

SUPPLEMENTAL STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-24-00009 NEW REPUBLIC ARCHITECTURE



STAFF REVIEW

In the period following the June Zoning and Subdivision Committee meetings, the applicant submitted supplemental plans, architectural renderings, historical information, as well as a supplemental letter of justification for their rezoning request. These items speak to a number of staff's initial concerns regarding the density, context, and pedestrian experience of the project. Included in the applicant's revisions is a commitment to developing the rear accessory structures as accessory dwelling units, providing greater activation of W. Maxwell Street through added landscaping, building articulation, and a modification to the proposed rear driveways. Additionally, the applicant has reduced the number of variances associated with the request, opting to remove their request for increased driveway width and structure height at this time.

GOALS, OBJECTIVES, AND POLICIES

In the initial staff report, staff had identified several Goals, Objectives, and Policies of the 2045 Imagine Lexington Comprehensive Plan that the applicant should address. Staff initially noted that the comprehensive plan calls for providing a mix of housing, prioritizing higher-density residential development (Theme A, Goal# 1.b; Theme A, Design Policy #1 and 3). At the time, the applicant's proposal of three single family detached dwellings was well below the average density of the area. The applicant has responded by proposing to develop the rear detached garages as accessory dwelling units, increasing the potential density of the site, and bringing it into character with existing development within the South Hill portion of the W. Maxwell corridor.

Additionally, staff had concerns with the re-orientation of the lots from W. Maxwell Street to S. Mill Street, as it related to Goals, Objectives, and Policies relating to respecting the context and design features of the surrounding area (Theme A Goal #2.b; Theme E, Goal# 2.e; Theme A, Design Policy #4). In response to staff's concerns, the applicant provided historical documents that demonstrate the subject properties were historically oriented towards Mill Street, and they were reconfigured later to face W. Maxwell Street. The applicant acknowledges that the treatment of the corridor and the pedestrian experience along W. Maxwell Street warranted further consideration, and sought to improve upon the experience by providing increased building articulation, additional landscaping, and providing direct entranceway for the accessory dwelling unit located closest to W. Maxwell Street.

As a result of the applicant's revisions, staff now finds that the proposal is in agreement with the Goals, Objectives, and Policies and Objectives of the 2045 Comprehensive Plan.

DEVELOPMENT CRITERIA

During the initial review staff found that the applicant had not provided sufficient information to demonstrate how many of the development criteria outlined in the Placebuilder element of the 2045 Comprehensive Plan were being met. In response to Staff's concerns, the applicant submitted supplementary site plan information, building renderings, historical documents, and a revised letter of justification. As a result, Staff can now more appropriately evaluate the applicant's proposed request. Below, Staff identifies the responses to concerns outlined in the initial report.

1. Land Use

A-DN2-1. Infill Residential should aim to increase density

The applicant's original proposal of three single-family residential homes fell significantly below the density of the surrounding area. By incorporating accessory dwelling units into the proposal, the density of the site potentially doubles, from 9.67 dwelling units per acre to 19.35 units per acre. This increase makes the proposal consistent with much of the development in the South Hill Area.

Staff finds that the request meets the requirements for Land Use, as the request increases density on an underutilized parcel (A-DN2-1), while providing additional flexibility in housing through the utilization of accessory dwelling units (D-SP9-1). Additionally, the applicant engaged in significant public outreach efforts with the Historic South Hill neighborhood in connection with this request (D-PL7-1).

2. Transportation, Connectivity, and Walkability

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

The initial request did not appropriately address the W. Maxwell Street corridor. Based upon the feedback, the applicant has improved the walkability of this area of the site by depicting additional building articulation, providing doors and access along the W. Maxwell frontage, and incorporating a greater amount of landscaping and street trees.

Staff finds that this request meets the requirements for Transportation, Connectivity, and Walkability, as the proposed development provides street trees and additional landscaping (A-DS5-2), and includes sidewalk connections to transit (A-DS-1-2).

3. Environmental Sustainability and Resiliency

B-RE1-1 Developments should increase the tree canopy.

The supplemental plan depicts the preservation of a significant tree at the intersection of W. Maxwell Street and Lawrence Street. While several smaller trees within the site are proposed to be removed, the loss of canopy is being mitigated with the inclusion of street trees along all three frontages.

Staff finds the request meets the criteria for Environmental Sustainability and Resiliency, as the development does not impact environmentally sensitive areas (B-PR2-1), preserves a significant tree (B-PR7-1), and reduces the amount of impervious surface on-site (B-SU4-1).

