

AN ORDINANCE CHANGING THE ZONE FROM A TWO FAMILY RESIDENTIAL (R-2) ZONE TO A HIGH RISE APARTMENT (R-5) ZONE, FOR 0.655 NET (.717 GROSS) ACRE, FOR PROPERTY LOCATED AT 325, 329 AND 333 BLACKBURN AVENUE AS AMENDED. (BLACKBURN DEVELOPMENT, LLC; COUNCIL DISTRICT 2).

WHEREAS, at a Public Hearing held on July 16, 2020, a petition for a zoning ordinance map amendment for property located at 325, 329 and 333 Blackburn Avenue from a Two Family Residential (R-2) zone to a High Rise Apartment (R-5) zone, for 0.655 net (.717 gross) acre, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change by a vote of 7-3; and

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

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

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

Section 1 - That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 325, 329 and 333 Blackburn Avenue from a Two Family Residential (R-2) zone to a High Rise Apartment (R-5) zone, for 0.655 net (.717 gross) acre, more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the granting of this zone change is made subject to the following use restrictions as conditions of granting the zone change:

Under the provisions of Article 6-7 of the Zoning Ordinance, the property shall be subject to the following buffering and use restrictions via conditional zoning:

- a. There shall be no external lighting along the southwest portion of the structure, which is adjacent to the property located at 321 Blackburn Avenue.
- b. There shall be an 18-foot landscape buffer yard adjacent to the property located at 321 Blackburn Avenue for the length of any principal structure on the subject property.
- c. The maximum height of structures shall be limited to three (3) stories.

Section 3 - That the Lexington-Fayette Urban County Planning Commission is

directed to show the amendment on the official zone map atlas and to make reference to the number of this Ordinance.

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

PASSED URBAN COUNTY COUNCIL: April 13, 2021



MAYOR

ATTEST:



CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: April 21, 2021-1t

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Rec'd by _____

Date: _____

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

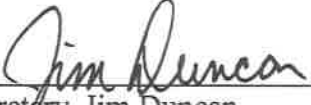
IN RE: **PLN-MAR-20-00009: BLACKBURN DEVELOPMENT LLC** – a petition for a zone map amendment from a Two Family Residential (R-2) zone to a High Rise Apartment (R-5) zone, for 0.655 net (0.717 gross) acre, for property located at 325, 329, and 333 Blackburn Avenue. (Council District 2)

Having considered the above matter on **July 16, 2020**, at a Public Hearing, and having voted **7-3** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter for the following reasons:

1. The requested High Density Apartment (R-5) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed rezoning will expand housing choice (Theme A, Goal #1) by accommodating the demand for housing in Lexington responsibly, prioritizing higher-density and a mixture of housing types (Theme A, Goal #1.b). The proposed development prioritizes higher density housing by adding 36 dwelling units to a two-family residential area presently zoned for a total of six (6) dwelling units on the three existing lots.
 - b. The proposed development will support Infill and Redevelopment throughout the Urban Services Area as a strategic component of growth (Theme A, Goal #2) through the infill of two vacant parcels of land and increasing the utilization of an underutilized structure (Theme E, Goal #1.d).
 - c. The proposed rezoning will prioritize multi-modal options through the establishment of an enhanced transit stop (Theme B, Goal #2.d), while also prioritizing a pedestrian-first design that accommodates the needs of bicycle, transit and other vehicles through the increased infrastructure along the frontage of the property (Theme D, Goal #1.a).
2. The requested Development Type and proposed development is in agreement with the Fourth Street Zoning Study, which recommends medium density residential for this area.
3. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location as the site creates a residential development that supports pedestrian mobility, while also complementing the existing structures along Blackburn Avenue.
 - b. The proposed rezoning includes safe facilities for the potential users, through the incorporation of enhanced pedestrian facilities along the property frontage and the establishment of an enhanced transit stop. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
 - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works with the current landscape, limits the impacts on the surrounding environment, and increases tree canopy coverage.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following buffering restriction is recommended via conditional zoning:
 - a. There shall be no external light along the southwest portion of the structure, which is adjacent to the property located at 321 Blackburn Avenue.
 - b. There shall be an 18-foot landscape buffer yard adjacent to the property located at 321 Blackburn Avenue for the length of any principal structure on the subject property.

5. This recommendation is made subject to approval and certification of PLN-MJDP-20-00019: Yellman's Subdivision (Powerhouse Church of God)(Blackburn Development), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

ATTEST: This 14th day of August, 2020.


Secretary, Jim Duncan

LARRY FORESTER
CHAIR

Note: The corollary development plan, MJDP-20-00019: YELLMAN'S SUBDIVISION (POWERHOUSE CHURCH OF GOD)(BLACKBURN DEVELOPMENT) was approved by the Planning Commission on July 16, 2020 and certified on July 30, 2020.

Note: One dimensional variance was approved by the Planning Commission on July 16, 2020.

K.R.S. 100.211(7) requires that the Council take action on this request by October 14, 2020.

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

OBJECTORS

- Mark Klar, 321 Blackburn Avenue

- Amy Clark, 628 Kastle Road
- Faith Harders, 539 W. Third Street

- Brooks Scudder, 445 W. Second Street

- Marlee Bauman, 550 W. Third Street

- Evelyn Knight, 516 W. Third Street

OBJECTIONS

- Concerned with the scale of the proposed development, and doesn't believe that the R-5 zone meets the Fourth Street Zoning Study. He is also concerned that the proposed building will be used as dormitories for the nearby university.
- Concerned about the parking.
- Concerned about the increased parking along Blackburn Avenue.
- Concerned about the demolition of the existing house located at 325 Blackburn Avenue.
- Also concerned about parking and believes there should be separate residential street parking for the residents that don't have parking on their property.
- Concerned with the amount of trees being proposed for removal.

