haulers is commonly utilized for professional office land uses, such as those proposed on the associated development plan.

**Police** - The nearest police station is the Main Headquarters located on East Main Street, approximately half a mile to the southwest of the subject property.

**Fire/Ambulance** - Fire Station #1 is the nearest station to this site and is located one block south of the subject property on East Third Street.

**Transit** - LexTran service is available within the immediate area of the subject property. The Newtown Pike Route (#4) has outbound and inbound service along Martin Luther King Boulevard and East Fourth Street, with an existing transit stop approximately 250 feet from the subject property. There is additional outbound service along North Limestone (Route #7).

**Parks** - Several parks are located within proximity of the subject property, including Gratz Park, Duncan Park, Phoenix Park, and Charles Young Park.

## SUMMARY OF REQUEST

The applicant is seeking to rezone the subject property from a High Density Apartment (R-4) zone to the Professional Office (P-1) zone to allow for the reuse of the current structure as an architecture office.

## PLACE-TYPE

2ND TIER  
URBAN

The Enhanced Neighborhood Place-Type is an existing residential area to be enhanced with additional amenities, housing types, and neighborhood serving retail, services, and employment options. Development should be context-sensitive to surrounding areas and should add to the sense of place. Incorporating multi-modal connections is crucial to neighborhood success and viability.

## DEVELOPMENT TYPE

MEDIUM DENSITY NON-RESIDENTIAL /  
MIXED-USE

### Primary Land Use, Building Form, & Design

Primarily community-serving commercial uses, services, places of employment, and/or a mix of uses within mid-rise structures with a higher Floor Area Ratio. Mixed-use structures typically include more multi-family residential units and places of employment, and retail and commercial options generally draw from a larger geographic area. An activated and pedestrian-scale ground level should be provided. These developments may include more employment space for professional office and can include some larger entertainment spaces.

### Transit Infrastructure & Connectivity

Though they draw more external users, they should still include multi-modal connections allowing for easy neighborhood access. Mass transit infrastructure is to be provided on par with that of other modes, and the higher-density housing types should be located in close proximity.

### Parking

The buildings should be oriented to the street, and developments should avoid over-parking, with provided parking located internally.

## PROPOSED ZONING



This zone is primarily for offices and related uses. Retail sales are prohibited, except where directly related to office functions. This zone should be located as recommended in the Comprehensive Plan.

## PROPOSED USE



The petitioner proposes the rezoning of the subject property to the Professional Office (P-1) zone to allow for the renovation of the existing 14,000 square-foot residence for a profession office use. To avoid modifications that would change the character of the property and prevent the loss of trees on site, the applicant is also requesting a variance to the required parking from 34 spaces to 20 spaces.

## APPLICANT & COMMUNITY ENGAGEMENT



The applicant has met with nearby property owners and the Board of the Martian Luther King Neighborhood Association. The applicant indicates that they first met with the neighboring properties on July 25, 2022 to provide information regarding the proposed plan for the site and discuss options for the zoning for the property. The applicant initially considered the Neighborhood Business (B-1) zone for the property, but the neighborhood voiced concern with the high amount of new uses and the impact on the residential properties from traffic and non-residential uses at night. The applicant continued to meet with the neighborhood to refine their plans for their zone change, including the shift to the Professional Office (P-1) zone and the inclusion of conditional zoning restrictions for the property.

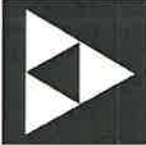
## PROPERTY & ZONING HISTORY



The subject property has been zoned High Density Apartment (R-4) since the comprehensive rezoning of the city and the county in 1969. While the property has not experienced any zoning modifications, the property has been the subject of two separate conditional use permit applications. The first application was for a place of religious assembly (C-2002-2) that sought to allow the Episcopal Diocese on site. This application was approved and the Diocese operated at the property for 19 years. The next application was for the Lexington Rescue Mission, which sought to operate a community center use within the same structure (PLN-BOA-21-00018). This application was disapproved by the Board of Adjustment (BOA) due to concentration of such uses within proximity to the subject property.

The structure on the property was originally constructed in 1856 and then extensively remodeled in 1908. Since the 1908 remodel, there have been minor adjustments to the exterior of the Victorian style structure, and significant renovations to the interior to allow for the development of office space.

## COMPREHENSIVE PLAN COMPLIANCE



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.

