

STAFF REPORT ON VARIANCES REQUESTED FROM PLANNING COMMISSION

PLN-MAR-17-00033: CORE LEXINGTON LIMESTONE 685, LLC

REQUESTED VARIANCES

1. Reduce the minimum off-street parking requirements by 18.5%, from 205 spaces to 160 spaces.
2. Reduce the minimum yard along the rear of 135 Virginia Avenue from 10 feet to 0 feet.
3. Reduce zone-to-zone perimeter screening requirements from 15 feet to 0 feet and eliminate the requirement for trees and shrubs.

ZONING ORDINANCE

Article 6-4(c) states: "The Planning Commission may hear and act upon requested conditional uses and variances associated with a zone change. If the Planning Commission should choose to hear a conditional use or variance request, the Planning Commission shall have all of the powers and responsibilities of the Board of Adjustment, as defined in Articles 7-6(a) and 7-6(b) of the Zoning Ordinance. All conditional use and variance applications shall be acted upon by the Planning Commission within ninety (90) days of the application, unless postponed further by the applicant."

Article 7-6(b)(1) states that before any variance is granted, it must be found that 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 nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance. The Board (or the Planning Commission) may reduce the minimum number of parking spaces by fifty percent (50%) of the otherwise required number for projects within the defined Infill and Redevelopment Area.

Article 8-16(o) states that the setback requirements, in addition to height and lot requirements, for a form-based neighborhood business project shall be established by the Planning Commission in accordance with an approved area character and context study. The applicant's submitted study suggests no rear or side yard setbacks.

Article 8-12(i) and 8-12(j) require a minimum side yard setback of 5 feet and a minimum rear yard setback of 10 feet in the adjacent R-3 zone.

Article 15-3 states that where a property adjoins the side or rear yard of a lot in another zone, the side or rear yard in the less restrictive zone shall equal what is required in the more restrictive zone.

Article 8-16(n) requires the minimum off-street parking in the B-1 zone to be 1 space per dwelling unit; and 1 space for every 400 square feet of parking floor area for the first 10,000 square feet, plus 1 space for every 200 square feet thereafter for retail sales uses.

Article 15-7(d) states that there should be special considerations for Infill & Redevelopment areas. "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 18-2(d) states that when there is a change of zone proposed, “no use of an existing building, structure, or vehicular use area shall be commenced subsequent to a change in zoning unless property perimeter landscaping as required herein has been provided.”

Article 18-3(a)(1) state that when “any office or business zone (except P-2) adjoins any residential zone, then a 15' landscape buffer adjacent to all common boundaries (located behind the building line) except street frontage shall be provided with a 1 tree/40' of linear boundary OFT, from Group A or B only, plus 1) a double row of 6' high hedge, or 2) a 6' high fence, wall or earth mound.”

CASE REVIEW

The applicant wishes to rezone a vacant site at the intersection of S. Limestone and Virginia Avenue from a Planned Neighborhood Residential (R-3) zone to a Neighborhood Business (B-1) zone. The purpose of this zone change is to construct a six-story mixed-use building, with retail sales on the first floor, and 190 dwelling units within the remaining five stories of the building. The applicant has requested variances to one required setback, zone-to-zone perimeter landscape screening, and minimum required off-street parking.

This subject site was recently purchased by the University of Kentucky, structures were demolished and the site was transformed into a temporary parking lot for faculty and staff members. The University is now in the process of a land swap with the applicant in which this site will be traded for a more desirable location adjacent to campus.

Parking:

The applicant has requested a variance to reduce the required minimum off-street parking by 18.5%, from 205 required spaces (which already factors in a 5% reduction for bicycle parking and a 5% reduction for a transit stop in close proximity) to 160 spaces. The ability to request a parking reduction is a relatively recent addition to the Zoning Ordinance. Historically, the staff has reviewed three main factors regarding parking variances – parking generation of a project, walkability of the immediate area, and availability of other parking areas. One is not more important than the others, but together they paint a picture of the appropriateness of the variance request.

Parking generator

In the B-1 zone, the retail sales establishments planned for the first floor of the mixed-use project would require about 35 parking spaces, and the residential dwelling units would require 190 spaces, at a rate of one per dwelling unit. The applicant contends that, based upon their experience across the United States in 22 student-oriented developments, the 160 spaces proposed will meet the actual demand. The parking spaces devoted to residential dwelling units are generally long-term parking because the applicant's experience indicates that vehicles are only moved two to three times per week. Student-oriented developments located very near university campuses also tend to be attractive to residents with lower vehicle/parking needs. In addition, mixed-use projects tend to need less residential parking than required by the Zoning Ordinance. This is factored into the allowances for shared parking in the mixed-use zones, but not in the B-1 zone. The applicant's experience and the trends would indicate that a slight 18.5% reduction in the required parking would not have a negative impact on the subject or surrounding properties.