VOTES WERE AS FOLLOWS:

AYES: (7) Bell, Davis, de Movellan, Forester, Nicol, Penn, and Wilson

NAYS: (3) Meyer, Plumlee, Pohl

ABSENT: (0)

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for APPROVAL of PLN-MAR-20-00009 carried.

Enclosures: Application
Supplemental Justification and Materials
Plat
Staff Report
Supplemental Staff Report
Applicable excerpts of minutes of above meeting

MAP AMENDMENT REQUEST (MAR) APPLICATION

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

Applicant:

BLACKBURN DEVELOPMENT LLC, 1999 RICHMOND ROAD, STE 2A, LEXINGTON, KY 40502

Owner(s):

BLACKBURN DEVELOPMENT LLC, 1999 RICHMOND ROAD, STE 2A, LEXINGTON, KY 40502

COWGILL PARTNERS LP, 1999 RICHMOND ROAD, STE 2A, LEXINGTON, KY 40502

Attorney:

CHRISTOPHER CLENDENEN, 250 WEST MAIN STREET, STE 2510, LEXINGTON, KY 40507 PH: 859-233-9811

2. ADDRESS OF APPLICANT'S PROPERTY

325, 329, AND 333 BLACKBURN AVENUE, LEXINGTON, KY 40508

3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY

Zoning	Existing Use	Zoning	Requested Use	Acreage	
				Net	Gross
R-2	VACANT, SINGLE FAMILY RESIDENTIAL	R-5	MULTI-FAMILY RESIDENTIAL	0.655	0.717

4. COMPREHENSIVE PLAN

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

5. EXISTING CONDITIONS

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

6. URBAN SERVICES STATUS (Indicate whether existing, or how to be provide

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



MURPHY & CLENDENEN, PLLC

ATTORNEYS AT LAW

LEXINGTON FINANCIAL CENTER
250 West Main Street, Suite 2510
Lexington, Kentucky 40507

TEL: (859) 233-9811
FAX: (859) 233-0184

E-MAIL

Richard@MurphyClendenen.com
Chris@MurphyClendenen.com

RICHARD V. MURPHY
CHRISTOPHER M. CLENDENEN

Mr. Mike Owens, Chairman
Members of the Lexington-Fayette Urban County Planning Commission
200 East Main Street
Lexington, KY 40507

April 6, 2020

RE: Proposed Zone Change for 325/329/331 Blackburn Avenue

Dear Chairman Owens and Members of the Planning Commission:

Our firm represents Blackburn Development, LLC in this matter before the Commission in which our client is filing a zone change application and preliminary development plan for 325/329/331 Blackburn Avenue. 329 and 331 are unimproved lots and 325 Blackburn which contains a vacant single-family residential house. The eventual consolidation of the three (3) lots is contemplated as part of the overall project. The lots are adjacent to The Flats at 345, a Multi-Family Residential Apartment Structure, that is zoned R-5. We are requesting a zone change from Two-Family Residential (R-2) zone to the same High-Rise Apartment (R-5) zone. Our development plan proposes the construction of 36 one (1) Bedroom units as a complimentary apartment building structure to the adjacent Flats at 345.

Description of Project

The three (3) lot site is comprised of a combined .65 acres along Blackburn Avenue situated in the Yellmans subdivision of Lexington. It is bordered on northeast by 345 the Flats which is also zoned R-5. It is bordered to the north by properties located at 324 and 330 Henry Street which are zoned Light Industrial (I-1), and on the southwest by 321 Blackburn Avenue which is zoned Two Family Residential (R-2). The zone change is requested to allow construction of an additional apartment building to compliment the existing adjacent building located at 345 Blackburn Avenue. This new construction will provide for 36 one-bedroom apartment dwelling units.

Goals and Objectives of the 2018 Comprehensive Plan

The proposed zone change to the R-5 zone is in agreement with the Goals and Objectives of the 2018 Comprehensive Plan. This proposal meets the criteria for the Themes and Goals as follows:

- Theme A Goal 1(b) Accommodate the demand for housing in Lexington responsibly, prioritizing higher-density and mixture of housing types.

This proposal prioritizes higher density housing by adding 36 dwelling units to a single-family residential space presently zone for 6 dwelling units.

- Theme A Goal 2(a) Identify areas of opportunity for infill, redevelopment, adaptive reuse, and mixed-use development.

This land property which is the subject of this proposal is within the Infill and Redevelopment area. The proposal is made in conformity with supporting infill and redevelopment throughout the Urban Service Boundary as a strategic component of growth.

- Theme B Goal 2(d) Prioritize multi-modal options that de-emphasize single-occupancy vehicle dependence.

This proposal incorporates 16 bicycle spaces to de-emphasize dependence on single occupancy vehicle forms of transportation in and around the development.

- Theme D Goal 1(a) Support the Complete Streets concept, prioritizing a pedestrian-first design that also accommodates the needs of bicycle, transit and other vehicles.

This proposal develops a property within walking and biking distance of two major institutions of higher learning.

- Theme E Goal 1(d) Maximize development on vacant land within the Urban Service Area and promote redevelopment of underutilized land in a manner that enhances existing urban form and/or historic features.

Two of the three lots involved in this proposal were vacant and unimproved lots and increases the density on the third lot going from R-2 to R-5. All land is inside the Urban Service Boundary.

