

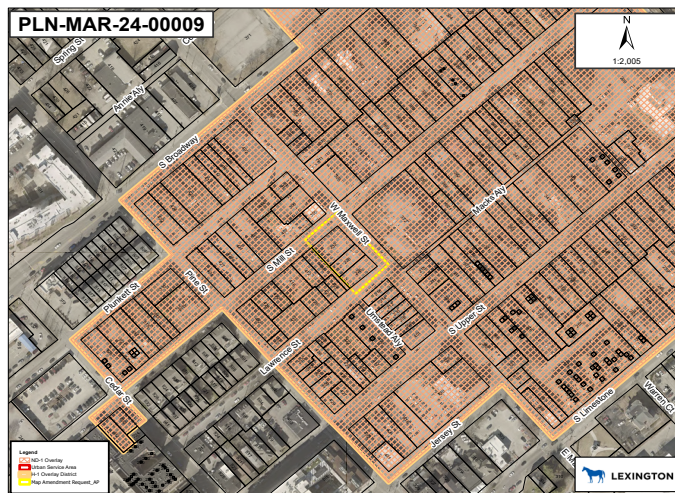
STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-24-00009: NEW REPUBLIC ARCHITECTURE

DESCRIPTION OF ZONE CHANGE

Zone Change: From a Neighborhood Business (B-1) zone
To a Medium Density Residential (R-4)
zone

Acreage: 0.31 net (0.52 gross) acres

Location: 226, 228, and 232 W. Maxwell Street



EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Properties	B-1/H-1	Parking Lot
To North	B-1/H-1	Mixed Use
To East	B-1/H-1	Commercial
To South	R-1T/H-1	Residential
To West	B-1/H-1	Commercial

URBAN SERVICE REPORT

Roads - The subject properties are three parcels that comprise the block between S. Mill Street, W. Maxwell Street, and Lawrence Street. S. Mill Street is a three lane local roadway that borders the properties to the west. W. Maxwell Street (KY is a major arterial roadway that provides southeast bound, one-way traffic flow, from Versailles Road (US 60) to East High Street. W. Maxwell has two lanes in this vicinity, and borders the properties to the north. Lawrence Street is a two lane local roadway that borders the properties to the east.

Curb/Gutter/Sidewalks - S. Mill Street, W. Maxwell Street, and Lawrence Street have curb, gutters, and sidewalks at this location.

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

Storm Sewers - The subject properties are located within the Town Branch watershed and no FEMA Special Flood Hazard Area exists within this immediate area. The existing storm sewer system will continue to be utilized to serve the development.

Sanitary Sewers - The subject property is located within the Town Branch sewershed, which is served by the Town Branch Wastewater Treatment Facility, located on Lisle Industrial Avenue, southeast of New Circle Road. Sanitary sewer capacity will need to be verified for the proposed redevelopment.

Refuse - The Urban County Government serves this area with refuse collection on Mondays.

Police - The nearest police station is the main headquarters, located approximately 0.4 miles to the east on East Main Street.

Fire/Ambulance - Fire Station #6 is about 1/2 mile from the subject property, at the corner of Scott Street and South Limestone, near the main entrance to the University of Kentucky campus.

Transit - Several LexTran routes serve the immediate area. Routes #13 and #24 have stops at the intersection of W. Maxwell Street and South Broadway, approximately 400 feet northwest of the properties. The #5 route has a stop at the intersection of Pine Street and S. Upper Street, approximately 350 feet southeast of the subject properties.

Parks - Carver School Park is located approximately 1/4 mile west of the subject properties. Phoenix Park is located approximately 1/3 mile northeast of the subject properties.

SUMMARY OF REQUEST

The applicant is seeking a zone change from the Neighborhood Business (B-1) zone to the Medium Density Residential (R-4) zone in order to build three single family residences.

PLACE-TYPE

SECOND TIER URBAN

Where significant infill and redevelopment opportunities exist to complement the urban core. While not expected to be as intensely developed as the downtown core, high-rise opportunities are not precluded provided that they are context-sensitive. The forward trend for development in the 2nd Tier Urban areas should be towards increased walkability and intensity.

