



AGENDA

WYTHEVILLE PLANNING COMMISSION MEETING

THURSDAY, FEBRUARY 08, 2024 AT 6:00 PM
COUNCIL CHAMBERS - 150 EAST MONROE STREET
WYTHEVILLE, VA 24382

1. **CALL TO ORDER - CHAIRMAN BRAD M. LITTON**
2. **ESTABLISHMENT OF QUORUM - CHAIRMAN BRAD M. LITTON**
3. **APPROVAL OF AGENDA (requires motion and roll call vote)**
4. **CONSENT AGENDA**
 - A. Minutes of the regular meeting of January 11, 2024 **(requires motion and vote)**
5. **CITIZENS' PERIOD**
6. **RECOMMENDATIONS TO TOWN COUNCIL**
 - A. Presentation by Planning Director John Woods and Director of Public Utilities Billy Anderson of the Rural King Realty, LLC Subdivision Variation Request
 - B. Consider the request for a Subdivision Variation to the road frontage requirement for a division at Mountainview Square (Rural King Realty, Inc.) located at 1480 East Main Street, and make a recommendation to the Wytheville Town Council for the approval/denial of the Subdivision Variation Request **(requires motion and roll call vote)**
7. **OTHER BUSINESS**
 - A. Presentation by Assistant Town Manager Elaine HOLETON of the proposed Planning Commission Rules of Procedure
 - B. Continued review by Planning Director John Woods of the draft Unified Development Ordinance (UDO)
8. **ADJOURNMENT**
 - A. Additional Attachments - January 2024 Council Actions

4-A



MINUTES

WYTHEVILLE PLANNING COMMISSION MEETING

THURSDAY, JANUARY 11, 2024 AT 6:00 PM
COUNCIL CHAMBERS - 150 EAST MONROE STREET
WYTHEVILLE, VA 24382

1. **UNAPPROVED MINUTES**

RE: ATTENDANCE

MEMBERS PRESENT:

Mr. Brad Litton, Ms. Lisa Anderson, Vice-Mayor Cathy Pattison, Mr. John Jones, Jr., Mr. David Schmidt, Mr. Keith Jones

MEMBERS ABSENT:

Mr. George Wittwer

OTHERS PRESENT:

Mayor Beth Taylor, Assistant Town Manager Elaine Holeton, Chief Deputy Clerk Brandi Jones, Planning Director John Woods, Denise Clay

RE: CALL TO ORDER

Chairman Jones called the meeting to order.

2. **RE: ESTABLISHMENT OF QUORUM**

Chairman Jones established that a quorum of Planning Commission members was present.

3. **RE: CONSENT AGENDA**

Chairman Jones presented the consent agenda consisting of the minutes of the regular meeting of November 9, 2023. He inquired if there was a motion to approve the consent agenda as presented.

Motion made by Mr. K. Jones, Seconded by Mr. Schmidt.

Voting Yea: Chairman Jones, Vice-Chairman Litton, Vice-Mayor Pattison, Mr. Schmidt, Ms. Anderson, Mr. K. Jones.

4. **RE: ELECTION OF OFFICERS**

A. **RE: CHAIRPERSON**

Chairman Jones advised that the next agenda item is the election of a new Chairperson for the year 2024. He noted that, at this time, nominations will be taken. Mr. Schmidt stated that he would like to nominate Vice-Chairman Brad Litton to serve as the Chairman for 2024. Chairman Jones inquired if there was a motion to close the nominations and elect Mr. Brad Litton as the new Wytheville Planning Commission Chairperson.

Motion made by Mr. Schmidt, Seconded by Ms. Anderson. Chairman Jones inquired if there was any discussion on the motion. There being none, the motion was approved with the following voting results, by roll call vote: Voting Yea: Mr. Schmidt, Ms. Anderson, Vice-Chairman Litton, Chairman Jones, Vice-Mayor Pattison, Mr. K. Jones.

B. RE: VICE-CHAIRPERSON

Chairman Litton advised that the next agenda item is the election of a new Vice-Chairperson for the year 2024. He noted that, at this time, nominations will be taken. Mr. Schmidt stated that he would like to nominate Ms. Lisa Anderson to serve as Vice-Chairperson for 2024. Chairman Litton inquired if there was a motion to close the nominations and elect Ms. Lisa Anderson as the new Wytheville Planning Commission Vice-Chairperson.

Motion made by Mr. Schmidt, Seconded by Mr. J. Jones, Jr. Chairman Litton inquired if there was any discussion on the motion. There being none, the motion was approved with the following voting results, by roll call vote: Voting Yea: Mr. Schmidt, Ms. Anderson, Chairman Litton, Mr. J. Jones, Jr., Vice-Mayor Pattison, Mr. K. Jones.

5. RE: CITIZENS' PERIOD

Chairman Litton advised that the next agenda item is Citizens' Period. He stated that there is one person listed on the sign-in sheet who wished to address the Planning Commission during Citizens Period. Chairman Litton inquired if Ms. Denise Clay would please come to the podium and state her name and address for the recording of the minutes.

Ms. Denise Clay was recognized stated that she resides at 585 Tremough Drive in Wytheville. She addressed the Planning Commission regarding her concerns about the proposed M-1 and M-2 Industrial Zoning Districts. It was noted that there was an error in color coding of the Industrial Zoning District proposal on the Future Land Use Zoning Study Map. Chairman Litton thanked Ms. Clay for her comments and proceeded with the agenda.

6. RE: OTHER BUSINESS

A. RE: REVIEW OF THE DRAFT UNIFIED DEVELOPMENT ORDINANCE (UDO), LAND USE TABLE

Chairman Litton advised that the next agenda item is the review of the draft Unified Development Ordinance (UDO), Land Use Table, by Planning Director John Woods. Planning Director Woods continued to review the changes to the Land Use Table and

stated that he will continue to review the Land Use Table until it is approved. Chairman Litton inquired if Planning Director Woods could discuss the Conditional Uses process further with the Commission. Planning Director Woods explained that Article 8, of the UDO, is where the regulations of Conditional Uses are now located in the Zoning Ordinance. He then briefly discussed how to navigate Article 8, of the UDO, regarding Conditional Uses. Chairman Litton inquired if there are a lot of changes to the Conditional Uses of the UDO. Planning Director Woods advised that there will be various changes to the By Right Uses that will begin to address and modify the future Land Use Map to reduce the need for Special Exception Permits for uses that are typically approved. Chairman Litton inquired if there was any other discussion regarding this agenda item. There being none, he proceeded with the agenda.

B. RE: REVIEW OF THE DRAFT UNIFIED DEVELOPMENT ORDINANCE (UDO), ARTICLE 5 - ZONING DISTRICTS

Chairman Litton advised that the next agenda item is the review of the draft Unified Development Ordinance (UDO), Article 5 - Zoning Districts, by Planning Director John Woods. Planning Director Woods reviewed the Changes to Article 5 - Zoning Districts of the UDO with the Planning Commission. Mr. Schmidt inquired about where Planning Director Woods came up with the percentage of open space that is required for a Planned Unit Development (PUD) District. Planning Director Woods stated that the numbers came from other similar municipalities in rural areas of Virginia. Discussion continued regarding the open space requirements. Mr. Keith Jones inquired about the open space requirement and the process of how the Town Council may reduce the open space requirement. Planning Director Woods stated that a public hearing would be required by the Town Council, however, there could be potential issues with the reduction of the open space requirement. Discussion continued regarding the process of reducing the open space requirement of a PUD.

C. RE: PRESENTATION OF THE DRAFT FUTURE ZONING MAP

Chairman Litton advised that the next agenda item is a presentation of the Future Zoning Map by Planning Director John Woods. Planning Director Woods presented the Future Zoning Map and discussed the current concept of the Zoning Districts with the Planning Commission. He gave examples of Light Industrial Uses, General Industrial Uses and Residential Artisan Uses. Discussion ensued regarding the current and future concept and the uses of the Future Zoning Map.

D. RE: CONTINUED DISCUSSION REGARDING CURB AND GUTTER DESIGN

Chairman Litton advised that the next agenda item is the continued discussion regarding curb and gutter design by Planning Director Woods. Planning Director Woods discussed the basic types of curb and guttering that are the most used. Mr. Schmidt stated that he does not think that curb and gutter should be required in the new Subdivision Ordinance. Chairman Litton noted that each individual situation should be looked at differently when it comes to installing curb and gutter. Planning Director Woods advised that he would recommend that the Planning Commission allow the ribbon curb and leave the ability to waive curb and gutter and the edge of

pavement requirement. Discussion continued regarding the possible curb and gutter requirements in the new Subdivision Ordinance. It was the consensus of the Planning Commission to leave the flexibility of waiving curb and gutter requirements, to add ribbon curb as an optional curb type and to include other curb types as options. There being no further discussion, Chairman Litton proceeded with the agenda.

E. RE: PRESENTATION REGARDING THE TOWN'S FUTURE PLANNING AND ZONING WEBPAGE

Chairman Litton advised that the next agenda item is a presentation regarding the Town's future Planning and Zoning webpage by Planning Director John Woods. Planning Director Woods stated that the Planning and Zoning webpage is currently live. He advised that the webpage can be found under the Planning Department tab on the Town's website. Assistant Town Manager Holeton commented that, in the near future, the draft Unified Development Ordinance (UDO) will also be added to the webpage. She noted that Staff hopes these items can be used as a tool to citizens and to the Planning Commission members for future meetings.