Engagement

Representatives of the applicant and developer met previously with resident property owners of Blackburn Avenue on September 30, 2019. This was an in-person meeting held at the clubhouse located at the Flats at 345. Due to social distancing guidelines currently in place, a Zoom Video Conference meeting was held the evening of April 2, 2020. The applicant contacted all property owners within a 500-foot radius inviting them to attend the video conference. It is contemplated that further and similar meetings will be held. Further, a website at www.cowgilldevelopment.com has been created to receive all neighborhood comments, suggestions, questions, and input.

Place Type/ Development Type and Requested Zone

This proposal fits within the Second-Tier Urban category as a place-type under the Placebuilder criteria of the Comprehensive Plan. Second Tier Urban is appropriate because this property prioritizes medium density residential housing, walkability, and use of multi modal transportation options. We are proposing a change to the R-5 zone which is recommended for this place-type.

Development Criteria: Second Tier Urban/Medium Density Residential

The following are some of the criteria which were either not included on the development plan and/or warrant further discussion:

Site Design Building Form, & Location:

A-DS3-1 Multi-family residential developments should comply with the Multi-Family Design Standards in Appendix A.

Placement near the street, the gradual “step-down” in the number of stories, and the combatable character with the existing Flats at 345 structure comply with the multifamily design standards, Further details will be shown on our final development plan.

A-DS4-2 New Construction should be at an appropriate scale to respect the context of neighboring structures; however, along major corridors, it should set the future context in accordance with other Imagine Lexington corridor policies and PlaceBuilder priorities.

The new construction will be three stories as opposed to the four-story adjacent Flats at 345 and will serve as a “step down” to the adjacent property zoned R-2.

A-DS7-1 Parking should be oriented to the interior or rear of the property for non-residential or multi-family developments.

As depicted on the development parking for both the existing and proposed buildings is situated and oriented to the rear of the development.

A-DS7-2 Any non-residential or multi-family parking not buffered by a building should be screened from the streetscape view and adjacent properties.

As depicted on the development plan the parking is screened by a 6-foot solid fence.

A-DS10-1 Residential units should be within reasonable walking distance to a focal point.

The project is within reasonable walking distance of four focal points, which include Transy, BCTC, the Jefferson Street restaurant district, and downtown.

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

This infill residential project will increase density from two family residential to medium density residential.

A-DN2-2 Development should minimize significant contrasts in scale, massing, and design, particularly along the edges of historic areas and neighborhoods. (D-PL9, E-GR6)

The project operates as a “step down” in building stories from four to three to the adjacent neighboring property.

A-EQ3-1 Development should create context sensitive transitions between intense corridor development and existing neighborhoods.

‘Step-down’ from four stories to three stories to the adjacent neighboring property.

C-PS10-3 Over parking of new developments should be avoided.

Project is designed in conformity with Section 16-10(a) of the Zoning Ordinance which allows development with a reduced number of parking spaces based on the number of qualifying bicycle spaces on site.

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

Applicant has already had two meetings with neighboring residents and plan further dialog with residents.

E-GR9-4 Development should intensify underutilized properties and develop vacant underutilized gaps within neighborhoods.

This project develops two previously unimproved lots and increases the density on a third lot within the USB.

Transportation & Pedestrian Connectivity:

A-DS1-2 Direct pedestrian linkages to transit should be provided.

Development provides sidewalk and pedestrian connections to LexTran routes.

A-DS5-2 Roadways should provide a vertical edge, such as trees and buildings.

This project provides the building built out to the existing street plus additional street trees.

D-CO1-1 Rights of Way and multi-modal facilities should be designed to reflect and promote the desired place type.

Development is providing sidewalk and widening of street to provide multi modal access.

D-CO2-1 Safe facilities for all users and modes of transportation should be provided.

Development is providing sidewalk and widening of street to provide multi modal access.

D-CO2-2 Development should create and/or expand a safe, connected multimodal transportation network that satisfies all user’s needs, including those with disabilities.

Development is providing sidewalk and widening of street to provide multi modal and accessible access.

D-SP6-1 Social services and community facilities should be accessible via mass transit, bicycle, and pedestrian transportation modes. (A-EQ-7).

Development provides sidewalk and pedestrian connections to LexTran routes.

Greenspace & Environmental Health:

B-PR2-1 Impact on environmental sensitive areas should be minimized within and adjacent to the proposed development site.

No environmentally sensitive areas near the development.

B-PR2-2 Dividing floodplains into privately owned parcels with flood insurance should be avoided.

No floodplain areas within the development area.

B-PR7-2 Trees should be incorporated into development plans, prioritize grouping of trees to increase survivability.

As shown on Development Plan.

B-PR7-3 Developments should improve the tree canopy

As depicted on the development plan the project adds 20 additional trees to improve the tree canopy within the context of the development.

B-RE1-1 Developments should incorporate street trees to create a walkable streetscape.

In many instances along Blackburn Avenue, street trees are strategically placed, per the development plan, to enhance the streetscape.

Proposed Variances:

In addition to the zone change, we are requesting a variance of Section 8-14(i) of the Zoning Ordinance, which requires all structures in the R-5 zone to have a minimum side yard setback of 10 feet. We are requesting a variance to 0 feet.

This project is a complimentary development to the Flats at 345 and each development, although owned by separate legal entities, shares common ownership and is designed in part to share in common amenities, including, but not limited to, clubhouse, parking, dumpster, walking paths, mailboxes, and gym between the two buildings. The variance to 0 feet is integral to the design of the project.

We are also requesting a variance of Section 8-14(h) of the Zoning Ordinance, which requires all structures in the R-5 zone to have a minimum 20-foot setback for the front yard.