### GOALS, OBJECTIVES & POLICIES

Within their letter of justification the applicant opines that they are in agreement with the adopted Goals and Objectives of the 2018 Comprehensive Plan. They indicate that the proposed development encourages infill and redevelopment (Theme A, Goal #2), while providing for a well-designed neighborhood (Theme A, Goal #3) that protects historic resources while incentivizing the renovation, restoration, development and maintenance of historic residential and commercial structures (Theme D, Goal #3). The proposed project reduces the parking on site, allowing the conservation of the significant trees on site, while also promoting the use of the in-place multi-modal options for employees and clients, which can reduce Lexington-Fayette Urban County's carbon footprint (Theme B, Goal #2). Finally, the applicant opines that the inclusion of the office use can support and showcase local assets to further the creation of a variety of jobs (Theme C, Goal #1), which will support the creation of jobs and prosperity (Theme C, Goal #2).

Staff agrees that these Goals, and Objectives of the 2018 Comprehensive can be met with the proposed rezoning of the subject property.

### PLACE-TYPE, DEVELOPMENT TYPE, AND ZONE

In an effort to allow for the greatest contextual development of Lexington's Urban Service Area, applicants are asked to identify a Place-Type based on the location of the subject property. Within each Place-Type there are recommended Development Types based on the form and function of the proposed development. Based on the Place-Type and Development Type there are also several recommended zones that are most appropriate based on the Goals, Objectives, and Policies of the 2018 Comprehensive Plan. While these zones are the ideal zoning categories to develop within a specified area, other zones may be considered, provided there is an appropriate justification addressing the unique situation and provided the development is able to adequately meet the associated Development Criteria.

The applicant indicates that the project is located within the 2nd Tier Urban Place-Type and is a Medium Density Non-Residential / Mixed-Use Development Type. The 2nd Tier Urban Place-Type is an area where significant infill and redevelopment opportunities exist to complement the urban core. While not expected to be as intensely developed as the downtown core, high-rise opportunities are not precluded provided that they are context-sensitive. The forward trend for development in the 2nd tier urban areas should be towards increased walkability and intensity. The Medium Density Non-Residential / Mixed-Use Development Type should be primarily community-serving commercial uses, services, places of employment, and/or a mix of uses within mid-rise structures with a higher floor area. These developments are meant to draw more external users, which include more multi-modal connections that promote mass transit and walkability, and



deemphasize the impact of single occupancy vehicles. The staff agrees that the subject property is located within the 2nd tier urban area and that the proposed development would provide services within an area that transitions from the downtown area into a more residential context. The staff agrees that the 2nd Tier Urban Place-Type and is a Medium Density Non-Residential / Mixed-Use Development Type are appropriate.

The Comprehensive Plan recommends six zoning categories within the 2nd Tier Urban Place-Type: the Neighborhood Business (B-1), Neighborhood Node (MU-1), Mixed-Use Corridor (MU-2), Mixed-Used Community (MU-3), High Density Apartment (R-4), and High Rise Apartment (R-5) zones. The recommended zones within the Place-Type are meant to guide future development; however, an applicant can request a different zone provided that there is an appropriate justification for the zone. The applicant's request for the Professional Office (P-1) zone was agreed upon by the surrounding neighborhood. The applicant posits that the P-1 and B-1 zones are similar classifications regarding medium density non-residential/mixed use, but the P-1 zone provides for less principal uses, which fits with the current context of the area and eases the concerns of the neighborhood. Staff agrees that this zone can be appropriate for the subject property.

### **DEVELOPMENT CRITERIA**

The development criteria for a zone change are the distillation of the adopted Goals and Objectives, as well as the policies put forth in the 2018 Comprehensive Plan. The development criteria represent the needs and desires of the Lexington-Fayette Urban County community in hopes of developing a better built environment. The applicable criteria are defined based on the proposed 2nd Tier Urban Place-Type and is a Medium Density Non-Residential / Mixed-Use Development Type.

#### 1. Site Design, Building Form and Location

The proposed rezoning meets the criteria for Site Design, Building Form and Location as the site creates a job producing space within the historic and built context that supports pedestrian mobility, deemphasizes the impact of parking, and provides activated and usable space.

#### 2. Transportation and Pedestrian

The proposed rezoning is located in an area with established safe facilities for the potential users. By requesting the variance to the parking requirements, integrating the site with the established trail facilities, and promoting the established transit stops nearby the site, the applicant is addressing the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.