DEVELOPMENT TYPE

LOW DENSITY RESIDENTIAL

Primary Land Use, Building Form, & Design

Primarily attached and detached single-family homes of varying formats, including accessory dwelling units. Homogeneous neighborhoods that do not include a mix of housing types should be avoided. Low density residential is only appropriate as a component of “Enhanced Neighborhoods” and “New Complete Neighborhoods”, and should be supplemented by a variety of uses and housing options to create sustainable places.

Transit Infrastructure & Connectivity

Multi-modal network connections, including connected streets, are required to keep an efficient transportation network that provides viable options for all users.

Quality of Life Components

These developments should include intentional open space designed to fit the needs of area residents, and be in walking distance of nearby neighborhood-serving commercial/employment uses.

PROPOSED ZONING



The intent of this zone is to provide for medium to medium-high density multi-family dwellings and supporting uses. This zone should be located in areas of the community where services and facilities are/will be adequate to serve the anticipated population. The medium to medium-high density residential uses should be located along collector and arterial streets. Where lower density development occurs in this zone, it should be located along local streets. Adequate multi-modal connections should be available to all residents. Development should be in areas of the community where necessary services and facilities will be adequate to serve the anticipated population. Medium to medium-high density multi-family dwellings should be established in accordance with the Goals, Objectives, Policies, and Development Criteria of the Comprehensive Plan.

PROPOSED USE



The applicant is seeking to rezone and subdivide the property to create three single-family residential lots, each approximately 0.10 acres in size. The applicant is also seeking several variances in order to develop the lots, including a reduction in the required front yard on S. Mill Street, side street side yard on W. Maxwell Street, side yard, maximum driveway width, and an increase in the allowable height of the structures.

APPLICANT & COMMUNITY ENGAGEMENT



The letter of justification submitted by the applicant has indicated that the applicant has shared their proposal to the Historic South Hill Neighborhood Association, who were supportive of the request at that time.

PROPERTY & ZONING HISTORY



The subject properties have been zoned Neighborhood Business (B-1) since before the comprehensive rezoning of the City and County in 1969. Historically, the subject properties contained single-family residential uses, which were demolished in the early 1980s in order to establish the current parking lot use.

The subject properties are located within the Historic South Hill Neighborhood, which has been a local historic district (complete with an H-1 overlay zone) for over five decades. As a whole, the Historic South Hill Neighborhood area is characterized by a mixture of uses, and has increasingly seen numerous remodeling, adaptive reuse, and new infill and redevelopment, due to its proximity to the downtown core and the University of Kentucky campus. Any construction on site will require a Certificate of Appropriateness and approval by the Board of Architectural Review.

COMPREHENSIVE PLAN COMPLIANCE



The 2040 Comprehensive Plan, Imagine Lexington, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. This will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

GOALS & OBJECTIVES

Within their letter of justification, the applicant describes the Goals and Objectives of the Comprehensive Plan that they believe are being met with this request. The applicants' primary argument is that this request meets Comprehensive Plan Goals relating to redevelopment by utilizing a vacant lot for their proposed single-family residential development (Theme A, Goal #2.a). While this request is an infill project for underutilized parcels, the character of the applicant's proposal fails to meet several other significant Comprehensive Plan Goals, Objectives, and Policies.

The Comprehensive Plan calls for providing a mix of housing, prioritizing higher-density residential development (Theme A, Goal# 1.b), especially along a downtown corridor (Theme A, Design Policy #1). While the subject properties are located within an Historic Overlay District, greater density can be provided at this location while achieving a design that is context sensitive to its location (Theme A Density Policy #3). By re-orienting the lots from W. Maxwell Street to S. Mill Street, the request fails to respect the context and design features of the surrounding area, as nearly all development along this corridor are oriented towards W. Maxwell Street (Theme A Goal #2.b; Theme E, Goal# 2.e; Theme A, Design Policy #4). Finally, by providing no activation of the frontage on W. Maxwell Street, the request does not promote a pedestrian friendly street pattern or walkable streetscape (Theme A, Design Policy #5), specifically along the primary corridor.

Staff cannot find that the proposed rezoning and development are in agreement with the Goals, Objectives, and Policies of the Comprehensive Plan as indicated in the applicant's justification.