As previously stated, the project is a complimentary project to the Flats at 345 which has an existing 10-foot setback in the front yard. Our project would request the same variance to give the street (Blackburn Avenue) a more uniform appearance.

Further, we are requesting a parking variance of Section 8-14(n) of the Zoning Ordinance, which requires three spaces for every 2 dwelling units or .9 spaces for every bedroom, whichever is greater.

Our project is designed in conformity with Section 16-10(a) of the Zoning Ordinance, which states that sites having fifty (50) or more spaces may reduce the minimum parking space requirement by one (1) space for every one (1) bicycle space on a qualifying bicycle rack.

With 102 total dwelling units between the two buildings we are required to have 162 parking spaces. With a 16-space reduction for bicycle spaces that leaves a required 146 spaces. We are requesting a variance of 12 from the existing requirement of 146 down 134 as shown on the development plan. This is a 8.2% reduction of parking which is well within the 50% permitted within the Infill and Redevelopment area.

Our requests meet the criteria for granting a variance:

1. Granting the requested variances will not adversely affect public health, safety or welfare, and will not alter the character of the general vicinity and will to cause a hazard or nuisance to the public.
2. The strict application of the regulations of the Zoning Ordinance would deprive the applicant of reasonable use of its land and would not enable the applicant to implement its preferred design incorporating shared use of both buildings.
3. The circumstances surrounding the requested variances are not the result of actions the applicant has taken subsequent to the regulation from which relief is sought. No construction of the new development has started.

This proposal provides essential residential increase density and makes use of underutilized land within the urban Service Boundary. It supports and is made in conformity with the PlaceBuilder and is in agreement with the Goals and Objectives of the 2018 Comprehensive Plan.

Respectfully submitted,



Christopher M. Clendenen

CMC/prb

MEDIUM DENSITY RESIDENTIAL

TRANSPORTATION & PEDESTRIAN CONNECTIVITY (CONT.)

- A-DS4-1** A plan for a connected multi-modal network to adjacent neighborhoods, greenspaces, developments and complementary uses should be provided. (A-DS2, A-DN1, B-SU1, B-SU2, C-LI7, E-AC5)
- A-DS5-1** Adequate multi-modal infrastructure should be provided to ensure vehicular separation from other modes of transport.
- A-DS5-2** Roadways should provide a vertical edge, such as trees and buildings.
- A-DS10-2** New focal points should be designed with multi-modal connections to the neighborhood.
- A-EQ3-2** Development on corridors should be transit-oriented (dense & intense, internally walkable, connected to adjacent neighborhoods, providing transit infrastructure & facilities). (B-SU3)
- B-SU4-1** Where greenspace/community centers are not located within walking distance of a new development, applicants should attempt to incorporate those amenities. (A-DS9)
- D-CO1-1** Rights-of-way and multimodal facilities should be designed to reflect and promote the desired place-type.
- D-CO2-1** Safe facilities for all users and modes of transportation should be provided.
- D-CO2-2** Development should create and/or expand a safe, connected multimodal transportation network that satisfies all users' needs, including those with disabilities.
- D-CO4-2** Roadway capacity should be increased by providing multiple parallel streets, which alleviate traffic and provide multiple route options, in lieu of additional lanes.
- D-CO5-1** Streets should be designed with shorter block lengths, narrower widths, and traffic calming features.
- D-SP1-3** Developments should provide multi-modal transportation infrastructure to school sites, including sidewalks, shared-use paths, and roadways that can accommodate the bus and vehicle traffic associated with the site.
- D-SP6-1** Social services and community facilities should be accessible via mass transit, bicycle and pedestrian transportation modes. (A-EQ7)
- E-ST9-1** Development along major corridors should provide for ride sharing pick up and drop off locations along with considerations for any needed or proposed park and ride functions of the area. (E-GR10, E-GR7)

GREENSPACE & ENVIRONMENTAL HEALTH

- A-DS4-3** Development should work with the existing landscape to the greatest extent possible, preserving key natural features.
- A-EQ7-3** Community open spaces should be easily accessible and clearly delineated from private open spaces.
- B-PR2-1** Impact on environmentally sensitive areas should be minimized within and adjacent to the proposed development site.
- B-PR2-2** Dividing floodplains into privately owned parcels with flood insurance should be avoided.
- B-PR2-3** Floodplains should be incorporated into accessible greenspace, and additional protection should be provided to areas around them.
- B-PR7-1** Connections to greenways, tree stands, and stream corridors should be provided.
- B-PR7-2** Trees should be incorporated into development plans, prioritize grouping of trees to increase survivability.
- B-PR7-3** Developments should improve the tree canopy.
- B-RE1-1** Developments should incorporate street trees to create a walkable streetscape.
- B-RE2-1** Green infrastructure should be used to connect the greenspace network.
- D-SP2-1** Visible, usable greenspace and other natural components should be incorporated into school sites.
- D-SP2-2** Active and passive recreation opportunities should be provided on school sites.
- E-GR3-1** Physical and visual connections should be provided to existing greenway networks.
- E-GR3-2** New focal points should emphasize geographic features unique to the site.

2ND TIER URBAN

Theme Letter - Pillar Abbreviation & Policy Number - Criteria Number
 Ex: from Theme A, Design Pillar, Policy #1, Criteria #1: A-DS1-1. Full decoder on page ###

Criteria that include additional policy items in parentheses refer to companion policies that will provide additional context to the related criteria.