F. RE: DISCUSSION REGARDING THE PLANNING COMMISSION'S DRAFT RULES OF PROCEDURE

Chairman Litton advised that the next agenda item is discussion regarding the Planning Commission's draft Rules of Procedure by Assistant Town Manager Elaine Holeton. Assistant Town Manager Holeton advised that Staff has been working towards bringing more consistency to the Rules of Procedure for various Town Committees and Boards. She then gave a presentation regarding the details of what will be included in the Planning Commission's Rules of Procedure. It was the consensus of the Planning Commission for Town staff to bring the first draft of the Rules of Procedure to the February Planning Commission meeting.

G. RE: MISCELLANEOUS

Chief Deputy Clerk Brandi Jones reminded the Planning Commission members that the Disclosure of Real Estate Holdings forms are due to the Town Clerk's Office before February 1, 2024.

7. RE: ADJOURNMENT

There being no further business to be discussed, a motion was made, seconded and carried to adjourn the meeting. (7:37 p.m.)

Bradford M. Litton, Chairman

Brandi N. Jones, Chief Deputy Clerk

6-A

**WYTHEVILLE
PLANNING
COMMISSION**



**AGENDA ITEM
INFORMATION**

| | |
|----------------------|--|
| Meeting Date: | February 8, 2024 |
| Subject: | Subdivision Variation Request Presentation |

SUMMARY:

Please find attached a Staff Report, the application for a Subdivision Variation and the preliminary plat for the Subdivision Variation Request for Rural King Realty, LLC. Planning Director John Woods and Director of Public Utilities Billy Anderson will present the request and answer any questions of the Planning Commission.



Town of Wytheville Variation Review SVAR-24-1 “Rural King Plaza” Staff Report

Development Information:

Name of Subdivision: RESUBDIVISON MAP FOR RURAL KING REALTY, LLC.
Location of Subdivision: EAST MAIN STREET.
Tax map no. of involved parcels: Tax map no. 41A-91-4
Number of Existing Lots: 1
Number of Proposed Lots: 2
Proposed Use: COMMERCIAL Present Use: COMMERCIAL Conforming Use: YES
Other Regulatory Agencies Involved: NONE
Intended Water Supply: PUBLIC (existing)
Intended Sanitary Sewer Disposal: PUBLIC (existing)
Date of plat submitted: 08-28-2023 Date of submittal: 10-31-2023
Number of sheets in set: 2
Name of Owner/Subdivider: RURAL KING REALTY, LLC
Name of Surveyor/Engineer: M. LACEY LAND SURVEYING LLC
Reviewer: Billy J. Anderson, LS, Director of Public Utilities and Engineering

Code Section Associated with Variation Request:

SECTION 3-77 OF THE DEFINITIONS OF THE CURRENT TOWN OF WYTHEVILLE ZONING ORDINANCE REQUIRES ALL LOTS TO HAVE A MINIMUM OF AT LEAST 60’ OF PUBLIC ROAD FRONTAGE.

Plat Technical Compliance:

The amended subdivision plat submitted on January 8, 2024 contains all relevant information pertaining to a minor subdivision as required by the Current town of Wytheville Subdivision ordinance with exception to the following:

- 1) Private easements pertaining to,
 - a. Existing sanitary sewer collection line along the rear of the existing One-Story Commercial Building, One-Story Strip Stores and vacant grass area north west of the plaza.

- b. Existing water line and service connections extending along the rear of the existing One-Story Commercial Building and One-Story Strip Stores.
- c. Storm sewer collection system located along the front of the One-Story Commercial Building and One-Story Strip Stores which collect stormwater runoff and from building and paved parking surface.
- d. Storm water retention pond located south of the One-Story Commercial Building which control stormwater runoff from the entire plaza.
- e. Cross easements for vehicular and pedestrian travel over proposed tract 4R1 and 4R2 which indicates cross access over and across the proposed lots to East Main Street,

In addition to the submittal of a preliminary subdivision plat, upon request, a draft of the Declaration of Easement, covenants and restrictions has been submitted. A review of the draft indicated that most items listed above have been addressed with blanket cross maintenance easements over the "Common Areas" of each parcels. The submitted draft document does not include several exhibits that indicate what areas have been designated as "Common Areas".

Water, sanitary and storm collection systems serving the facility with exception of a sanitary main which crosses the east corner of the property area considered a private system and under the terms of the declaration, are the responsibility of the owners of the parcels being served.

The stormwater basin located on proposed Parcel 4R2 will be, by state law the responsibility of the property owner on which the basin exists. Notification will be issued to this owner regarding required maintenance.

A request has been made to the applicant to submit all 4 exhibits referenced in the draft document to fully understand the limitations and extents of rights described within the draft document. The request stemmed from verbiage in article 2.1 (a) Access and Parking Easement. This article indicates the following.

*An easement for reasonable access, ingress and egress over all paved driveways and roadways as presently or hereafter constructed and constituting a part of the Common Areas of the Parcels, as they exist from time to time, including, without limitations, any access, drives (s), **but specifically excluding the area located on the Primary Lot and identified on the Site Plan as the "Primary Lot Exclusive Use Areas"**, so as to provide for the passage and parking of motor vehicles and passage of pedestrians between all portions of the Common Area of such Parcels intended for such purposes, and to and from all abutting streets or rights of way furnishing access to such Parcels; provided, however, except with the express written consent of the Declarant, which the Declarant may grant or deny in its sole discretion, no Owner or Permittee may include the parking on any other Owner's Parcel for Purposes of satisfying any governmental parking ratio requirements.*

The section of this article in bold text can be fully understood within the provision of the missing Exhibits mentioned within the draft document. From phone discussions with the applicant, these exhibits are being developed and will be presented upon draft completion. A preliminary exhibit has been submitted and is included herein, graphically describing the area designated for Primary Lot Exclusive Use Area.

The draft documents addresses maintenance of “Common Areas” within each tract. As described in section 2.4 through 3.2 of the draft document, with exception of the “Primary Lot Exclusive Use Areas on the Primary Lot”, requirements guiding the maintenance and use of said Common areas. This will include provisions for removal of snow and debris. It however does not include information as to who will maintain electrical service to the existing parking lot lights. Requested exhibits will further detail what shall be considered Common Area within the development.

Section 3.2 indicates that all common areas are to be maintained by the sole cost of the parcel owner to a standard “consistent with other similarly situated commercial shopping centers”. This would include areas of landscaping, paved surfaces, sidewalks etc. It does not indicate a proposed scheduling for such items, but leaves it to the discretion of the owner and affected parcels controlled by this draft document.

Currently there is not much guidance to vehicular traffic as to what should be considered a main drive lane or parking isle. It would be of great benefit to the functionality of the entire plaza for the developer to install traffic control devices within the common area to better define and guide traffic patterns. This could be in the form of curb islands or appropriate lane striping and signage. This would include parking, drive lanes, ADA spaces, gores, fire lanes, crosswalks etc. At its current condition the parking lot is somewhat of a free for all to navigate. With the applicable restrictions being placed on the Exclusive use area of the Primary Lot, appropriate signage should also be installed to inform patrons as to where parking would and would not be available dependent on where they were shopping. This item should be considered as an important request to the developer to improve a lesser than ideal interaction with pedestrians and motor vehicles.

Please find attached a copy of the following.

- Proposed plat with 2023 ortho imagery overlay
- Draft Declaration
- Preliminary Exclusive Use Area sketch
- Opengov Application.



SVAR-24-1

Subdivision Variation Application
Status: Active
Submitted On: 1/8/2024

Primary Location

1480 East Main Street
Wytheville, VA 24382

Owner

Rural King Real Estate, LLC
(Sherri Aldrich)
Dewitt Avenue 4216 Mattoon,
IL 61938

Applicant

Michael Lacey
 423-235-5546
mlacey@mlaceylandsurveying.com
 P.O. Box 35
Whitesburg, TN 37891

Process and Instructions

1. Complete the Subdivision Variation Application and attach a digital copy of a preliminary plat or site sketch that clearly identifies the variation(s) that are being requested together with a narrative that further explains the purpose and benefits of granting the request (in PDF format), and submit it through this online permitting system.
2. A fee of \$200 is proposed for Subdivision Variation Applications beginning on July 1, 2024. For applications submitted before July 1, 2024, the fee is covered by the fee for either a major or minor subdivision review, which would have been paid previously. If the fee has been implemented at the time you submit your application, you will receive instructions regarding how to make that payment through the online permitting system.
3. The request will be placed on the agenda for the next available Planning Commission Meeting and the applicant will be notified through the OpenGov portal. At that meeting, staff will present a report of its recommendations, the Planning Commission will consider the matter and make a recommendation to the Town Council regarding approval or denial of the request. The applicant is required to attend the Planning Commission meeting and may be able to answer questions from the Commissioners.

4. After the Planning Commission makes its recommendation, the request will be placed on the agenda for the next available Town Council Meeting and the applicant will be notified through the OpenGov portal. At that meeting, staff will present a report of its recommendations, the Town Council will consider the matter and make and approve or deny the request. The applicant is required to attend the Council meeting and may be able to answer questions from the Council members.

5. The applicant will be notified of the Council's decision by an emailed comment through the OpenGov portal. If the Town Council approves the Variation Request, the applicant will be able to begin or continue the appropriate Subdivision Application (major or minor).

Subdivision Information

Does the applicant own the parcel(s) involved? * ?

Yes

Type of Subdivision* ?

Minor Subdivision

Has a Subdivision Application been submitted?* ?

Yes

Subdivision Application Number* ?

SUBD-23-10

Parcel Information

Tax Parcel Number(s)* ?

41A-091-4

Number of Existing Lots/Parcels* ?