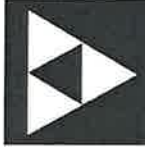
#### 3. Greenspace and Environmental Health

The proposed rezoning meets the criteria for Greenspace and Environmental Health as it will maintain the tree canopy coverage and reduce the impact of the built environment by not adding any addition impervious surfaces.

### **CONDITIONAL ZONING RESTRICTIONS**

During their meetings with the neighborhood association, the applicant indicated that there were concerns with some of the uses allowable within the P-1 zone. Prior to the submission of the application, staff also met with the neighborhood association to discuss the zone change process and to discuss conditional zoning restrictions and their establishment. The applicant listened to the concerns of the neighborhood and has submitted a list of land uses that they would like to restrict on the property. The applicant identified concerns with the addition of drive-through facilities and banking institutions or other financial institutions, which often utilize drive-through facilities, due to the increased vehicular conflict with established multi-modal facilities that run along East Fourth Street. Staff has found that banks and other financial institutions can have higher rates of vehicular flow because they not only operate like other professional office uses, but also provide access to ATM services that can increase vehicle trips to their business. Staff agrees that these uses can increase the dependence on single use occupant circulation, which may impact the Legacy Trail and the pedestrian facilities along East Fourth Street.

The applicant also identifies funeral parlors, community centers and private clubs, hospitals, nursing homes, personal care facilities and assisted living facilities as a concern with the neighborhood, as they would require parking accommodations which are not feasible on the property and which would over burden the current infrastructure. Staff cannot agree with the reasoning proposed by the applicant regarding the impact of increased use of the site and the infrastructure associated with the identified restricted uses. The subject



property is currently zoned High Density Apartment (R-4) and is proposed to be rezoned to the Professional Office (P-1) zone. The infrastructure in the immediate area currently supports single family residential, multi-family residential, a school, and a community center. With the exception of a hospital, the other uses listed are of equal impact. Furthermore, the applicant's discussion regarding parking is also problematic, as the parking for a professional office is either equal to or greater than some of the proposed restricted land uses.

The staff agrees that the restriction of drive-through facilities and banking institutions or other financial institutions, can be appropriate due to the impact of vehicular traffic along the Legacy Trail and established pedestrian facilities, but cannot agree with the rationale provided by the applicant for the prohibition of other uses on site. The applicant should provide greater information as to why the proposed uses are incompatible.

### STAFF RECOMMENDS: **APPROVAL**, FOR THE FOLLOWING REASONS:

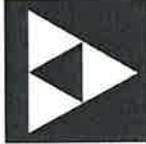


1. The requested Professional Office (P-1) zone is in agreement with the 2018 Comprehensive Plan's Goals, Objectives and Policies, for the following reasons:
  - a. The proposed development encourages infill and redevelopment (Theme A, Goal #2), while providing for a well-designed neighborhoods (Theme A, Goal #3) that protects historic resources while incentivizing the renovation, restoration, development and maintenance of historic residential and commercial structures (Theme D, Goal #3).
  - b. The proposed project reduces the parking on site, which allowing the conservation of the significant trees on site, and promotes the use of the in-place multi-modal options for employees and clients, which can reduce Lexington-Fayette Urban County's carbon footprint (Theme B, Goal #2).
  - c. The proposed rezoning will allow the inclusion of the office use can support and showcase local assets to further the creation of a variety of jobs (Theme C, Goal #1), which will support the creation of jobs and prosperity (Theme C, Goal #2).
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 site creates a job producing space within the historic and built context that supports pedestrian mobility, deemphasizes the impact of parking, and provides activated and usable space.
  - b. The proposed rezoning is located in an area with established safe facilities for the potential users. By requesting the variance to the parking reductions, integrating the site with the established trail facilities, and promoting the established transit stops nearby the site, the applicant is addressing the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
  - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it will maintain the tree canopy coverage and reduce the impact of the built environment by not adding any addition impervious surfaces.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are recommended via conditional zoning:
  - a. Prohibited uses:
    - i. Drive-through facilities.
    - ii. Banks and other financial institutions.These restrictions are appropriate and necessary to reduce the potential impact of vehicular flow on established pedestrian facilities and the Legacy trail.
4. This recommendation is made subject to approval and certification of PLN-MJDP-22-00064: Barnes Subdivision (Elmwood Oz Fund, LLC), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

HBB/TW  
11/02/2022

Planning Services/Staff Reports/MAR/2022/PLN-MAR-22-00018 ELMWOOD OZ FUND, LLC.pdf

## STAFF REPORT ON VARIANCE REQUEST



As part of their application, the petitioner is also requesting a reduction of the minimum required parking for an office within the Professional Office (P-1) zone from 34 parking spaces to 20 parking spaces (41% reduction), a requirement of Article 8-15(n) of the LFUCG Zoning Ordinance.