2ND TIER URBAN

MEDIUM DENSITY RESIDENTIAL

SITE DESIGN, BUILDING FORM, & LOCATION

- A-DS3-1** Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.
- A-DS4-2** New construction should be at an appropriate scale to respect the context of neighboring structures; however, along major corridors, it should set the future context in accordance with other Imagine Lexington corridor policies and Placebuilder priorities.
- A-DS5-3** Building orientation should maximize connections with the surrounding area and create a pedestrian-friendly atmosphere.
- A-DS5-4** Development should provide a pedestrian-oriented and activated ground level.
- A-DS7-1** Parking should be oriented to the interior or rear of the property for non-residential or multi-family developments.
- A-DS7-2** Any non-residential or multi-family parking not buffered by a building should be screened from the streetscape view and adjacent properties.
- A-DS7-3** Parking structures should activate the ground level.
- A-DS8-1** At the individual street level, medium density housing types should be interspersed with single-family detached units and should be context sensitive.
- A-DS10-1** Residential units should be within reasonable walking distance to a focal point.
- A-DS11-1** Common public uses that serve as neighborhood focal points, such as parks and schools, should be on single loaded streets.
- A-DN2-1** Infill residential should aim to increase density.
- A-DN2-2** Development should minimize significant contrasts in scale, massing and design, particularly along the edges of historic areas and neighborhoods. (D-PL9, E-GR6)
- A-DN3-2** Development should incorporate residential units in commercial centers with context sensitive design.
- A-DN6-1** Allow and encourage new compact single-family housing types.
- A-EQ3-1** Development should create context sensitive transitions between intense corridor development and existing neighborhoods.
- A-EQ7-1** School sites should be appropriately sized.
- B-PR9-1** Minimize disturbances to environmentally sensitive areas by utilizing the existing topography to the greatest extent possible.
- B-SU11-1** Green infrastructure should be implemented in new development. (E-GR3)
- C-LI6-1** Developments should incorporate multi-family housing and walkable commercial uses into development along arterials/corridors.

- C-LI6-2** ADUs and/or affordable housing options should be incorporated into existing and new single-family residential development. (A-DN5)
- C-LI7-1** Developments should create mixed-use neighborhoods with safe access to community facilities, greenspace, employment, businesses, shopping, and entertainment.
- C-PS10-2** Developments should explore options for shared and flexible parking arrangements for currently underutilized parking lots.
- C-PS10-3** Over-parking of new developments should be avoided. (B-SU5)
- D-PL7-1** Stakeholders should be consulted to discuss site opportunities and constraints prior to submitting an application.
- D-PL9-1** Historically significant structures should be preserved.
- D-PL10-1** Activate the streetscape by designating public art easements in prominent locations.
- D-SP3-1** Adequate right-of-way, lease areas and easements for infrastructure, with emphasis on wireless communication networks should be provided to create reliable service throughout Lexington.
- D-SP3-2** Cellular tower antennae should be located to minimize intrusion and negative aesthetic impacts, and stealth towers and landscaping should be used to improve the visual impact from the roadway and residential areas.
- D-SP9-1** Encourage co-housing, shared housing environments, planned communities and accessory dwelling units for flexibility and affordability for senior adults and people with disabilities.
- E-GR4-1** Developments should incorporate reuse of viable existing structures.
- E-GR5-1** Structures with demonstrated historic significance should be preserved or adapted.
- E-GR9-1** Live/work units should be incorporated into residential developments.
- E-GR9-3** Less intense multi-family residence types (duplexes, four-plexes, courtyard apartments, etc.) should be incorporated into primarily single-family areas.
- E-GR9-4** Development should intensify underutilized properties and develop vacant and underutilized gaps within neighborhoods. (E-GR6)

TRANSPORTATION & PEDESTRIAN CONNECTIVITY

- A-DS1-1** Mass transit infrastructure such as seating and shelters should be provided/enhanced along transit routes. (A-EQ7).
- A-DS1-2** Direct pedestrian linkages to transit should be provided.

Theme Letter - Pillar Abbreviation & Policy Number - Criteria Number
Ex: from Theme A - Design Pillar & Policy #1 - Criteria #1 = A-DS1-1. Full decoder on page ###

Criteria that include additional policy items in parentheses refer to companion policies that will provide additional context to the related criteria.

MURPHY & CLENDENEN, PLLC

ATTORNEYS AT LAW

LEXINGTON FINANCIAL CENTER

250 West Main Street, Suite 2510

Lexington, Kentucky 40507

TEL: (859) 233-9811

FAX: (859) 233-0184

E-MAIL

Richard@MurphyClendenen.com

Chris@MurphyClendenen.com

RICHARD V. MURPHY
CHRISTOPHER M. CLENDENEN

Mr. Mike Owens, Chairman
Members of the LFUCG Planning Commission
200 East Main Street
Lexington, Kentucky 40507

June 15, 2020

RE: Supplemental Letter Proposed Zone Change for 325/329/331 Blackburn Avenue.

Dear Chairman Owens and Members of the Planning Commission:

The purpose of this letter is to supplement our previous letter submitted in this matter dated April 6, 2020. Further, it is designed to clarify and direct attention to changes made to our previous development plan, zone change application, improved compatibility with the Place Builder criteria, the Goals and Themes of 2018 Comprehensive Plan, and modified variance requests based on input we received at the subdivision and technical committees. After consulting with the Planning Staff and our stakeholders connected with the project, we have made the following revisions:

GOALS and OBJECTIVES OF 2018 Comprehensive Plan.

Theme B Goal 2(d) Prioritize multi-modal options that de-emphasize dependence on single occupancy vehicle forms of transportation in and around the development.