4. Site Design

A-DS5-4: Development should provide pedestrian oriented and activated streetscapes; C-LI8-1: Development should enhance a well-connected and activated public realm.

The applicant's supplementary information details how the applicant will front the structures onto S. Mill Street to match the site's historic orientation, and will improve the pedestrian experience along W. Maxwell Street through improved landscaping, improving articulation along the sides of the accessory dwelling units.

Staff now finds the request meets the requirements for Site Design, as it utilizes landscaping, increased building articulation, and reduced setbacks to create a pedestrian-friendly streetscape (A-DS5-4; C-LI8-1).

5. Building Form

A-DS5-3: Building orientation should maximize connections with the street and create a pedestrian-friendly atmosphere.

In the initial staff report, Staff noted that the initial proposal did not feature any connectivity to the W. Maxwell Street corridor. In response, the applicant has oriented the entrance to the corner accessory dwelling unit to W. Maxwell Street, and provided a gate opening for the single-family residence.

The request meets the requirements for Building Form, as the development provides connections to the structures from S. Mill, W. Maxwell, and Lawrence Streets (A-DS5-3), and remains at a compatible scale with existing development within the South Hill Historic Overlay (H-1) zone (A-DN2-2).

CONDITIONAL ZONING RESTRICTIONS

In order to ensure the development meets the applicant's stated goal of developing the site at a compatible density, staff recommends the following Conditional Zoning Restrictions:

Under the provision of Article 6-7 of the Zoning Ordinance, the following conditions are proposed for the property via conditional zoning:

1. *The development shall contain a minimum of six dwelling units, for a density of at least 19 dwelling units per net acre.*

This condition is appropriate and necessary in order to ensure the development is compatible with the context and pattern of development of the W. Maxwell Street Corridor and the South Hill Historic neighborhood.

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



1. The proposed Medium Density Residential (R-4) zone is in agreement with the Imagine Lexington 2045 Comprehensive Plan's Goals and Objectives for the following reasons:
 - a. The proposal features a mixing of housing types by committing to develop rear accessory dwelling units (Theme A, Goal #1.b).
 - b. The proposed development intensifies underutilized parcels within the Infill and Redevelopment Area (Theme A, Goal #2.a).
 - c. By introducing accessory dwelling units to the original proposal, the proposed development raises the density of the site to a level that is consistent with the Historic South Hill area (Theme A, Goal #2.b).
2. The proposal is in agreement with the Policies of the 2045 Comprehensive Plan for the following reasons:
 - a. The proposal increases the density of the original proposal to a level that is consistent and compatible with existing development within the South Hill Historic Overlay (H-1) zone (Theme A, Density Policies #2, and #4).
 - b. The request proposes incorporating accessory dwelling units into the garages, which will provide additional variety in housing choice (Theme A, Design Policy #8, Theme A Equity Policy #8), that will increase the density of the parcel in a context-sensitive manner (Theme A, Density Policy #2)
3. The justification and corollary Preliminary Subdivision Plan are in agreement with the Development Criteria of the 2045 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Land Use, as the request increases density on an underutilized parcel (A-DN2-1), while providing additional flexibility in housing through the utilization of accessory dwelling units (D-SP9-1). (D-PL7-1). Additionally, the applicant engaged in significant public outreach efforts with the Historic South Hill neighborhood in connection with this request.
 - b. The proposed rezoning addresses the Transportation and Pedestrian Connectivity Development Criteria, as the proposed development provides street trees and additional landscaping (A-DS5-2), and includes sidewalk connections to transit (A-DS-1-2).
 - c. The proposed rezoning meets the criteria for Environmental Sustainability and Resiliency, as the development does not impact environmentally sensitive areas (B-PR2-1), preserves a significant tree (B-PR7-1), and reduces the amount of impervious surface on-site (B-SU4-1).
 - d. The request meets the requirements for Site Design, as it utilizes landscaping, increased building articulation, and reduced setbacks to create a pedestrian-friendly streetscape (A-DS5-4).
 - e. The request meets the criteria for Building Form, as the development provides connections to the structures from S. Mill, W. Maxwell, and Lawrence Streets (A-DS5-3), remains at a compatible scale with existing development within the South Hill Historic Overlay (A-DN2-2).

4. Under the provision of Article 6-7 of the Zoning Ordinance, the following condition is proposed for the property via conditional zoning:

1. The development shall contain a minimum of six dwelling units, for a density of at least 19 dwelling units per net acre.

This condition is appropriate and necessary in order to ensure the development is compatible with the context and pattern of development of the W. Maxwell Street Corridor and the South Hill Historic neighborhood.