Before any variance is granted, the Planning Commission must find the following:

- a. The granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Planning Commission shall consider whether:
  1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone.
  2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
  3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
- b. The Planning Commission shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

### ZONING ORDINANCE

Article 6-4(c) states that the Planning Commission may hear and act upon requested variances associated with a zone change. In such cases, they may assume all of the powers and responsibilities of the Board of Adjustment, as defined in Article 7-6(b) of the Zoning Ordinance.

Article 7-6(b) states that the Board may grant a variance to reduce the minimum number of parking spaces by 50% of the otherwise required number in accordance with Article 16-10 for projects within the defined Infill & Redevelopment Area. Any reduction granted by the Board shall account for and include all other allowable parking reductions. The Board may impose any reasonable conditions or restrictions on any variance it decides to grant, and may revoke a variance for non-compliance with the conditions thereof.

Article 8-15(n) states that for all office uses the required parking is one parking space per 400 square feet.

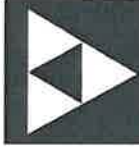
Article 16-10(5)(b) states that sites located within 300 feet of a transit stop with a shelter may be allowed a ten percent (10%) reduction of the minimum required parking. Sites located within 300 feet of a transit stop without a shelter may be allowed a five percent (5%) reduction of the minimum required parking. If the site is located within 300 feet of more than one transit stop, the maximum reduction allowed will be ten percent (10%) for this specific parking reduction. Provision of a transit stop shall not count against the otherwise required minimum for the calculation of the maximum parking allowed.

### CASE REVIEW

The applicant is requesting a forty-one (41%) percent reduction in the required minimum parking for their proposed development, located at 203 East Fourth Street. The proposed project seeks to provide a total of 20 parking spaces for their use, which is the current amount that has been constructed on site for the previous office use, associated with the Episcopal Diocese. They stress that there is an abundance of on-street parking within walking distance of property and that there are various transit routes within proximity of the property. Finally, they indicate that the proposed project, with limited parking, supports many of the Goals, Objectives, and Policies of 2018 Comprehensive Plan that call for a more inclusive, dense, and walkable community.

Additionally, concerns were expressed by staff regarding the impact that new parking construction would have on the existing tree canopy. The applicant would need to remove several significant trees located on the property, which would be a major impact to both water retention, but would also increase impervious surfaces and the heat island effect.

The staff is supportive of a parking variance in this location for many of the reasons provided by the applicant. Three factors typically explored by staff in assessing this sort of variance request include the walkability of the area, available transit service in the area, and whether there is anything about the particular use that



results in the generation of less parking than with a typical user. This property has a Walk Score rating of 85, which is considered very walkable; a place where “daily errands do not require a car.” Additionally, the property has a Bike Score of 75, which is considered very bikeable. The property is also located within proximity to various amenities, including Gratz Park, Duncan Park, Phoenix Park, and Charles Young Park, and the neighborhood businesses located along North Limestone and downtown, which further supports the reduction in the required parking.

**STAFF RECOMMENDS: APPROVAL OF THE REQUESTED VARIANCE TO REDUCE THE NUMBER OF REQUIRED PARKING FROM 34 SPACES TO 20 SPACES (41% REDUCTION), FOR THE FOLLOWING REASONS:**



1. Approval of the variance should not adversely affect the public health, safety, or welfare, nor should it create a hazard or nuisance to the public. This property has historically been utilized with a lesser amount of parking provided.
2. The variance allows for the retention of significant trees on site, which will continue to mitigate stormwater runoff, while not increasing impervious surfaces and the heat island effect.
3. Walk Score rating for the area is 85, which is considered very walkable and a Bike Score of 75, which is considered very bikeable.
4. Other parking is available in the area, including metered on-street parking and on-street parking for those with residential permits, which may be acquired through LexPark for residents of the street.
5. The property is located within close proximity to various amenities, including but not limited to Gratz Park, Duncan Park, Phoenix Park, and Charles Young Park, and the neighborhood businesses located along North Limestone and downtown.