Theme D, Goal 1(a) Prioritize a pedestrian first design that also accommodates the needs of bicycle, transit, and other vehicles.

PLACEBUILDER

A-DS-1 Mass transit infrastructure such as seating and shelters should be provided or enhanced along transit routes.

The adjacent property (Flats at 345) currently has one rack to accommodate six (6) bicycle spaces, the applicant, due to demand, will be potentially adding an additional rack for six (6) more spaces for a total of twelve (12) spaces to be situated on the 345 Flats property. The applicant is additionally proposing at least one (1) rack and possibly two (2), with at least six (6) spaces to be situated on the Blackburn site for a total to 12-24 bicycle spaces overall. Further, there will permanent and appropriate signage (map) placed with the bicycle racks on each site directing tenants from the complex to the trail heads of the Legacy Trail and Town Branch trail. See attached sample signage. Additionally, there is currently a transit stop situated along West Fourth Street which is projected to have increased ridership in the event the Blackburn projected in constructed. The applicant has

committed to work with Lextran to encourage ridership with a bench and shelter for the transit stop where there is currently not one.

C-PS10-2 Flexible parking and shared parking arrangements should be utilized

The applicant (Blackburn) and the adjacent property (345 the Flats) have entered into a flexible and shared parking agreement in order to assist with reducing the number of needed spaces requested for Blackburn. The Flats at 345, based on permitted multi-modal credits, has eleven (11) additional available parking spaces to share with Blackburn which after taking available applicable credits will still require a parking variance. A copy of the shared parking agreement is attached hereto.

B-SU11-1 Green Infrastructure should be implemented in new development.

Although the applicant has previously indicated that use of green infrastructure is not applicable for this development, the change to development plan indicates the use of permeable pavers to the outdoor recreation area. Permeable pavers, direct stormwater to underground aquifers. Thus, reducing the burden on retention and storm sewer systems. This is environmentally friendly, and is in keeping with the Goals and Objectives

D-CO2-1 Safe facilities for all users and modes of transportation

The initial development plan called for a zero (0) foot side yard setback as does the revised development plan; however, the original plan had a proposed walking path within an access easement which potentially placed pedestrians in harms way behind a number of parked vehicles. This walking path has been repositioned on the development and is not situated behind any cars eliminating any potentially dangerous condition.

A-DS3-1 Multi-family residential developments should comply with the Multi-family Design Standards in Appendix A.

In order to activate the existing street frontage, the applicant has revised its development plan to include an additional entrance fronting alongside Blackburn Avenue. This will allow both the new structure and the existing structure to have access along the Blackburn Avenue sidewalk area. Additionally, the revised development plan incorporates an internal pedestrian walkway to provide access to shared amenities between the residents of the adjoining properties. Further, both communities will have the ability to access shared bicycle racks to promote multi-modal transport around the community and the new bus shelter and bench will promote neighborhood access to Lextran and lessen the dependence on single occupancy vehicles within the surrounding area.

The design and structure of the project serves two functions while incorporating itself within the surrounding development:

1. It serves as a complimentary structure to the existing R-5 property that adjoins to the east and provides a gradual step down from a four-story building to a three-story building at the same height as the adjoining property to the west. See attached massing study.
2. The property serves as a nice transition from the surrounding I-1 (Industrial) to R-5 (Multi-Family) to the R-2, (single family homes).

VARIANCES

Although the applicant is still requesting a total of three variances, we have revised our request on two (2) of the three (3) as follows:

1. The applicant has changed its request for a variance on the front yard setback from the required 20 feet to a 14-foot setback instead of the previously requested 10 feet. The 14-foot request is more in keeping with the remaining properties along Blackburn and is the same setback from the existing Right of Way as the adjoining property on the west (321 Blackburn Avenue).

2. The applicant previously requested an 8.2% reduction in parking from a calculated 146 spaces to 134 as shown on the previous development plan. This calculation however was based on using the required parking spaces on both Blackburn and the adjoining property at the Flats. The previous calculation also did not take applicable credits for the transit stop available to both properties. The applicant has revised its request for a variance to include only Blackburn and a variance request of 34.8 %. From 46 spaces to 30. This is justified by the following:

The Flats as a standalone project is as follows:

72 units x 1.5 spaces =	108 spaces.
5% reduction for bicycle rack=	-5.4 spaces
10% reduction for transit shelter+	<u>-10.8 spaces</u>
	92 spaces

The Flats has 103 existing spaces. 11 spaces in excess of the spaces required for R-5

Blackburn as a standalone project is as follows:

36 units x 1.5 spaces=	54 spaces
5% reduction for bicycle rack	-2.7 spaces
10% reduction for transit shelter	<u>-5.4 spaces</u>
	46 spaces
Blackburn is designed for 30 spaces	<u>-30 spaces</u>
	16 spaces
16/46	34.8% variance

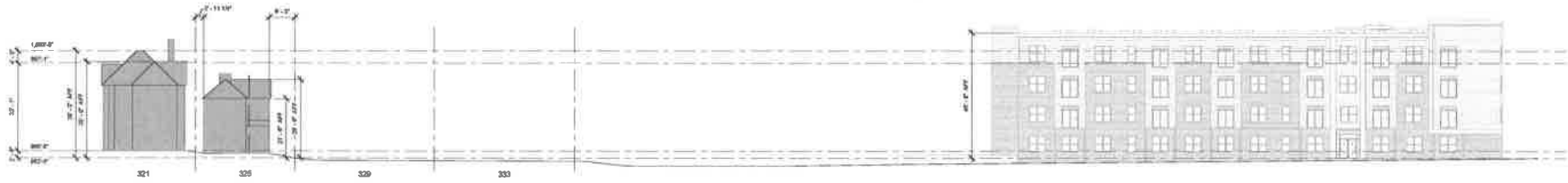
As the project is within situated within the Infill and Redevelopment Area, the Applicant can request a variance of up to 50% however, in part due to a shared parking agreement (See copy of agreement attached) the Applicant can make use of the additional 11 spaces available at the Flats lessening the actual need for only 5 additional spaces.