PLACE TYPE, DEVELOPMENT TYPE, AND ZONE

In an effort to allow for the greatest contextual development of Lexington's Urban Service Area, applicants are asked to identify a Place-Type based on the location of the subject properties. Within each Place-Type there are recommended Development Types based on the form and function of the proposed development. Based on the Place-Type and Development Type there are also several recommended zones that are most appropriate based on the Goals, Objectives, and Policies of the 2040 Comprehensive Plan. While these zones are the ideal zoning categories to develop within a specified area, other zones may be considered, provided there is an appropriate justification addressing the unique situation and provided the development is able to adequately meet the associated Development Criteria.

The applicant has indicated that the site is located within the Second Tier Urban Place-Type and is seeking to redevelop the property as a Low Density Residential Development Type. As the Second-tier Urban Place-types border the downtown core, there is generally some areas of overlap where an argument could be made for the appropriateness of either type. While staff has historically evaluated properties on Maxwell Street under the lens of a Downtown Place-Type, a Second-Tier Urban place type could be appropriate at this location. Regardless, both the Downtown and Second-Tier Urban place-types emphasize increasing density with redevelopment, and do not recommend the applicant's chosen Low-density Residential Development Type. The applicant states in their letter of justification that staff has recommended a low density residential development at this location; however, this is inaccurate. Staff has provided feedback that the proposed development would be characterized as low-density residential development, not that such a development would be appropriate at this location. The applicant opines that lower density residential development is more appropriate at this location due to its location within in the South Hill Historic District. However, the district features a large variety in uses and densities, ranging from single-family, to duplexes and triplexes along S. Mill Street, to condominiums and multiplexes along S. Upper Street.

The applicant's proposed Medium Density Residential (R-4) zone is a recommended zone within the Second-Tier Urban Place-Type due to its ability to provide for medium to high density residential development. However, like all residential zones, there are provisions in the R-4 zone that allow for the construction of single-family residential development. Such development would not be appropriate for a significant downtown corridor. Staff finds that the Medium Density Residential (R-4) zone could be appropriate for this location, provided the applicant is able to demonstrate agreement with the Imagine Lexington Comprehensive Plan, that the proposed development is reflective of its location along a significant downtown corridor. The staff disagrees that the proposed development is in agreement with the adopted Comprehensive Plan.

DEVELOPMENT CRITERIA

The development criteria for a zone change are the distillation of the adopted Goals and Objectives, as well as the policies put forth in the 2040 Comprehensive Plan. The development criteria for development represent the needs and desires of the Lexington-Fayette Urban County community in hopes of developing a better built environment. The applicable criteria are defined based on the proposed Place-Type and Development Type. The applicant's chosen Development Type was not a recommended type for either of the Downtown or Second-Tier Urban Place-Types, and so the request was evaluated using the criteria for Medium Density Residential Development Type. The applicant has identified several land use criteria as being applicable to their request, but did not provide a justification or explanation as to how they are being met. Staff has reviewed these criteria, and noted other significant criteria not addressed by the applicant.

1. Land Use

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

While the applicant's request is an increase in density relative to the existing parking lot, the proposed density is below the density of much of the South Hill neighborhood, and is far below the density that would be in character for residential development along a significant downtown corridor. At 9.6 units per acre, the density of the proposed development would be below that of most development in the area. The adjoining single-family residential use at 408 S. Mill Street has a density of 12.5 dwelling units per acre, while the triplex at 412 S. Mill Street has a density of over 42 units per acre. The development should be looking to expand density in the area, not reducing it further.



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

By shifting away from the current neighborhood business zoning, the requested downzoning at this site removes the possibility of creating a mixed-use development, or being a location for employment, shopping or entertainment.

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

The applicant met with the South Hill Neighborhood Association for feedback prior to submission of an application. Based on the applicant's conversation with staff, the neighborhood voiced support for the proposed single-family residential uses, and voiced concerns regarding higher density residential development.

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

The applicant states that the request will provide a community oriented place, but does not expand upon how providing three single family homes along a primarily commercial corridor is meeting this criteria.