This recommendation of Approval is made subject to the following conditions:

- a. Provided the Planning Commission and Urban County Council approve the requested zone change to the P-1 zone, otherwise the requested variances shall be null and void.
- b. The development shall be constructed in accordance with the approved Final Development Plan, or as amended by the Planning Commission.
- c. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
- d. Action of the Planning Commission shall be noted on the Development Plan for the subject property.



1. ELMWOOD OZ FUND LLC ZONING MAP AMENDMENT & BARNES SUBDIVISION ZONING DEVELOPMENT PLAN

- a. PLN-MAR-22-00018: ELMWOOD OZ FUND LLC – a petition for a zone map amendment from a High Density Apartment (R-4) zone, to a Professional Office (P-1) zone, for 0.768 net (1.027 gross) acres, for property located at 203 E Fourth Street. This request includes a variance request to reduce the required parking from 34 spaces to 20 spaces.

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.

The petitioner proposes the rezoning of the subject property to the Professional Office (P-1) zone to allow for the renovation of the existing 14,000 square-foot residence for a profession office use. To avoid modifications that would change the character of the property and prevent the loss of trees on site, the applicant is also requesting a variance to the required parking from 34 spaces to 20 spaces?

The Zoning Committee Recommended: **No Recommendation.**

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

1. The requested Professional Office (P-1) zone is in agreement with the 2018 Comprehensive Plan's Goals, Objectives and Policies, for the following reasons:
  - a. The proposed development encourages infill and redevelopment (Theme A, Goal #2), while providing for a well-designed neighborhoods (Theme A, Goal #3) that protects historic resources while incentivizing the renovation, restoration, development and maintenance of historic residential and commercial structures (Theme D, Goal #3).
  - b. The proposed project reduces the parking on site, which allowing the conservation of the significant trees on site, and promotes the use of the in-place multi-modal options for employees and clients, which can reduce Lexington-Fayette Urban County's carbon footprint (Theme B, Goal #2).
  - c. The proposed rezoning will allow the inclusion of the office use can support and showcase local assets to further the creation of a variety of jobs (Theme C, Goal #1), which will support the creation of jobs and prosperity (Theme C, Goal #2).
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 site creates a job producing space within the historic and built context that supports pedestrian mobility, deemphasizes the impact of parking, and provides activated and usable space.
  - b. The proposed rezoning is located in an area with established safe facilities for the potential users. By requesting the variance to the parking reductions, integrating the site with the established trail facilities, and promoting the established transit stops nearby the site, the applicant is addressing the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
  - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it will maintain the tree canopy coverage and reduce the impact of the built environment by not adding any addition impervious surfaces.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are recommended via conditional zoning:
  - a. Prohibited uses:
    - i. Drive-through facilities.
    - ii. Banks and other financial institutions.

These restrictions are appropriate and necessary to reduce the potential impact of vehicular flow on established pedestrian facilities and the Legacy trail.

4. This recommendation is made subject to approval and certification of PLN-MJDP-22-00064: Barnes Subdivision (Elmwood Oz Fund, LLC), 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. **Variance Request** - As part of their application, the petitioner is also requesting a reduction of the minimum required parking for an office within the Professional Office (P-1) zone from 34 parking spaces to 20 parking spaces (41% reduction), a requirement of Article 8-15(n) of the LFUCG Zoning Ordinance.

The Zoning Committee Recommended: No Recommendation.

The Staff Recommends: Approval for the following reason:

1. Approval of the variance should not adversely affect the public health, safety, or welfare, nor should it create a hazard or nuisance to the public. This property has historically been utilized with a lesser amount of parking provided.
2. The variance allows for the retention of significant trees on site, which will continue to mitigate stormwater runoff, while not increasing impervious surfaces and the heat island effect.
3. Walk Score rating for the area is 85, which is considered very walkable and a Bike Score of 75, which is considered very bikeable.
4. Other parking is available in the area, including metered on-street parking and on-street parking for those with residential permits, which may be acquired through LexPark for residents of the street.
5. The property is located within close proximity to various amenities, including but not limited to Gratz Park, Duncan Park, Phoenix Park, and Charles Young Park, and the neighborhood businesses located along North Limestone and downtown.