Respectfully submitted,

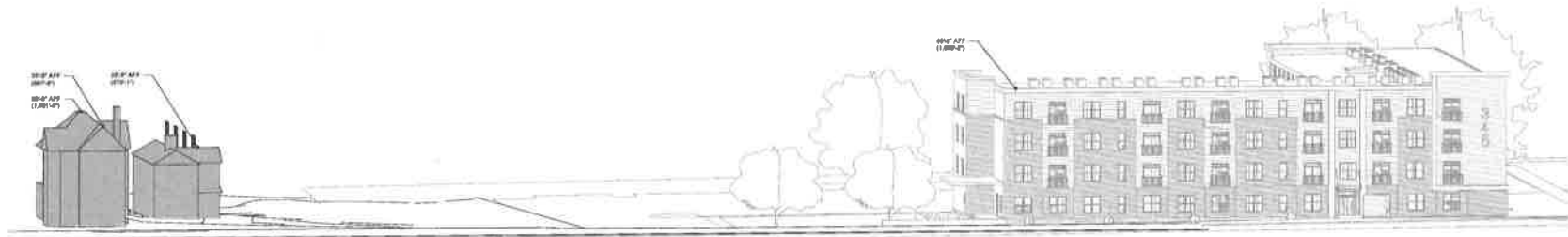


Christopher M. Clendenen

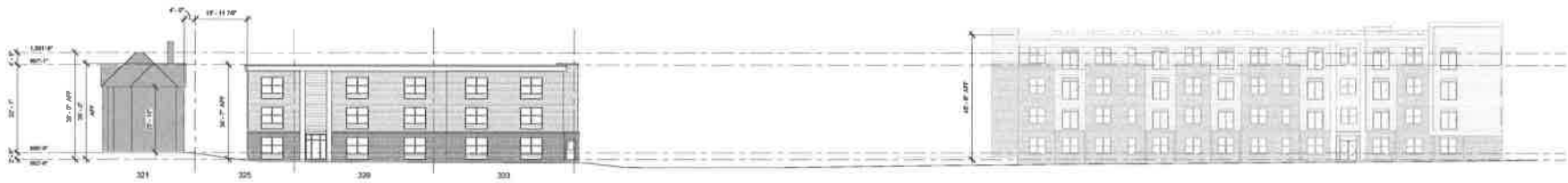
CMC/prb



1 MASSING STUDY - EXISTING
1/16" = 1'-0"



2 3D VIEW - EXISTING



3 MASSING STUDY - PROPOSED
1/16" = 1'-0"



4 3D VIEW - PROPOSED

morris workshop

157 W. Eagle Creek Pl., Suite 105
Lexington, KY 40508
606.253.3748
www.morrisworkshop.com

CLIENT
COWGIL PARTNERS
500 RICHMOND ROAD
LEXINGTON, KY 40502

ARCHITECT
STUDIO STUDIES ARCHITECTURAL PLLC
101 S. BARKER STREET, SUITE 100
LEXINGTON, KY 40508
606.253.3748
www.studiostudies.com