5. This recommendation is made subject to approval and certification of PLN-MJSUB 24-00006: Stephens & Winslow Subdivision (Parsons Green Development LLC Property) prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

SUPPLEMENTAL STAFF REPORT ON VARIANCE REQUEST



Along with the revisions to their zone change justification, the petitioner has also chosen to modify their initial variance request. The applicant has decided to withdraw their variance requests to increase the maximum driveway width from 10 feet to 18 feet, and to increase the maximum height of the structure from 35 feet to 38 feet.

As a result, the following are the only variances being sought with this request:

1. FRONT YARD SETBACK VARIANCE FROM TWENTY (20) FEET TO FOURTEEN (14) FEET.
2. SIDE STREET SIDE YARD SETBACK VARIANCE FROM TWENTY (20) FEET TO SIX (6) FEET.
3. SIDE YARD SETBACK VARIANCE FROM THREE (3) FEET TO ZERO (0) FEET.

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 8-13(o) by reference to Article 8-12(o).5 states for detached single-family residential development within the Infill and Redevelopment Area, that the required front yard setback is 20 feet, the side street side yard setback is 20 feet, the side yard setback is 3 feet, and the maximum height is 35 feet.

Article 15-7(d) states that the intent of the Infill and Redevelopment regulations is to allow new construction that is compatible with existing development patterns in older, established neighborhoods. Unique circumstances may require appropriate Board of Adjustment action to allow some relief of yard requirements where strict application of the regulations would cause unusual hardship or a development incompatible with the existing pattern of the neighborhood

Article 16-5(a)4.b states that the maximum width of a driveway for single-family residential development within the Infill and Redevelopment Area is 10 feet.

CASE REVIEW

Within the initial staff report, Staff noted that the re-orientation of the lots from W. Maxwell Street to S. Mill Street was resulting in an increase in the scale and scope of variances that would be necessary in order to develop the site. In response, the applicant provided information detailing the historical orientation of the site, which originally fronted on S. Mill Street. The applicant stated a desire to return the property to development that was more reflective of its historic context. After review of the applicant's justification, staff finds that in this instance, orienting the development towards S. Mill Street is appropriate due to the property's location within a Historic District Overlay (H-1) zone.

As a result of the desire to match the historic lot orientation, the properties are now required to meet a 20-foot setback from S. Mill Street, W. Maxwell Street, and Lawrence Street. The applicant notes that such a large

setback is out of context for the area. The applicant notes that the adjoining residences at 408-432 S. Mill Street are set back at approximately 14-16 feet, which is consistent with the requested 14 foot variance. With regard to W. Maxwell Street, the applicant notes that the adjoining parcel at 300 W. Maxwell Street appears to have been developed at a zero foot setback, and the single story commercial uses at 208-216 W. Maxwell were built with an 8-foot setback. The applicant's 6-foot requested side street side yard setback is also consistent with much of the development along the South Hill portion of W. Maxwell Street.

With regards to the applicant's requested side yard setback, the applicant opines that the reduction from three (3) feet to zero (0) feet is needed in order to accommodate homes on the narrow lots. The applicant notes that the setback reduction is only being requested on one side of the lots, while providing a 5-foot setback on the other to provide adequate light and circulation, and satisfy building code requirements. As a result, the applicant opines that the reduction will not result in a threat to the health, safety, or welfare of the area. Additionally, the area around the subject property features existing detached single-family residential with similar setbacks, and attached single-family residential development.

Overall, staff is supportive of the requested variances. The applicant has demonstrated that the proposed setbacks are consistent with the surrounding area. The reduced setbacks are appropriate for downtown and second-tier urban contexts, where buildings are expected to be located closer to the roadway to reinforce the streetscape.

STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASONS:



1. Approval of the requested setbacks should not adversely affect the public health, safety, or welfare, nor should it create a hazard or nuisance to the public. The setbacks are consistent with the historical development along W. Maxwell Street and S. Mill Street, and will improve the pedestrian experience in the area by using the structures to reinforce the roadways.
2. The properties are constrained on three sides by public roadways, and requiring a full setback would significantly limit the applicant's ability to redevelop the parcels.
3. The property is located within the defined Infill and Redevelopment Area, where the Zoning Ordinance directs the Planning Commission to afford the applicant additional flexibility in consideration of their variances.
4. The circumstances of this variance are not a result of actions taken by the applicant subsequent to the adoption of the Zoning Ordinance.

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 R-4 zone, otherwise the requested variances shall be null and void.
- b. The development shall be constructed in accordance with the approved subdivision plan and supplemental documents, 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 Preliminary Subdivision Plan and future plats for the subject property.