This recommendation of Approval is made subject to the following conditions:

- a. Provided the Planning Commission and Urban County Council approve the requested zone change to the P-1 zone, otherwise the requested variances shall be null and void.
  - b. The development shall be constructed in accordance with the approved Final Development Plan, or as amended by the Planning Commission.
  - c. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
  - d. Action of the Planning Commission shall be noted on the Development Plan for the subject property.
- c. PLN-MJDP-22-00064: BARNES SUBDIVISION (ELMWOOD OZ FUND LLC) (1/1/2023)\* - located at 203 East Fourth Street.  
Council District: 1  
Project Contact: Vision Engineering  
Planning Contact: T. Martin

Note: The purpose of the plan is to depict development of the property, in support of the requested zone change from High Density Apartment (R-4) zone to Professional Office (P-1) zone.

The Staff Recommends Approval, subject to the following conditions:

1. Provided the Urban County Council approves the zone change to P-1; 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. United States Postal Service Office's approval of kiosk locations or easement.
7. Dimension existing building.
8. Dimension sidewalks and porches.
9. Denote height of building in site statistics.
10. Clarify location of trees relative to Kleiser Alley right-of-way.
11. Revise Tree Protection Plan to Tree Inventory Map per Article 26 of the Zoning Ordinance.
12. Addition of street cross-sections.
13. Discuss Placebuilder criteria.

\* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

Staff Presentation – Mr. Baillie 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 High Density Apartment (R-4) zone to a Professional Office (P-1) zone, for 0.768 net (1.027 gross) acres, for property located at 203 E. Fourth Street. Mr. Baillie stated that the applicant is looking to keep the structure in place, make some renovations, as well as a variance request to allow for the current parking to remain with no increase.

Mr. Baillie presented the proposed development and place types, which include the 2<sup>nd</sup> Tier Urban Place Type and the Medium Density Non Residential Development Type. Mr. Baillie indicated that staff was in agreement with the Place-Type and Development Type, but that the applicant did not choose a recommended Place Type within the Comprehensive Plan. In this case, the applicant worked with the neighborhood to find an appropriate zone and after a review of the applicant's justification, the Staff is in agreement with the place type. Additionally, Mr. Baillie stated that the applicant is also meeting the development criteria for the 2<sup>nd</sup> Tier Urban Place-Type.

Mr. Baillie concluded that Staff is recommending approval of this zone change, and listed the two conditional zoning restrictions, which include prohibiting drive-through facilities and banks.

Commission Questions – Mr. Michler asked why the applicant did not apply for the B-1 zone when it was a recommended zone in the place type they selected. Mr. Baillie stated that there was a concern from the neighborhood about the increase in restaurant facilities in the area that might not fit their neighborhood character and its context.

Mr. Pohl asked if this application was in a historic overlay zone and Mr. Baillie indicated that it was not. Mr. Pohl also asked if there was any consideration to attempting to restrict demolition of the existing structure. Mr. Baillie said that request was difficult for Staff to make with this site and that the best way to keep these structures viable is to keep the use viable in this location.

Staff Development Plan Presentation – Mr. Tom Martin oriented the Commission to the development plan. Mr. Martin indicated that they are maintaining the building and the site and there are no changes on the development plan. Mr. Martin concluded that Staff is recommending approval for this development plan.

Variance Presentation – Mr. Baillie stated that the applicant is seeking to reduce the required parking by 41% from 34 spaces, to 20 spaces. Mr. Baillie indicated the context of the area was important for this variance, and since a lot of the businesses in this area are within walking or biking distance, this reduction is being recommended for approval.

Applicant Presentation – Scott Schuette, attorney for the applicant, highlighted the timeline of events that led the applicant to the meeting, including their explanation for their selection of the P-1 zone. Mr. Schuette stated that the applicant would be giving more information and that there is no intention of making this anything other than an office for an architecture firm. Mr. Schuette reiterated the applicant's intention to preserve a building that has been around since 1908. Mr. Schuette indicated that there was an agreement in place with the Living Arts and Science Center for additional parking and that the 20 spots would be enough. Mr. Schuette also highlighted the applicant's work with the neighborhood, and detailed how that work helped lead to the selection of the P-1 zone, as well as the conditional zoning request.

Mr. Schuette stated that for the conditional zoning restrictions, they were in agreement with Staff for banks and drive-through facilities, but not with the community centers and funeral homes. Mr. Schuette argued that there was a plethora of these types of facilities in the area and they do not think it will harm the property from future uses. Mr. Schuette concluded his presentation stating that this was a collaborative effort between the neighborhood and the applicant and urged the Planning Commission to approve the zone change.