1

Number of Proposed Lots/Parcels* ?

2

Compliance with Subdivision Standards

Subdivision Ordinance Compliance* ?

Yes

Street Infrastructure ?

Not applicable, no public street improvements are proposed.

Street Frontage Compliance ?

No

You may be required to submit a Subdivision Variation Application if parcels shown in the proposed plat do not conform to the requirements of both the Subdivision Ordinance.

Subdivision Variations

Curb & Gutter* ?

No

Street Width* ?

No

Street Frontage* ?

Yes

Other Variations ?

Land Use Information

Existing Use* ?

Shopping Center

Proposed Use* ?

Shopping Center

Will a Change in Zoning District be Required

No

Existing Zoning District* ?

Bussiness District B-2

Does Any Portion of This Property Lie in a FEMA 
Special Flood Hazard Area?

No

Additional Site Development Information

Will This Subdivision Involve the Construction & 
Dedication of Any New Public Utilities?

No

Will This Subdivision Involve the Construction & 
Dedication of a New Public Street

No

Certification, Authorization, & Signature

Signature* 

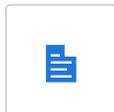
 Michael Lacey
Jan 8, 2024

Is a Subdivision Variation Application Required?

 Is a Subdivision Variation Required? 

Yes

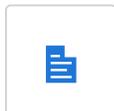
Attachments



Preliminary Plat/Subdivision Plans or Sketch

REQUIRED

13730123 RE-PLAT (REV 1).pdf
Uploaded by Michael Lacey on Jan 8, 2024 at 1:13 PM



Deed

Wytheville VA Deed Recorded 08.03.17.pdf
Uploaded by Michael Lacey on Jan 8, 2024 at 1:14 PM



Narrative
Rural King Narrative.pdf
Uploaded by Michael Lacey on Jan 8, 2024 at 1:14 PM



Wytheville VA REA Draft FINAL.pdf
Wytheville VA REA Draft FINAL.pdf
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ITEM 3 DB 72 PG 443 (Transmission Line Easement).pdf
ITEM 3 DB 72 PG 443 (Transmission Line Easement).pdf
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ITEM 4 DB 348 PG 604 (Cross Access Easement).pdf
ITEM 4 DB 348 PG 604 (Cross Access Easement).pdf
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ITEM 5 DB 357 PG 545 (40-ft Utility Easement).pdf
ITEM 5 DB 357 PG 545 (40-ft Utility Easement).pdf
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ITEM 7 DB 358 PG 558 (Utility Easement).pdf
ITEM 7 DB 358 PG 558 (Utility Easement).pdf
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ITEM 9 DB 373 PG 306 (Sanitary Sewer Easement).pdf
ITEM 9 DB 373 PG 306 (Sanitary Sewer Easement).pdf
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13920123 Exhibit A Description Primary Lot.pdf
13920123 Exhibit A Description Primary Lot.pdf
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13920123 Exhibit B-1 Description Tract 4R1.pdf
13920123 Exhibit B-1 Description Tract 4R1.pdf
Uploaded by Michael Lacey on Feb 1, 2024 at 3:16 PM



13920123 Exhibit B-2 Description Tract 4R2.pdf
13920123 Exhibit B-2 Description Tract 4R2.pdf
Uploaded by Michael Lacey on Feb 1, 2024 at 3:16 PM



Exhibit C Site Plan DRAFT v1 02.01.2024.jpg
Exhibit C Site Plan DRAFT v1 02.01.2024.jpg
Uploaded by Michael Lacey on Feb 1, 2024 at 3:57 PM

Section 6, Item A.

- LEGEND**
- EXISTENT LINE
 - EDGE OF PAVEMENT
 - CURB LINE
 - EDGE OF CONCRETE
 - CHAINLINK FENCE
 - OVERHEAD WIRE
 - SANITARY SEWER
 - STORM SEWER
 - GAS
 - WATER
 - IRON PIPE
 - IRON ROD
 - NAIL
 - UTILITY POLE
 - MANHOLE (SAN. SEWER)
 - DROP INLET
 - CATCH BASIN
 - WATER VALVE
 - WATER METER
 - HYDRANT
 - LIGHT POST
 - CLEANOUT
 - BILLBOARD
 - PARKING SPACE TALLY

- ABBREVIATIONS**
- 4" 4" E
 - CONC CONCRETE
 - FEET FEET
 - FOOT FOOT
 - INCH INCH
 - IRON IRON
 - NET-LINE NET-LINE
 - ROW ROW OR PAVEMENT
 - LET-ROCK LET-ROCK
 - PAVE PAVE
 - POST-OF-REINFORCING POST-OF-REINFORCING
 - SOLE-FOOT SOLE-FOOT
 - IRON ROD
 - ROW OR PAVEMENT
 - LET-ROCK
 - PAVE
 - POST-OF-REINFORCING
 - SOLE-FOOT

— = Primary Lot Exclusive Use Areas

LINE TABLE

| LINE NO. | BEARING | DISTANCE | ALTAZIMUTH |
|----------|---------------|----------|------------|
| 1 | N 46°15'00" E | 150.01 | 158.25 |
| 2 | N 22°48'00" W | 250.00 | 331.75 |
| 3 | S 47°47'03" W | 128.89 | 221.75 |
| 4 | S 47°47'03" W | 128.89 | 221.75 |
| 5 | N 45°37'11" W | 215.23 | 308.25 |
| 6 | N 29°02'45" E | 417.89 | 158.25 |
| 7 | N 48°10'45" E | 230.23 | 78.25 |
| 8 | S 20°52'45" E | 280.84 | 108.25 |
| 9 | S 02°23'14" E | 1147.41 | 92.25 |
| 10 | N 72°42'00" E | 459.17 | 18.25 |
| 11 | N 47°47'03" E | 68.89 | 68.25 |
| 12 | N 82°48'48" W | 173.89 | 288.25 |
| 13 | S 04°47'12" W | 75.00 | 358.25 |
| 14 | S 02°48'00" W | 223.53 | 348.25 |
| 15 | S 03°30'16" W | 228.89 | 343.25 |
| 16 | S 02°48'00" W | 223.53 | 348.25 |
| 17 | S 02°23'14" E | 214.89 | 92.25 |

CERTIFICATION

I HEREBY CERTIFY THAT THIS PLAT WAS PREPARED UNDER MY IMMEDIATE SUPERVISION TO THE EXTENT REQUIRED BY THE SURVEYING REGULATIONS FOR THE TOWN OF WYTHEVILLE. THE SUBJECT PROPERTY IS OWNED BY RURAL KING REALTY, LLC, AND WAS SUBMITTED TO RURAL KING REALTY, LLC BY DEED DATED 02/03/2007 AND OF RECORD IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF WYTHE COUNTY, VIRGINIA, INSTRUMENT NUMBER 170000258.

PRELIMINARY

RESUBDIVISION MAP FOR RURAL KING REALTY, LLC
 ON THE RESUBDIVISION OF TRACT 4 AS SHOWN ON A PLAT
 ENTITLED "MOUNTAINVIEW SQUARE" AS FILED IN THE WYTHE COUNTY
 CIRCUIT COURT ON 02/03/1989 IN PLAT BOOK 7, PAGE 122
 CREATING HEREON TRACT 4R1 (8 10.45 ACRES) AND TRACT 4R2
 (8 10.35 ACRES) SITUATED ON EAST MAIN STREET TOWN OF
 WYTHEVILLE WITH COUNTY, VIRGINIA DATE: AUGUST 28, 2023.

SHEET 2 OF 2

RE-PLAT

MOUNTAINVIEW SQUARE TRACT 4
RURAL KING REALTY, INC
1480 EAST MAIN STREET
EAST WYTHEVILLE MAGISTERIAL DIST.
TOWN OF WYTHEVILLE, WYTHE CO., VA