2. Transportation, Connectivity, and Walkability

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

Based on the requested setback, the request will most likely provide a walkable, pedestrian friendly streetscape along S. Mill Street, as this is where the front of the structures will be located. The other two frontages of the lot will appear to provide views to the sides of the homes as well as the rear detached garage. The applicant has not shown how these elements will contribute to an activated, pedestrian friendly streetscape.

3. Environmental Sustainability and Resiliency

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

The applicant states that the request will improve the overall tree canopy cover; however, the proposed canopy and planting information has not been provided. The applicant indicates that a significant tree at the corner of Lawrence Street and W. Maxwell Street is being retained, but there are several smaller trees internal to the site that would need to be removed in order to develop as proposed. The applicant has not provided any materials to demonstrate what the canopy will be post-construction.

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 proposed rezoning represents a shift from the context of this portion of W. Maxwell Street, where the roadway is fronted on both sides by neighborhood serving commercial and office uses, which activate the street frontage. Under the applicant's proposal, the 150-foot stretch of W. Maxwell Street frontage would be fenced in, and would display the side of one of the proposed residences and detached garages. This does not match the character or orientation of other development in this area, which prioritizes W. Maxwell Street, and locates the unarticulated facades and parking areas to the subordinate side streets.

5. Building Form.

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

Due to the change in lotting pattern, the proposed structures do not face their most significant frontage. As proposed, the 150 feet of frontage on W. Maxwell will be enclosed with fencing, with no entrances to the structure from the site's most prominent and visible frontage.

A-DN202: Development should minimize significant contrasts in scale, massing, and design, particularly along the edges of historic areas and neighborhoods; AEQ5-1: Development should create context sensitive transitions between intense corridor development and existing neighborhoods.

The proposal does not show any meaningful transition from the character of the interior residential lots on S. Mill Street to the commercial oriented lots adjoining W. Maxwell Street. This results in significant clashes in orientation and design with nearly all commercial development along this portion of W. Maxwell St. While the age, style, and size of development may vary along this corridor, nearly all are oriented towards Maxwell Street.

STAFF RECOMMENDS: DISAPPROVAL, FOR THE FOLLOWING REASONS:



1. The requested rezoning to the Medium Density Residential (R-4) zone is not in agreement with the 2040 Comprehensive Plan for the following reasons:
 - a. The requested rezoning is not in agreement with the Goals, Objectives, and Policies of the 2040 Comprehensive Plan.
 1. The proposed single-family residential development does not seek to construct at a density or intensity that might be reflective of a major downtown corridor in Lexington (Theme A, Goal #2.b; Theme A, Density Policies #1 and #2).
 2. By orienting the structures towards S Mill Street, the proposed development does compliment the character for development along this portion of the W. Maxwell Street corridor (Theme A Goal #2.b; Theme E, Goal# 2.e).
 3. Single-family residential development along a major downtown corridor is not sensitive to the surrounding context (Theme A Design Policy #4).
 4. By not activating the Maxwell Street frontage, the request does not create an inviting streetscape or a pedestrian friendly street pattern (Theme A , Design Policy #5).
 - b. The proposed Low Density Residential Development Type is not recommended for the applicant's chosen Place-Type, and is not appropriate along a major downtown corridor (Placebuilder, Page #268).
 - c. The requested rezoning is not in agreement with the Development Criteria of the 2040 Comprehensive Plan. The following Development Criteria are not being meet with the proposed rezoning.
 1. *A-DN2-1: Infill Residential should aim to increase density*
 2. *C-LI7-1: Developments should create mixed use neighborhoods with safe access to community facilities, greenspace, employment, shopping, and entertainment.*
 3. *E-ST8-2: Development should provide community oriented places and services.*
 4. *A-DS5-2: Developments should incorporate vertical elements such as street trees and buildings to create a walkable streetscape.*
 5. *A-DS5-4 : Development should provide pedestrian oriented and activated streetscapes;*
 6. *C-LI8-1: Development should enhance a well-connected and activated public realm*
 7. *A-DS5-3: Building orientation should maximize connections with the street and create a pedestrian-friendly atmosphere.*
 8. *A-DN202: Development should minimize significant contrasts in scale, massing, and design, particularly along the edges of historic areas and neighborhoods;*
 9. *AEQ5-1: Development should create context sensitive transitions between intense corridor development and existing neighborhoods.*

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



2. There have been no major unanticipated changes of an economic, social or physical nature in the area of the subject property since the adoption of the 2040 Comprehensive Plan.
3. The applicant has not provided sufficient evidence as to why the current zoning is inappropriate, addressing the historical establishment of the zone, and why the proposed zoning is appropriate for this location.