Joe Costa, property owner, added that he actually lives in the neighborhood and reaffirmed everything that Mr. Schuette stated, including the work with the neighborhood and the preservation of this historic building.

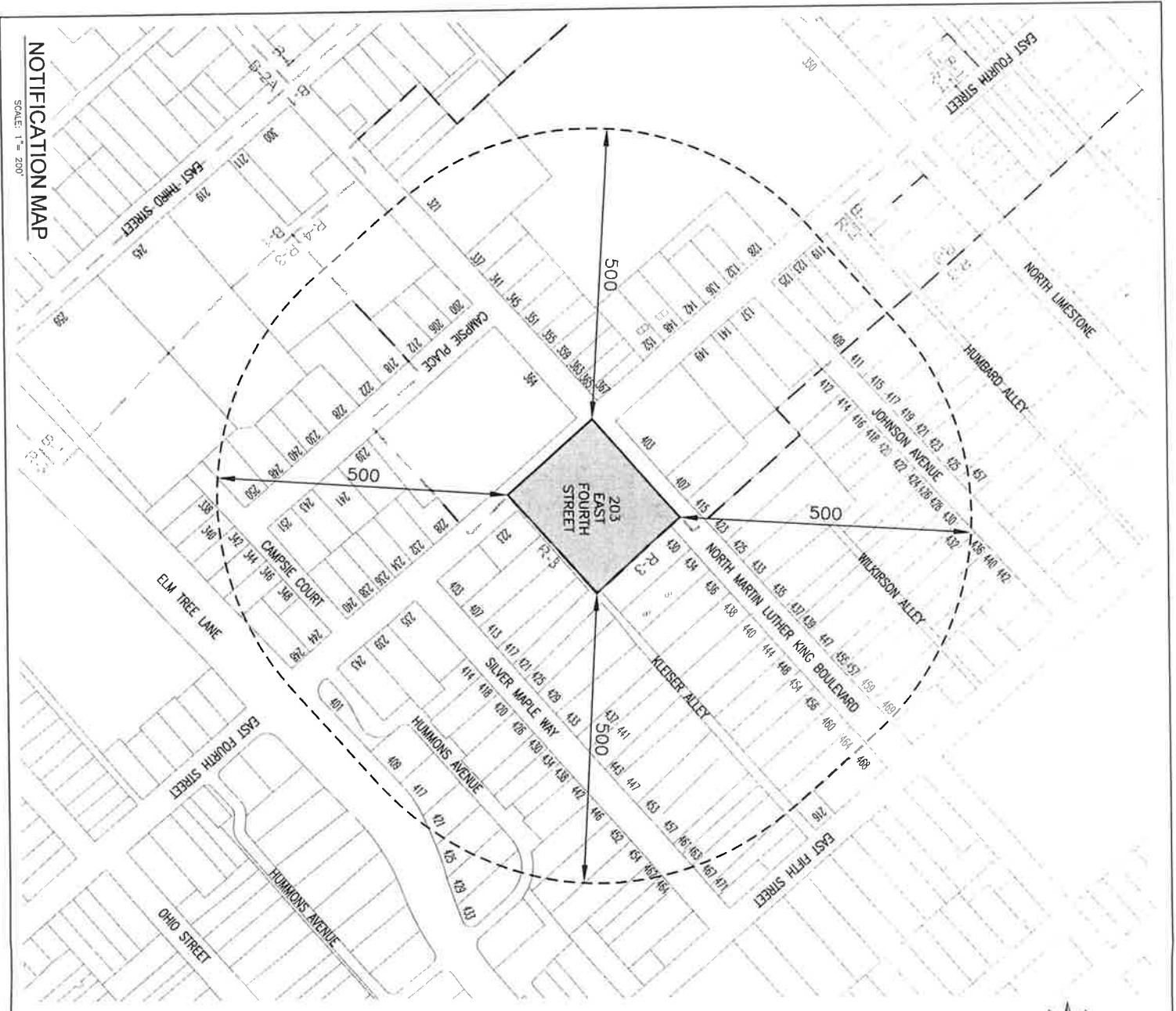
Joe Rasnick, principal of Integrity Architecture, reiterated what Mr. Schuette and Mr. Costa stated that he could not think of a better home for his architecture firm than this location and that they are looking forward to being an active member of the neighborhood.