M. LACEY LAND SURVEYING, LLC

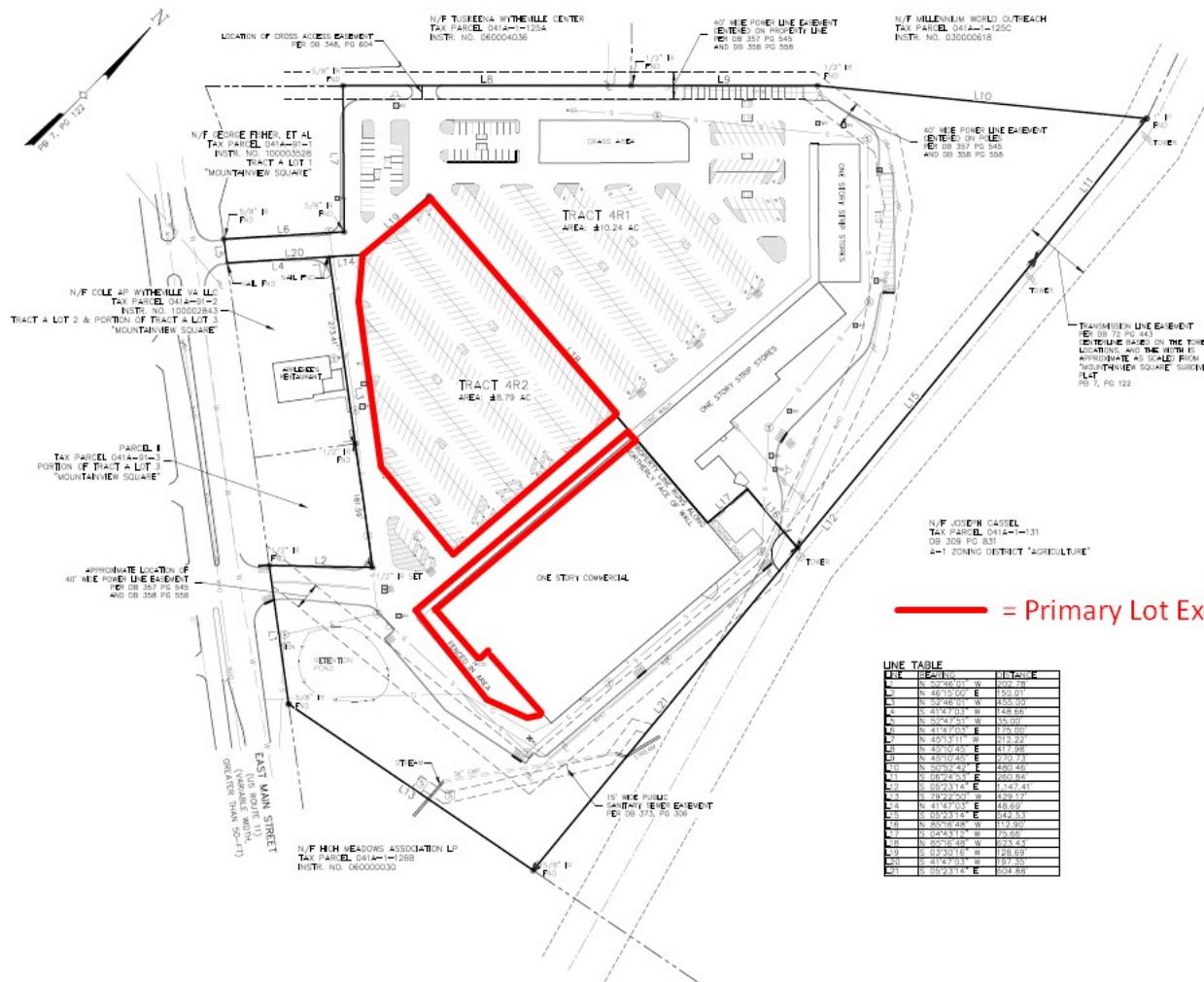
PROFESSIONAL LAND SURVEYING
 P.O. BOX 36, 7164 E. ANDREW JOHN
 WHITESBURG, TN 37891
 PHONE: 423-235-0546
 WWW.MLACESYLANDSURVEYING.COM

Project No. **13730123** Sheet No. **17**

Date: **08/28/2024** Entered: **08/28/2024**

Scale: **1" = 100'**

Job No. **13730123** Sheet No. **SU-2** of **1**



CLERK'S OFFICE

ADMITTED TO RECORD IN THE OFFICE OF THE
 CLERK OF THE CIRCUIT COURT OF WYTHE COUNTY, VIRGINIA
 ON _____ DAY OF _____ AT _____
 RECORDED AS INSTRUMENT NUMBER _____

SCALE 1" = 100 FEET

DATE: 08/28/2024

PROJECT NO. 13730123

SHEET NO. SU-2 OF 1

EXHIBIT I

DRAFT REA

**DECLARATION OF EASEMENTS, COVENANTS
AND RESTRICTIONS**

THIS DECLARATION OF EASEMENTS, COVENANTS, AND RESTRICTIONS (“*Declaration*”) is made and entered into as of the ___ day of _____, 2023, by RURAL KING REALTY, LLC, an Illinois limited liability company, whose address is 4216 Dewitt Avenue, P.O. Box 1066, Mattoon, Illinois 61938 (“*Declarant*”), with reference to the following facts:

WHEREAS, Declarant is the owner of the real property situated in Wytheville, Wythe County, Virginia, with an address of 1480 East Main Street, Wytheville, Virginia consisting of three parcels, legally described, respectively, on *Exhibit A* (the “*Primary Lot*”) attached hereto and made a part hereof, and described on *Exhibit B-1* (“*New Lot Parcel 1*”) and *Exhibit B-2* (“*New Lot Parcel 2*”) attached hereto and made part hereof (New Lot Parcel 1 and New Lot Parcel 2 are referred to together in this Declaration as the “*New Lot*”).

WHEREAS, Declarant desires to impose certain easements upon the Primary Lot and upon the two parcels comprising the New Lot (each individually, a “*Parcel*” and, together, the “*Parcels*”), and to establish certain covenants, conditions and restrictions with respect to the Parcels, for their benefit and for the mutual and reciprocal benefit of the Parcels and the present and future owners and occupants thereof, on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the above premises and of the covenants herein contained, the Declarant hereby reserves for itself and establishes, declares, covenants and agrees that the Parcels and all present and future owners and occupants of the Parcels shall be and hereby are subject to the terms, covenants, easements, restrictions and conditions hereinafter set forth in this Declaration, so that said Parcels shall be maintained, kept, sold and used in full compliance with and subject to this Declaration and, in connection therewith, Declarant on its behalf and its successors and assigns covenant and agree as follows:

1. Definitions. For purposes hereof:

(a) The term “Owner” or “Owners” shall mean Declarant and any and all successors or assigns of such persons as the owner or owners of fee simple title to all or any portion of the real property covered hereby, whether by sale, assignment, inheritance, operation of law, trustee’s sale, foreclosure, or otherwise, but not including the holder of any lien or encumbrance on such real property.

(b) The term “Parcel” or “Parcels” shall mean the Primary Lot and the two parcels comprising the New Lot, and any permitted future subdivision(s) of any of the foregoing.

(c) The term “Permittees” shall mean the tenant(s) or occupant(s) of a Parcel, and the respective employees, agents, contractors, customers, invitees and licensees of (i) the Owner of such Parcel, and/or (ii) such tenant(s) or occupant(s).

(d) The term “Common Area” shall mean those portions of the Parcels designated as such on a site plan, a survey, or a subdivision plat intended for the non-exclusive use of a Parcel, which may be either

unimproved or improved such as (without limitation) parking areas, landscaped areas, drive roadways, walkways, light standards, curbing, paving, entrances, exits and other similar non-exclusive exterior site improvements, but shall specifically exclude the portions of the Primary Lot designated as the "Primary Lot Exclusive Use Areas".

(e) The term "Site Plan" shall mean that site plan, survey, or subdivision plat of the Parcels attached hereto as *Exhibit C* and by reference made a part hereof, as the same may be amended from time to time in accordance with 8.2 below.

2. Easements.

2.1 Grant of Reciprocal Easements. Subject to any express conditions, limitations or reservations contained herein, the Declarant hereby grants, establishes, covenants and agrees that the Parcels, and all Owners and Permittees of the Parcels, shall be benefited and burdened by the following non-exclusive, perpetual and reciprocal easements which are hereby imposed upon the Parcels and all present and future Owners and Permittees of the Parcels:

(a) Access and Parking. An easement for reasonable access, ingress and egress over all paved driveways and roadways as presently or hereafter constructed and constituting a part of the Common Areas of the Parcels, as they exist from time to time, including, without limitation, any access drive(s), but specifically excluding the area located on the Primary Lot and identified on the Site Plan as the "Primary Lot Exclusive Use Areas", so as to provide for the passage and parking of motor vehicles and passage of pedestrians between all portions of the Common Area of such Parcels intended for such purposes, and to and from all abutting streets or rights of way furnishing access to such Parcels; provided, however, except with the express written consent of the Declarant, which the Declarant may grant or deny in its sole discretion, no Owner or Permittee may include the parking on any other Owner's Parcel for purposes of satisfying any governmental parking ratio requirements.

(b) Utilities.

(i) An easement under and across all portions of each Parcel constituting a part of the Common Areas of such Parcels, as they exist from time to time, including, without limitation, any access drive(s), for the installation, maintenance, repair and replacement of water mains, storm drains, sewers, water sprinkler system lines, telephone or electrical conduits or systems, cable, gas mains and other utility facilities necessary for the orderly operation of the Parcels;

(ii) Provided, however, that (1) the rights granted pursuant to such easements set forth in this Section 2.1(b) shall at all times be exercised in such a manner as not to interfere materially with the normal operation of a Parcel and the businesses conducted thereon; (2) except in an emergency, the right of any Owner to enter upon a Parcel for the exercise of any right pursuant to such easements shall be conditioned upon provided reasonable prior advance written notice to the other Owner as to the time and manner of entry or access; and, (3) the location of all such proposed easements shall be depicted on the Site Plan. All such exterior systems and structures, to the extent economically reasonable, shall be installed and maintained below the ground level or surface of the Parcel. The Owner whose Parcel is benefited by a utility located on another Owner's Parcel shall be responsible for maintaining such utility in good condition, and shall be responsible for any costs expenses, losses or damages incurred by the affected Owner resulting from such utility and the use, maintenance, repair and replacement of such utility. The Owner of any area affected by a utility within the Common Area may, at such Owner's sole cost and expense, relocate any such utility, provided that, in so doing, such Owner does not cause an interruption in utility service to the other Owner;

(c) Pylon Sign. Following the recordation of this Declaration and the conveyance of the New Lot, the

Owner of the New Lot shall be entitled to continue to utilize any existing pylon sign(s) located the Primary Lot presently being used by existing Permittees on the New Lot, in the panel position(s) agreed by the Owner of the Primary Lot ("Primary Lot Pylon Sign(s)"). The Owner of the Primary Lot shall maintain the Primary Lot Pylon Sign(s) in good condition and shall be responsible for all expenses for the maintenance, repair and replacement of the Primary Lot Pylon Sign(s), except the panels used to advertise businesses on the New Lot, which shall be repaired, replaced and maintained by the Owner of the New Lot at its expense. The Owner of the Primary Lot shall be responsible for ensuring the Primary Lot Pylon Sign(s) as well as for the utilities serving the Primary Lot Pylon sign(s) on the Primary Lot, and the operating costs associated with, such sign(s). The New Lot Owner shall be responsible for all expenses associated with maintaining, repairing, replacing and insuring any existing pylon or monument sign(s) on the New Lot ("New Lot Sign(s)"). The New Lot Sign(s) shall not be removed or modified, and no new pylon or monument sign(s) shall be constructed, without the prior written consent of the Primary Lot Owner, which shall not be unreasonably withheld by the Primary Lot Owner. To the extent the New Lot Owner or its Permittee is using any New Lot Sign(s), it shall continue to have such right of use following the recording of this Declaration.