STAFF REPORT ON VARIANCE REQUEST



As part of their application, the petitioner is also seeking the following dimensional variances:

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 VARIANCE FROM THREE (3) FEET TO ZERO (0) FEET.
4. HEIGHT VARIANCE FROM THIRTY-FIVE (35) FEET TO THIRTY-EIGHT (38) FEET.
5. MAXIMUM DRIVEWAY WIDTH VARIANCE FROM TEN (10) FEET TO SIXTEEN (16) 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 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

The applicant's proposal calls for a reconfiguration of the subject properties into three lots, fronting on S. Mill Street, that are intended to be utilized for three-story single family residences. In order to achieve their preferred orientation and style of development, the applicant is requesting several setback variances, a driveway width variance, as well as a height variance.

The first requested setback variance is a reduction in the front setback on S. Mill Street from twenty (20) feet to fourteen (14) feet. The subject property is a triple frontage lot, requiring a twenty foot setback from S. Mill Street, W Maxwell Street, and Lawrence Street. The applicant is seeking the front setback variance in order to bring the structure closer in line with existing residences along S. Mill Street. The applicant opines that the closer setback will better match the character of downtown Lexington, where setbacks are generally smaller.

The second variance request is for a reduction in the side street side yard setback along W. Maxwell Street from 20 feet to 6 feet. The applicant opines that this reduction in W. Maxwell setback is necessary in order to allow for the construction of the three homes at their preferred structure width. Due to the commercial nature of this section of W Maxwell Street, many of the existing structures on the corridor were built with less than a 10-foot setback.

STAFF REPORT ON VARIANCE REQUEST



Similarly, the third variance request is to reduce the required side yard from three feet to zero feet. The applicant states this variance is needed in order to accommodate the three structures at the proposed width, while allowing for sufficient space in between the structures.

The fourth requested variance is a request to increase the allowable height from 35 feet to 38 feet. The applicant states that the decision to request a taller roof height came from their meeting with the neighborhood, which expressed a preference to a mansard roof design. The applicant has not provided any information as to why other roof styles that could meet the height limitation would be inappropriate here.

Finally, the applicant is requesting an increase in the allowable width of the three proposed driveways, from 10 feet to 16 feet. The applicant states that the variance is necessary in order to provide for a two-car garage on each of the respective properties. While existing two car garages with driveways that exceed the 10-foot width are present in certain parts of the South Hill area, these garages generally are located along alleys or located in the rear of the property. Here, the applicant is proposing these expanded driveways along a local street. Staff has concerns with the impact that increasing the width of curb cuts along Lawrence Street.

Overall, staff has concerns with the necessity of the variances. The requested R-4 rezoning is resulting in an increase in setbacks relative the B-1 zoning that has occupied the site since before 1969. The Ordinance does provide extra consideration for lots which are located within the Infill and Redevelopment Area. Development within these areas typically predates the adoption of the Zoning Ordinance, and consequently often do not meet current development standards. This provision was added to provide flexibility to the Board of Adjustment and Planning Commission to allow for increased utilization of these sites within constrained environments. Unlike many variance requests in the Infill and Redevelopment area, the applicant's requested variances are not based on existing physical constraints, but rather the constraints being placed by the design choices for the site, and the desire to change the zone. As such, it appears that the requested variances could be avoided by simply reducing the size of the proposed structure, changing the building design, or retaining the existing lot pattern. The applicant should provide further information regarding circumstances of the site that justify the need for variances, and detailing the necessity of these specific design choices that are driving the variance requests.

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



1. The applicant should provide further information regarding special circumstances that are unique to the site that justify the requested variances.
2. The applicant should provide information regarding the necessity of the requested design choices, and how meeting the ordinance requirements would constitute a hardship.