Public Comment – Lori Halligan, executive director of The Living Arts and Science Center, stated they are in support of the zone change and she thinks it will be a great contribution to the neighborhood.

Action – A motion was made by Mr. Pohl and seconded by Mr. Bell and carried 9-1 (Davis absent) (de Movellan opposed) to approve PLN-MAR-22-00018: ELMWOOD OZ FUND LLC with the applicant's recommendations for conditional zoning restrictions(adding Community Centers and Funeral Parlors).

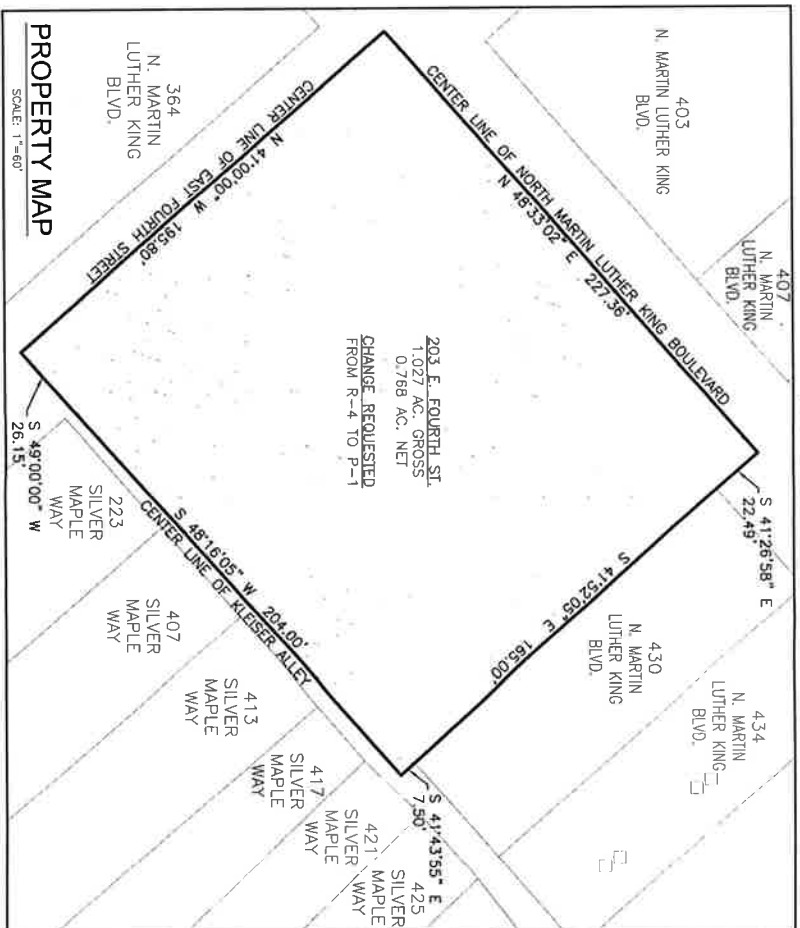
Variance Action – A motion was made by Mr. Pohl and seconded by Mr. Bell and carried 10-0 (Davis absent) to approve the variance request for a reduction of the minimum required parking for an office within the Professional Office (P-1) zone from 34 parking spaces to 20 parking spaces(41% reduction), a requirement of Article 8-15(n) of the LFUCG Zoning Ordinance.

Development Plan Action – A motion was made by Mr. Pohl and seconded by Mr. Bell and carried 10-0 (Davis absent) to approve PLN-MJDP-22-00064: BARNES SUBDIVISION (ELMWOOD OZ FUND LLC) with staff recommendations, with a revision to #7 to denote the location of the mail kiosk be on the plan.



**NOTIFICATION MAP**

SCALE: 1" = 200'



ZONAR:		TITLE: 203 EAST FOURTH STREET	
PROPERTY ADDRESS:	FROM	TO	GROSS NET
203 E. FOURTH ST.	R-4	P-1	1,027 0,768
OWNER / APPLICANT:			
ELMWOOD OZ FUND, LLC			
461 N. LIMESTONE			
LEXINGTON, KY 40508			
PREPARED BY: VISION ENGINEERING, LLC			
DATE FILED OR AMENDED: OCTOBER 1, 2022	TOTAL		1,027 0,768