(d) Status of Walkways, Passageways, driveways, service roads and parking areas. As identified and shown on Exhibit C.

(e) Party Wall and Party Wall Easements. A portion of the legal boundary between Parcels, including the boundary between the Primary Lot and New Lot Parcel 2, falls within an existing interior wall within an existing building, as indicated and identified on Exhibit C (the "**Party Wall**"). The Owner of the Primary Lot and its Permittees, and the Owner of New Lot Parcel 2, and its Permittees, and the owners of any other Parcels that share a Party Wall, shall be entitled to the following rights, uses, and obligations with respect to the Party Wall:

(i) Grant of Party Wall Easement. Each Owner shall have the right and option to use, maintain, disconnect from, upgrade, or otherwise modify the Party Wall and shall have a permanent support easement and temporary construction easement ten (10) feet inside the adjoining Parcel (including inside the building) for the limited purpose of modifying, maintaining and installing from time to time the columns, beams, footers, foundations, wall or other elements between and/or shared by the Parcels (the "**Party Easement**").

(ii) Party Wall Modifications. At such times as the Owner of a Parcel seeks to modify the columns, beams, footers, foundations, wall or other elements within the Party Easement, the Owner seeking to make such modifications shall notify the Owner of the adjacent Parcel in writing and provide detailed plans for such proposed modifications prepared by an architect or engineer licensed in the Commonwealth of Pennsylvania ("**Proposed Party Wall Modifications**"). Except in any case where the proposed modifications must be performed immediately on an emergency basis to protect structural integrity, the Owner of the adjacent Parcel shall have thirty (30) days to review ("**Modification Review Period**") and to provide comments to the Proposed Party Wall Modifications, and within such period shall advise the requesting Owner whether, in the exercise of reasonable business judgement, it approves, disapproves, or approves with modifications the Proposed Party Wall Modifications. If the Owner of the adjacent Parcel approves the Proposed Party Wall Modifications, or if both Parcel Owners approve the Proposed Party Wall Modifications with revisions, the Owner of the Parcel submitting the Proposed Party Wall Modifications may proceed with such modifications in accordance with the Proposed Party Wall Modifications (as amended, if agreed by both Owners), subject to the following provisions. In the event the Owners of both Parcels do not agree to the proposed modifications, no modification shall be made to the Party Wall; however, the Owner seeking to disconnect from the Party Wall may revise its plans and leave the Party Wall intact and disconnect from the Party Wall. In the event the Proposed Party Wall Modifications (as amended, if applicable, by the agreement of the Parcel Owners), the Owner making such modifications shall notify the Owner of the adjacent Parcel of the time when the work is intended to be performed at the expense of Owner that has proposed such modifications and to coordinate the temporary relocation of any furniture, fixtures, equipment or merchandise within the Party Easement area at the cost

of the requesting Owner and, if the work would be expected to produce dust or debris, to install, maintain, and remove upon completion of such work, appropriate barriers at the expense of the Owner making such modifications.

(iii) Openings in the Party Wall. Except with the express written consent of the Owner of the Primary Lot and the Owner of New Lot Parcel 2, no new entrances, exits, or access ways may be constructed through the Party Wall separating those two Parcels.

(iv) Party Wall Maintenance, Damage and Repairs. Each Owner shall be obligated to maintain the portion of the Party Wall on its Parcel in good condition and repair, and each may only modify the Party Wall in accordance with the process outlined in subparagraph (i) above. Each Owner shall take all reasonable steps necessary to maintain the integrity of the Party Wall as a support for (and wall of) the building on the adjacent Parcel. In the event an Owner fails to do so, or if an Owner's repair or modification of the Party Wall causes damage to, or adversely affects the structural integrity of, the other Parcel Owner's building, that Owner shall repair or replace all affected structural portions of the Party Wall and other structural elements within the Party Easement, including but not limited to any affected portion of the roof of the building. All construction work shall be performed by contractors licensed in the Commonwealth of Virginia in a good and workmanlike manner and in accordance with all applicable federal, state, and local laws, regulations, and ordinances (collectively "Applicable Law"), and the Proposed Party Wall Modifications (as the same may be amended by agreement of the adjacent Owner). All such work shall be performed diligently and continuously and must be completed within the time frame agreed to by the Owners in conjunction with the approval of the Proposed Party Wall Modifications (as the same may be amended by agreement of the Owners). All persons or entities performing any modification work shall carry general liability and worker's compensation insurance in such amounts as required by Applicable Law, and they shall provide certificates of insurance naming the Owner causing the work to be done and the adjacent Parcel Owner each as an additional insured prior to the commencement and during the performance of any such work.

(v) Damage to or destruction of the Party Wall by fire or casualty. Each Owner, as part of its insurance obligations detailed herein, shall insure its interest in the Party Wall against damage or destruction by fire or casualty in amounts sufficient to repair, restore, or reconstruct the Party Wall following any such fire or casualty. The Owners of adjacent Parcels with a Party Wall shall bear equally the responsibility of repair, restoration or reconstruction should there be damage to the Party Wall by fire or casualty, unless the fire or casualty is the result of any negligent or intentional act by an Owner and/or that Owner's Permittees, in which case that Owner shall solely be responsible for the repair, restoration, or reconstruction of the Party Wall. All repair, restoration, or reconstruction of the Party Wall shall be subject to the provisions set forth in the last sentence of subparagraph (iv) above.

(f) Contribution of Primary Lot Owner and New Lot Owner for expenses under existing declaration(s). Any maintenance or other expenses imposed upon the Declarant pursuant to the terms of any existing declaration shall be allocated, respectively, between the Primary Lot Owner and the New Lot Owner based upon a formula that multiplies any such expenses by a fraction, with (i) the numerator being the number of square feet of enclosed leasable retail space located on the Primary Lot divided by the total number of square feet of enclosed leasable retail space located on the Primary Lot and the New Lot (for the owner of the Primary Lot) and (ii) with the numerator being the number of square feet of enclosed leasable retail space located on the New Lot divided by the total number of square feet of enclosed leasable retail space located on the Primary Lot and the New Lot (for the owner of the New Lot).

2.2 Indemnification. Each Owner having rights with respect to an easement granted herein shall indemnify and hold the Owner whose Parcel is subject to the easement harmless from and against all claims,

liabilities and expenses (including reasonable attorney fees) relating to accidents, injuries, loss, or damage of or to any person or property arising from the negligent, intentional or willful acts or omissions of such Owner, its contractors, employees, agents, or others acting on behalf of such Owner.

2.3 Insurance. Each Owner shall maintain for that Parcel, or cause such Owner's Permittee(s) to maintain, at all times beginning on the date of this Declaration is recorded, and ending no earlier than the expiration or earlier termination of this Declaration, a Commercial General Liability Policy or its equivalent, including coverage for contractual liability for personal injury. Such insurance to be carried by each Owner shall have minimum limits of not less than \$1,000,000.00 with respect to injuries to any one person or accident and \$1,000,000.00 with respect to property damage occurring in, on, or about the Owner's Parcel. An Owner or such Owner's Permittee shall have the right to satisfy its obligations regarding the foregoing insurance by way of self-insurance provided such Owner or such Owner's Permittee maintains a net worth of at least One Hundred Million Dollars (\$100,000,000.00). Upon the request of any other Owner, such self-insuring Owner or Permittee shall furnish a letter certifying that such party has elected to self-insure and further certifying that the Owner's then-current net worth is at least One Hundred Million Dollars. The foregoing insurance coverage amounts and self-insurance net worth requirement amount may be adjusted from time to time to a commercially reasonable level as mutually agreed by the Owners.

2.4 Common Area. The Common Area, excluding the Primary Lot Exclusive Use Areas on the Primary Lot, shall not be permanently blocked, closed, altered, changed or removed by the Owner or any Permittee of the Parcel on which such Common Area is located, and shall at all times remain in place as shown on the Site Plan, unless agreed in writing by the Owners of all Parcels or required by order of a court or other governmental entity; provided, however, that temporary closure for emergencies, maintenance, repairs, casualty, or through a condemnation action, or by the order of a court or other governmental entity shall not be a violation of this provision. As of the execution of this Declaration, the Common Area has been constructed on the Primary Lot and the two Parcels (New Lot Parcel 1 and New Lot Parcel 2) comprising the New Lot. The Owner of the New Lot (and the respective Owner of New Lot Parcel 1 and New Lot Parcel 2, if separately owned) and the Primary Lot shall maintain the respective Common Area on its Parcel, provided, however, that the Owner of the New Lot shall reimburse the Owner of the Primary Lot on a monthly basis for expenses and charges incurred by the Primary Lot Owner to manage, insure, maintain, repair and replace, and to sweep and remove snow and ice from, the parking areas, pedestrian walkways, and internal drives on the Primary Lot Common Area, based on the formula set out in 2.1 (f). Except as otherwise agreed in writing between the Owner of the Primary Lot and the Owner of the New Lot, the Owner(s) of the New Lot and its Permittee(s) shall be responsible at its expense for managing, insuring, maintaining, repairing, and replacing, and for removing snow and ice from, the Common Area of the New Lot (or the respective component of the New Lot owned by it if New Lot Parcel 1 and New Lot Parcel 2 are separately owned).