Walkability of the area

The near campus area between S. Limestone/Nicholasville Road and S. Broadway is a residential and commercial area that supports students, faculty and staff of the University of Kentucky. The site is

surrounded on three sides by the University of Kentucky campus, and residents will not need automobiles to get to or around campus due to the site's proximity. According to the applicant, pedestrian accessibility is one of the features that will attract residents to the building – many services and amenities are within easy walking distance of this location or may be provided within the mixed-use project itself. The website WalkScore.com measures the walkability of a particular property by measuring the walking distance to a variety of amenities. This location scored 72 out of a possible 100 points on their scale.

Availability of other parking options

No on-street parking is available along S. Limestone or Virginia Avenue, and limited parking is available on Maxwellton Court to the rear of the proposed mixed-use development. There are several parking structures available within the area, although they are operated by the University of Kentucky and would not generally be available for long-term or overnight use.

Overall, the staff finds that granting the variance will not alter the character of the general vicinity; will not adversely impact the public health, safety or welfare; nor will it allow for a circumvention of the Zoning Ordinance. In addition, having to build excess parking that is not needed or desired could create an unnecessary hardship for the applicant.

Setbacks & Landscape Buffer:

The form-based neighborhood business project of the B-1 zone provides the applicant flexibility to establish the setbacks based upon a submitted area character and context study. The applicant was originally proposing zero-foot setbacks all the way around the site. However, Article 15-3 of the Zoning Ordinance does require a development to, at a minimum, match the adjoining side and rear setback of a more restrictive zone, which in this case is an R-3 zone. The applicant has made changes to their corollary development plan in order to accommodate the side yard setbacks to the north and west. There is, however, one location where the setback and a zone-to-zone landscape screening area cannot be accommodated. It is a 28-foot section of the site boundary that is located behind the adjacent property at 135 Virginia Avenue, and nearest to Maxwellton Court. In this location the applicant is requesting that the setback and screening be reduced to zero feet.

In terms of the setback of the building from the rear property boundary, the applicant opines that these variances are appropriate because the site is restricted along Maxwellton Court to 30 feet of frontage, of which about 25 feet is required to provide safe ingress and egress from the parking garage, and five feet is provided as a side yard setback along the north side of the property. Therefore, there is not enough room to provide an additional ten-foot buffer along the Virginia Avenue property.

In terms of the zone-to-zone landscape screening variance, the Landscape Review Committee has not yet met, but is scheduled to meet on September 19, 2017, prior to the Planning Commission hearing on this zone change. The staff will defer making a substantive recommendation regarding the request until such time as the Committee has provided their recommendation. The staff will report on the Committee's recommendations at the public hearing.

The Staff Recommends: **Approval** of the requested parking and setback variances, for the following reasons:

- a. Granting the requested variances should not adversely affect the public health, safety or welfare, nor will it alter the character of the general vicinity. The applicant has supplied adequate parking, based upon its experience in building mixed-use/residential development in a number of other university communities across the country in similar near-campus locations. In addition, there will be no hazard or nuisance to the public because the purpose of the setback variance is to allow enough room to

provide a safe exit from the parking garage onto Maxwellton Court.

- b. Approval of the variances will not result in an unreasonable circumvention of the Zoning Ordinance because the ordinance allows for reduction of parking inside the Infill and Redevelopment Area, this mixed-use project will be drawing more pedestrian traffic an automobile traffic.
- c. A special circumstance that applies to the subject properties that serves to justify the variances is that a form-based neighborhood business project is planned, which will be pedestrian-oriented and within walking distance of the University of Kentucky campus and medical facilities.
- d. Strict application of the requirements of the Zoning Ordinance would create an unnecessary hardship for the applicant. It would likely lead to excess parking that is not needed or desired, and would take up valuable space that can be utilized for retail or residential purposes. Additionally, the project would not have adequate access to the public right-of-way on Maxwellton Court if required to match the adjacent yard requirements near Maxwellton Court.
- e. The circumstances surrounding this request are not the result of actions taken by the applicant since the adoption of the Zoning Ordinance. This project is not yet under construction, and its design is based on past experience of the applicant in similar situations and settings.

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

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval of this variance is null and void.
2. Should the property be rezoned, it shall be developed in accordance with the approved Development Plan, or as amended by either a future Development Plan approved by the Commission or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.
3. A note shall be placed on the Zoning Development Plan indicating the variances that the Planning Commission has approved for this property (under Article 6-4(c) of the Zoning Ordinance).
4. The rear yard and parking variances are conditioned upon the mixed-use project being constructed, as planned for with the form-based neighborhood business project and as depicted on the development plan. Any new structures built on the property not in compliance with the form-based neighborhood business project shall comply with the required yard restrictions per Article 15-3 of the Zoning Ordinance.

The Staff Recommends: **Postponement** of the requested zone-to-zone landscape screening variance, for the following reason:

- a. The Landscape Review Committee has not yet had an opportunity to review the requested variance. The next scheduled meeting is on September 19, 2017; and if a quorum is present, a recommendation on the requested variance will likely be made. Although the staff is supportive of the request, until that meeting occurs, it is best to defer a substantive recommendation.

TLW/BJR/JM/dw

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