2.5 Reasonable Use of Easements.

(a) The easements herein above granted shall be used and enjoyed by each Owner and its Permittees in such a manner so as not to unreasonably interfere with, obstruct or delay the conduct and operations of the business of any other Owner or its Permittees at any time conducted on its Parcel, including, without limitation, public access to and from said business, and the receipt or delivery of merchandise in connection therewith.

(b) Once commenced, any construction undertaken in reliance upon an easement granted herein shall be diligently prosecuted to completion, to minimize any interference with the business of any other Owner and its Permittees. Except in cases of emergency, the right of any Owner to enter upon a Parcel of another Owner for the exercise of any right pursuant to the easements set forth, or to prosecute work on such Owner's own Parcel if the same interferes with utility easements or easements of ingress, egress or access to or in favor of another Owner's Parcel, shall be undertaken only in such a manner so as to minimize any interference with the business of the other Owner and its Permittees.

In such case, no affirmative monetary obligation shall be imposed upon the other Owner, and the Owner undertaking such work shall with due diligence repair at its sole cost and expense any and all damage caused by such work and restore the affected portion of the Parcel upon which such work is performed to a condition which is equal to or better than the condition which existed prior to the commencement of such work. In addition, the Owner undertaking such work shall pay all costs and expenses associated therewith and shall defend (with counsel acceptable to the Owner on whose Parcel the work is performed), indemnify and hold harmless the other Owner(s) and its Permittees from all damages, losses, liens or claims attributable to the performance of such work. Notwithstanding the foregoing or anything contained in this Declaration to the contrary, the Owner(s) of a Parcel and its/their Permittees shall in no event undertake any work described in this paragraph (except normal minor repairs in the ordinary course which do not interfere with the businesses) on another Tract which is not of an emergency nature unless the Owner of that Tract and its Permittee(s) consent thereto.

3. Maintenance.

3.1 Improvements and Appurtenances Thereto. Each Owner covenants to keep and maintain, at its sole cost and expense, the improvements located from time to time on its respective Parcel in good order, condition and repair, and in full compliance with all Applicable Law. In the event of any damage to or destruction of the improvements and/or Common Area on any Parcel, the Owner of such Parcel shall, at its sole cost and expense, within a reasonable period following such damage or destruction, but in no event more than sixty (60) days thereafter, commence the repair, restoration and rebuilding of such improvement to its condition prior to such damage or destruction (or with such changes as shall not conflict with this Declaration), with all such repair, restoration, or rebuilding completed within a commercially reasonable time thereafter.

3.2 Common Area. Each Owner covenants at all times, at such Owner's sole cost and expense, during the term hereof to operate and maintain or cause to be operated and maintained at its expense all Common Area on its Parcel in good order, condition and repair in a manner consistent with other similarly situated commercial shopping centers and in full compliance with all Applicable Law.

4. Restrictions. The Parcels shall be subject to the following covenants, conditions and restrictions:

4.1 Generally. The Parcels shall be used for the sole purpose of promoting and operating retail shopping areas comprised solely of (i) retail stores selling, at retail, merchandise normally carried in other quality shopping centers, and, in the case of the Primary Lot, offering and selling merchandise and services available at a typical Rural King store; (ii) financial institutions; (iii) service shops; (iv) professional offices; (v) vehicle fuel; and (vi) parking areas.

4.2 Prohibited Uses. None of the following uses shall be permitted and none of the following business shall be operated on any Parcel without the written consent of the Owners of all Parcels (collectively, the "Prohibited Uses"):

- (a) store selling marijuana;
- (b) funeral home or mortuary;
- (c) tattoo parlor or body piercing establishment;
- (d) adult video store and adult book store;
- (e) adult entertainment club;
- (f) place of betting, gambling, bingo, or other gaming [excluding the sale of state lottery tickets in compliance with applicable laws and regulations];

- (g) hotel, motel, or other place of residence;
- (h) auto body shop or junk yard;
- (i) manufacturing operation;
- (j) abortion clinic, including Planned Parenthood; or
- (k) anything constituting a public or private nuisance.

4.3 Primary Lot Exclusive. Except as otherwise expressly provided in the current lease of any tenant on the New Lot as of the date this Declaration is recorded, the Owner and any Permittee(s) of the Primary Lot shall have the exclusive right within the Parcels to sell the following products (the "Primary Lot Exclusive"): tractors, mowers, light utility vehicles, trailers, and accessories and replacement parts for any of the foregoing; farm fencing; livestock gates; livestock feeding systems; livestock feed and, and health and maintenance products for livestock and pets; livestock, including rabbits, chickens, ducks horse and rider tack and equipment; bird feed and feeders, home improvement and related products; lawn and garden equipment, including carts, snow blowers, chippers, shredders, wheel barrows, and log splitters; hardware; power tools; auto, truck and trailer accessories, including truck tool boxes, trailer hitches and connections; seeds, plants and plant fertilizers; home and lawn furniture; firearms, firearm cases and safes, and ammunition; hunting and camping equipment, licenses and supplies; fishing and non-powered boats including paddle boats, kayaks, and canoes; and canning supplies (collectively, the "**Restricted Products**").

4.4 Further Subdivision. Subject to the satisfaction of all requirements imposed by, and the receipt of all approvals from, any governmental body to do so, only the Primary Lot may be subdivided or otherwise reconfigured by its Owner. The Owner of any subdivided or reconfigured Parcel shall immediately become and remain subject to the duties, obligations and liabilities with respect to the other subdivided or reconfigured parcels within the Parcel so subdivided or reconfigured and, with respect to the other Parcel(s) shall have the rights and benefits of this Declaration as though such subdivided or reconfigured parcel had been originally described herein. Further, the Owner of each such subdivided or reconfigured parcel shall be relieved of any further obligation hereunder with respect to that portion of the Parcel so subdivided or reconfigured not owned by it, and shall continue to be obligated to the other Owners hereunder only with respect to that portion of the original Parcel it retains. In the event of any subdivision of the Primary Lot, the Owner of the largest portion of the Primary Lot shall be deemed the "Owner of the Primary Lot Parcel" for purposes of obligations set forth in this Declaration.

5. No Rights in Public; No Implied Easements. Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of any Parcel. No easements, except those expressly set forth in paragraph 2, shall be implied by this Declaration.

6. Remedies. In the event of a breach or threatened breach by any Owner or its Permittee(s) of any of the terms, covenants, restrictions or conditions hereof, the other Owner(s) shall be entitled forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach, including payment of any amounts due and/or specific performance. Notwithstanding the foregoing to the contrary, no breach hereunder shall entitle any Owner to cancel, rescind, or otherwise terminate this Declaration. No breach hereunder shall defeat or render invalid the lien of any mortgage upon any Parcel made in good faith for value, but the easements, covenants, conditions and restrictions hereof shall be binding upon and effective against any Owner of such Parcel covered hereby whose title thereto is acquired by foreclosure, trustee's sale, or otherwise. If any Owner fails to fulfill any obligation in the manner required by this Declaration (herein a "**Defaulting Owner**"), any other Owner (the "**Innocent Owner**") may notify such Defaulting Owner of such default (the "**Default Notice**"), specifying with particularity the manner in which such Defaulting Owner has defaulted. If such breach is not corrected within thirty (30) days after receipt of the Default Notice (or if such breach is such that it cannot be corrected

within thirty (30) days, if the Defaulting Owner does not commence the correction of such default promptly and diligently prosecute the correction to completion thereafter, but in no event more than ninety (90) days after receipt of the Default Notice) (“**Defaulting Owner Cure Period**”), then any Innocent Owner shall thereafter have the right (but not the obligation) to remedy the default specified in the Default Notice and seek and recover its costs of doing so from the Defaulting Owner. In such circumstances, the Defaulting Owner shall reimburse the Innocent Owner for all reasonable and properly documented expenses incurred by the Innocent Owner to rectify such default within fifteen (15) days after the Defaulting Owner receives written documentation detailing each of the expenditures incurred and paid by such Innocent Owner (“**Default Expenses**”). If the Default Expenses are not paid within fifteen (15) days of receipt by the Defaulting Owner (i) the amount of the Default Expenses shall bear interest at the rate of ten percent (10%) per annum from the date such expenditures were paid by the Innocent Owner, until the date paid by the Defaulting Owner; and (ii) the Innocent Owner rectifying such default shall thereafter be authorized to file a lien in the amount of the Default Expenses and any accrued interest on the Defaulting Owner’s Parcel from and after the end of the Defaulting Owner Cure Period (which lien shall be subordinate to any mortgage or deed of trust on such Parcel unless notice of such lien has been recorded in Wythe County, Virginia prior to the recording of such mortgage or deed of trust). It is the intent of the parties that such lien shall be inferior and subordinate to the lien of any valid mortgage or deed of trust now existing or which may hereafter be placed on said property securing the payment of a loan made by an entity whose deposits are insured or guaranteed by an agency of the United States Government, unless the lien is filed prior to the recording of the mortgage or deed of trust. The parties agree that the respective Permittees of the New Lot Owner and the Primary Lot Owner are each intended as a third-party beneficiary of this Declaration, shall have the same rights and remedies as an Owner with respect to any default by any other Owner under this Declaration, and may enforce this Declaration in the same manner as that Owner. Any person authorized by this Declaration to enforce the remedies provided for in this paragraph shall also be entitled to recover expenses it incurs to prepare, record and release any lien for Default Expenses.

7. Term. This Declaration shall be effective commencing on the date of recordation of this Declaration in Wythe County, Virginia, and shall remain in full force and effect until its termination on the occurrence of the earliest of fifty (50) years, when Seller ceases to have any interest in Seller’s Real Property, or until this Declaration is modified, amended, canceled or terminated by a fully executed and written instrument signed by all of the then record Owners of all Parcels and recorded in Wythe County, Virginia.

8. Miscellaneous.

8.1 Attorney Fees. In the event a party institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, the prevailing party after a final adjudication of such action shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

8.2 Amendment. This Declaration may be modified or amended, in whole or in part, or terminated, only by the written consent of all record Owners of the Parcels, provided, however, that the Declarant shall retain the right to unilaterally amend this Declaration with respect to any subdivision of the Primary Lot and/or to change the size, configuration, and/or location of the Primary Lot Exclusive Use Areas .

8.3 No Waiver. No waiver of any default of any obligation by any party hereto shall be implied from any omission by the other party to take any action with respect to such default.

8.4 Covenants to Run with Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the real property benefited thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives.

8.5 Grantee's Acceptance. The grantee of any Parcel or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from Declarant or from a subsequent Owner of such Parcel, shall accept such deed or contract upon and subject to each and all of the easements, covenants, conditions, restrictions and obligations contained herein. By such acceptance, any such grantee shall for himself/herself/itself and his/her/its successors, assigns, heirs, and personal representatives, covenant, consent, and agree to and with the other Owner(s), to keep, observe, comply with, and perform the obligations and agreements set forth herein with respect to the property so acquired by such grantee.

8.6 Entire Agreement. This Declaration contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby.

8.7 Notices. Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery. Notice shall be deemed given upon receipt or refusal to accept delivery. Each party may change from time to time their respective address for notice hereunder by like notice to the other party. The notice addresses of the parties are as follows:

If to the Declarant(s):
RURAL KING REALTY, LLC
P.O. Box 1066
4216 Dewitt Avenue
Mattoon, Illinois 61938
Attn: General Counsel

If to the Owner of the New Lot (following its initial conveyance from the Declarant):

Attn:

8.8 Governing Law. The laws of the Commonwealth of Virginia shall govern the interpretation, validity, performance, and enforcement of this Declaration.

8.9 Estoppel Certificate. Any Owner may, at any time and from time to time, in connection with the sale, leasing or transfer of the Owner's Parcel, or in connection with the financing or refinancing of the Owner's Parcel by bona fide mortgage, deed of trust or sale-leaseback made in good faith and for value, deliver written notice to the other Owner(s) requesting such Owner(s) to execute a certificate stating that to the best knowledge of that other Owner(s) (a) the requesting Owner is not in default in the performance of its obligations under this Declaration, or, if in default, to describe therein with specificity the nature and amount of any and all defaults, and (b) confirming that this Declaration has not been amended (or if so, identifying the amendments), and is in full force and effect, and (c) confirming that there are no amounts owed by or liens filed with respect to such Owner or such Owner's Parcel. Each Owner receiving such request shall execute and return such certification within twenty (20) days following the receipt of such request. Failure by an Owner to so execute and return such Certificate within the specified period shall be deemed an admission on such Owner's part that the Owner requesting the certificate is current and not in default in the performance of such Owner's obligations under this Declaration.

8.10 Conflict. In the event any provision of this Declaration conflicts with any previously recorded covenants, conditions and restriction affecting the Primary Lot and the New Lot only, the provisions of this Declaration shall prevail as to the Owner of the Primary Lot and the Owner of the New Lot. In the event any provision of this Declaration conflicts with any product exclusives or product restrictions granted to a

Permittee pursuant to the terms of any Permittee lease existing and not in default as of the date this Declaration is recorded, such restrictions shall continue, and in the event of conflict with the terms of this Declaration, the provisions of any such lease shall prevail until such lease is terminated or the term of such lease ends.

IN WITNESS WHEREOF, Declarant, as the owner of the Primary Lot and the New Lot, has caused this Declaration to be executed as of the day and year first above written.

RURAL KING REALTY, LLC

Date executed:

an Illinois limited liability company

_____, __, 2023

By: _____
Name: _____
Title: _____

CONSENT OF DECLARANT LENDER

The undersigned Lender, the Beneficiary under that certain Credit Line Deed of Trust dated as of March 4, 2022 and filed for record on March 7, 2022 in the Clerk's Office of the Wythe Circuit Court, Wythe County, Virginia as Instrument 220000658, made by Rural King Realty, LLC, an Illinois limited liability company, to First American TR Services of Virginia, LLC, as Trustee, for the benefit of UMB Bank, n.a., as Beneficiary and Lender (the "Deed of Trust") hereby consents to the execution and recording of this Declaration, to which this CONSENT OF DECLARANT LENDER is attached, and agrees that said Deed of Trust is subordinate and subject thereto.

UMB Bank, n.a.

By: _____

Name: _____

Title: _____

Exhibit A

Legal Description of Primary Lot

Exhibit B-1

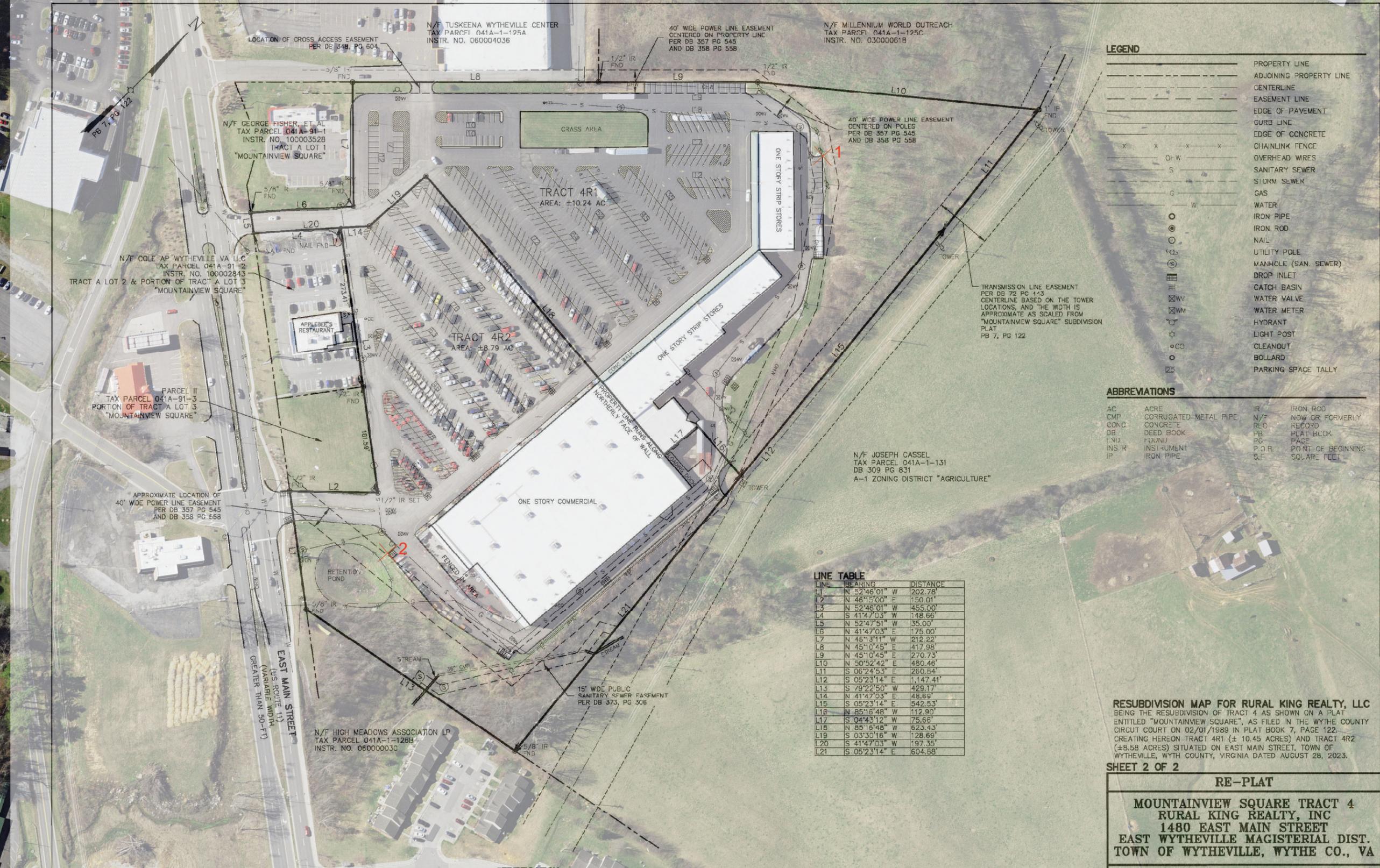
Legal Description of New Lot Parcel 1

Exhibit B-2

Legal Description of New Lot Parcel 2

Exhibit C

Site Plan



LEGEND

| | |
|---------|-------------------------|
| --- | PROPERTY LINE |
| - - - | ADJOINING PROPERTY LINE |
| --- | CENTERLINE |
| - - - | EASEMENT LINE |
| --- | EDGE OF PAVEMENT |
| --- | CURB LINE |
| --- | EDGE OF CONCRETE |
| x x x x | CHAINLINK FENCE |
| —O—W— | OVERHEAD WIRES |
| S | SANITARY SEWER |
| G | STORM SEWER |
| W | GAS |
| —O— | WATER |
| —O— | IRON PIPE |
| —O— | IRON ROD |
| —O— | NAIL |
| —O— | UTILITY POLE |
| —O— | MANHOLE (SAN. SEWER) |
| —O— | DROP INLET |
| —O— | CATCH BASIN |
| —O— | WATER VALVE |
| —O— | WATER METER |
| —O— | HYDRANT |
| —O— | LIGHT POST |
| —O— | CLEANOUT |
| —O— | BOLLARD |
| —O— | PARKING SPACE TALLY |

ABBREVIATIONS

| | | | |
|-------|------------|--------|--------------------|
| AC | ACRE | IR | IRON ROD |
| CONC | CONCRETE | N/F | NOW OR FORMERLY |
| DB | DEED BOOK | REC | RECORD |
| FIN | FINISH | PL | PLAT BOOK |
| INS R | INSURUMENT | PG | PAGE |
| IP | IRON PIPE | P.O.B. | POINT OF BEGINNING |
| | | S.F. | SQUARE FEET |

LINE TABLE

| LINE | BEARING | DISTANCE |
|------|---------------|-----------|
| L1 | N 52°46'01" W | 202.78' |
| L2 | N 46°13'00" E | 150.01' |
| L3 | N 52°46'01" W | 455.00' |
| L4 | S 41°47'03" W | 148.66' |
| L5 | N 52°47'51" W | 35.02' |
| L6 | N 41°47'03" E | 175.00' |
| L7 | N 45°13'11" W | 212.22' |
| L8 | N 45°10'45" E | 417.98' |
| L9 | N 45°10'45" E | 270.73' |
| L10 | N 50°52'42" E | 480.46' |
| L11 | S 06°24'53" E | 260.84' |
| L12 | S 05°23'14" E | 1,147.41' |
| L13 | S 79°22'50" W | 429.17' |
| L14 | N 41°47'03" E | 48.69' |
| L15 | S 05°23'14" E | 542.53' |
| L16 | N 85°16'48" W | 112.90' |
| L17 | S 04°43'12" W | 75.66' |
| L18 | N 85°16'48" W | 623.43' |
| L19 | S 03°30'16" W | 128.69' |
| L20 | S 41°47'03" W | 197.35' |
| L21 | S 05°23'14" E | 604.88' |

RESUBDIVISION MAP FOR RURAL KING REALTY, LLC
 BEING THE RESUBDIVISION OF TRACT 4 AS SHOWN ON A PLAT ENTITLED "MOUNTAINVIEW SQUARE", AS FILED IN THE WYTHE COUNTY CIRCUIT COURT ON 02/01/1989 IN PLAT BOOK 7, PAGE 122. CREATING HEREON TRACT 4R1 (± 10.45 ACRES) AND TRACT 4R2 (± 8.58 ACRES) SITUATED ON EAST MAIN STREET, TOWN OF WYTHEVILLE, WYTH COUNTY, VIRGINIA DATED AUGUST 28, 2023.

SHEET 2 OF 2

RE-PLAT

MOUNTAINVIEW SQUARE TRACT 4
RURAL KING REALTY, INC
1480 EAST MAIN STREET
EAST WYTHEVILLE MAGISTERIAL DIST.
TOWN OF WYTHEVILLE, WYTHE CO., VA

M. LACEY LAND SURVEYING, LLC

6-B

**WYTHEVILLE
PLANNING
COMMISSION**



**AGENDA ITEM
INFORMATION**

| | |
|----------------------|--|
| Meeting Date: | February 8, 2024 |
| Subject: | Recommendation to Town Council – Subdivision Variation Request |

SUMMARY:

The Planning Commission will consider the request for a Subdivision Variation to the road frontage requirement for a division at Mountainview Square (Rural King Realty, Inc.), as presented by Town Staff.

Recommended Action

A motion to make a recommendation to the Wytheville Town Council to **approve/deny** the request for a Subdivision Variation to the road frontage requirement for a division at Mountainview Square (Rural King Realty, Inc.) located at 1480 East Main Street. **(requires a roll call vote)**

7-A

**WYTHEVILLE
PLANNING
COMMISSION**



**AGENDA ITEM
INFORMATION**

| | |
|----------------------|--|
| Meeting Date: | February 8, 2024 |
| Subject: | Proposed Planning Commission Rules of Procedure Presentation |

SUMMARY:

At the January 11, 2024, meeting, the Planning Commission requested that Assistant Town Manager Holeton create a draft of the proposed Rules of Procedure to review at the February meeting. Assistant Town Manager Holeton will be presenting the first draft of the Planning Commission Rules of Procedure at this meeting. The Commissioners will review the draft materials and make suggestions and/or necessary changes to the draft.

At the March meeting, following the final changes provided by the Commissioners, Assistant Town Manager Holeton will present the final draft of the Planning Commission Rules of Procedure to the Commission for adoption.

There are no attachments for this agenda item. Materials will be provided at the meeting.

7-B

**WYTHEVILLE
PLANNING
COMMISSION**



**AGENDA ITEM
INFORMATION**

| | |
|----------------------|--|
| Meeting Date: | February 8, 2024 |
| Subject: | Unified Development Ordinance (UDO) Continued Review |

SUMMARY:

Planning Director Woods will continue to review the proposed Unified Development Ordinance (UDO), and he will offer time for the Commission members to express their thoughts.

There are no attachments for this agenda item.

8-A

COUNCIL ACTION LETTER Staff Assignments and Information

January 8, 2024

Number 582

ACTIONS TAKEN OR DISCUSSED

STAFF ASSIGNMENTS

- | | |
|---|--|
| <ol style="list-style-type: none">1. Approved the meeting agenda, as amended.2. Approved the consent agenda consisting of the minutes of the regular meeting of December 11, 2023.3. Adopted Ordinance No. 1429, an ordinance repealing and replacing Chapter 4, Building Regulations, of the Code of the Town of Wytheville, Virginia, on first and final reading.4. Adopted a resolution endorsing the concept of Fair Housing.5. Appointed Mr. Brady Parks to the Wytheville Recreation Commission for a three-year term, which expires December 31, 2026.6. Appointed Dr. Wendy Welch to the Wytheville Economic Development Authority for a four-year term, which expires December 12, 2027.7. Made the following appointments to the Wytheville Building Code Appeals Board: Mr. Donald Repass to fill an unexpired term, which expires July 26, 2025; and, Mr. Michael Carrico as an alternate member for a five-year term, which expires July 26, 2028.8. Reappointed Councilwoman Atkins to the District Three Board of Commissioners and Councilman Gillman as the alternate.9. Made the following appointments to the Wytheville Rehabilitation Zone Selection Committee: Mr. Keith Jones to serve as the Wytheville Planning Commission member and Ms. Kathleen Laster to serve as the Wytheville Economic Development Authority member (terms expire with the members' Commission and Authority expiration dates). | <ol style="list-style-type: none">3. Chief Deputy Clerk – amend the Town Code5. Chief Deputy Clerk – advise by letter6. Chief Deputy Clerk - advise by letter7. Chief Deputy Clerk – advise by letter8. Chief Deputy Clerk – advise District Three Governmental Cooperative by letter9. Chief Deputy Clerk – advise by letter |
|---|--|

- 10. Conducted a closed meeting pursuant to § 2.2-3711 (A.) (8.) Consultation with legal counsel for legal advice and certified the closed meeting.

COUNCIL ACTION LETTER

Staff Assignments and Information

January 22, 2024

Number 583

ACTIONS TAKEN OR DISCUSSED

STAFF ASSIGNMENTS

1. Approved the meeting agenda, as presented.
2. Approved the consent agenda consisting of the minutes of the Work Session and regular meetings of January 8, 2024.
3. Authorized the Town Manager to spend up to \$6,000 to donate to Open Door Community for the motel-based shelter program.
4. Adopted Ordinance No. 1428, an ordinance amended and reenacted to add the following two properties in the Housing Rehabilitation Zone: A.) the Fairview Townhomes Project located on Fairview Road (Tax Map Parcel #25-11-2); and, B.) the apartments located at 810 West Monroe Street (Tax Map Parcel #41A-7-8-1 through Tax Map Parcel #41A-7-8-16) in the Town of Wytheville, Virginia, on first and final reading.
5. Reappointed Mr. Michael Melton to the Wall of Honor Committee for a four-year term, which expires February 1, 2028.
6. Reappointed Ms. Maelene Watson to the Wall of Honor Committee for a four-year term, which expires February 1, 2028.
7. Scheduled a Work Session for Monday, February 12, 2024, at 4:00 p.m., in the Council Conference Room to hold a Meet and Greet Session with the applicants to be considered as a new alternate member to the Building Code Appeals Board.
7. Appointed Vice-Mayor Pattison and Councilwoman Johnson to the Budget and Finance Committee and Councilwoman Atkins and Councilman Gillman to the Public Works Committee.
8. Conducted a closed meeting pursuant to § 2.2-3711 (A.) (7.) Consultation with legal counsel pertaining to probable litigation and certified the closed meeting.

3. **Town Manager** – instruct the Town Treasurer to forward payment to Open Door Community
4. **Assistant Town Manager** – advise applicants of approval; **Town Engineer** - update Housing Rehabilitation Zone map
5. **Chief Deputy Clerk** – advise by letter
6. **Chief Deputy Clerk** - advise by letter
7. **Deputy Clerk** – schedule Meet and Greet Sessions and prepare agenda