LANDSCAPE / CIVIL

STRUCTURAL

ELECTRICAL

MECHANICAL / PLUMBING /
FIRE PROTECTION
BY OTHERS

REVISIONAL	DATE

COWGIL PARTNERS
STUDIO STUDIES
BLACKBURN AVE, LEXINGTON, KY 40508
STREET VIEW MASSING STUDY

NOT FOR CONSTRUCTION

No.	Date

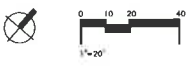
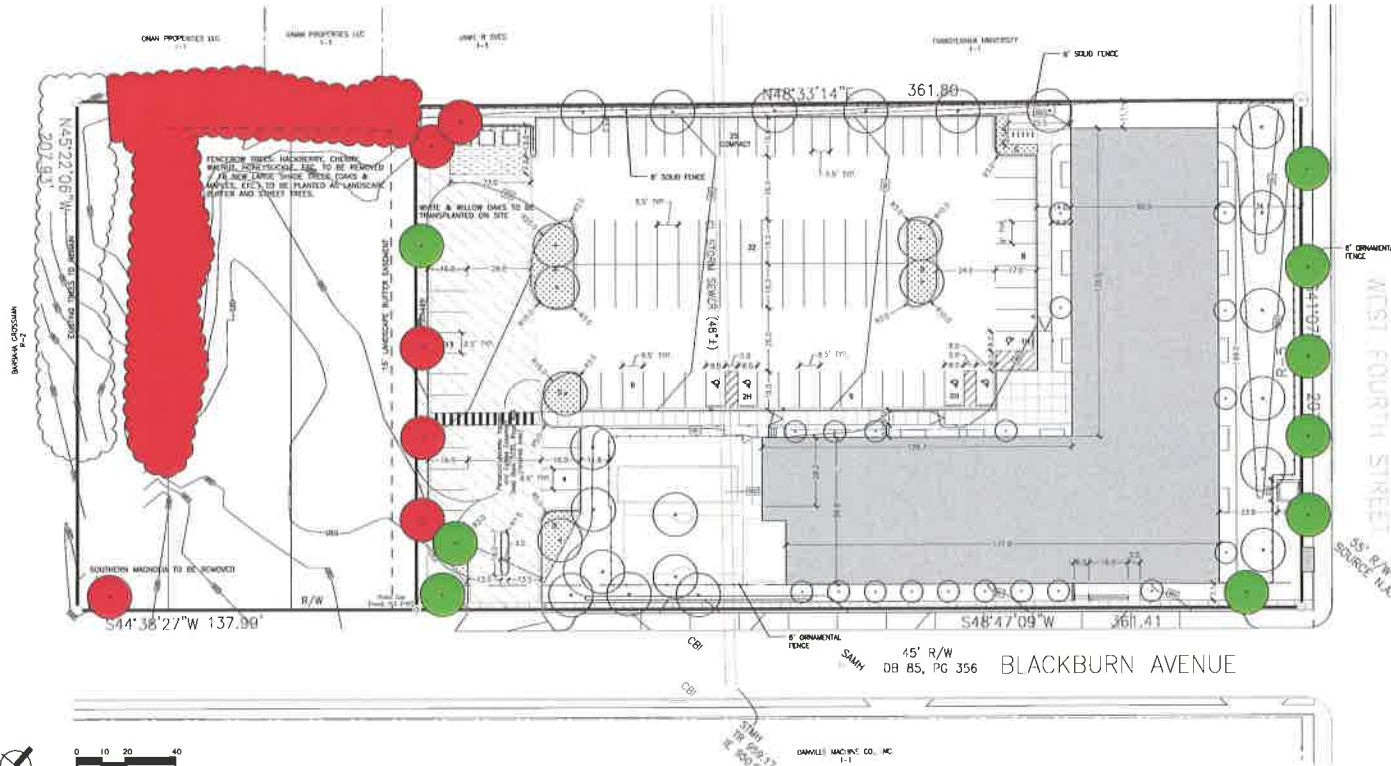
Project Number 1833
Date MAY 3, 2018
Created By KTV
Checked By BM

A200

6/10/2020 1:02:26 PM



VICINITY MAP



SUBJECT PROPERTIES
 325, 229, 333 & 345 BLACKBURN AVE.
 TOTAL AREA OF SUBJECT PROPERTIES: 2.37 AC.

OWNER / DEVELOPER
 BLACKBURN DEVELOPMENT LLC (325-329,333 BLACKBURN AVE.)
 CORBALL PARTNERS, L.P. (345 BLACKBURN AVE.)
 1800 RICHMOND ROAD SUITE 204
 LEANINGTON, KENTUCKY 40002

TREE PROTECTION STATISTICS (ON 325-329, 333 BLACKBURN AVE)
 TREE CANOPY REQUIRED: 30%;
 EXISTING TREE CANOPY: 23%; 8,000 S.F. (CONSISTING OF FENCELOW HAWKBERY, CHERRY WALNUT & HONEYLOCUST AND BIRCHES); VARYING IN SIZE FROM 20" DBH TO 24" CALIPER. NO SIGNIFICANT TREES).
 CANOPY TO BE REMOVED: 23%; 8,000 S.F.
 PROPOSED TREE CANOPY: 42.1%; 16 LARGE TREES (750 S.F. EACH) = 12,000 S.F.
 TOTAL TREE CANOPY: 42.1%; 12,000 S.F.

TREE PROTECTION STATISTICS (ON BLACKBURN AVE)
 TREE CANOPY REQUIRED: 30%;
 EXISTING TREE CANOPY: 30.1%; 30 LARGE TREES (750 S.F. EACH) = 22,500 S.F. (CONSISTING OF RED MAPLE, PIN, WHITE & WILLOW OAKS, NORWAY SPRUCE AND STREET TOWN MAGNOLIA)
 CANOPY TO BE REMOVED: 85.8 LARGE TREES 6,000 S.F.
 PROPOSED TREE CANOPY: 85.8 LARGE TREES (750 S.F. EACH) = 64,350 S.F. TO REPLACE THOSE REMOVED
 TOTAL TREE CANOPY: 30.1%; 22,500 S.F.

SOIL TYPE
 URBAN LAND: ANTIQUARY COMPLEX

WWW.CARMAN.COM
 BLACKBURN DEVELOPMENT LLC
 1800 RICHMOND ROAD SUITE 204
 LEANINGTON, KY 40002

TREE INVENTORY MAP
 PRELIMINARY DEVELOPMENT PLAN
 PLN-MJDP-20-00019

YELLMAN'S SUBDIVISION
 (POWERHOUSE CHURCH OF GOD)
 (BLACKBURN AVENUE)
 325, 329, 333 & 345 BLACKBURN AVE.
 LEANINGTON, KENTUCKY 40002

CARMAN
 CONSULTANTS
 INC.

DRAWN: JLM
 DATE: 6-01-2020
 CHECKED: SIV
 REVISED:
 CARMAN: JLM

TIM

BEFORE YOU DIG CALL KENTUCKY UNDERGROUND (811)
 TWO (2) WORKING DAYS IN ADVANCE OF DIGGING

Blackburn Development PLN-MJDP-20-00019

Trail Connectivity



Blackburn Development, LLC (PLN-MAR-20-00009)

325, 329 AND 333 BLACKBURN AVENUE

Multi-family apartment housing development, replacing a single family residence and two vacant lots.

Applicant

BLACKBURN DEVELOPMENT, LLC
1999 Richmond Road, STE 2A
Lexington, KY 40502
cbaughman@cowgill.com

Current Property Owner



Application Details

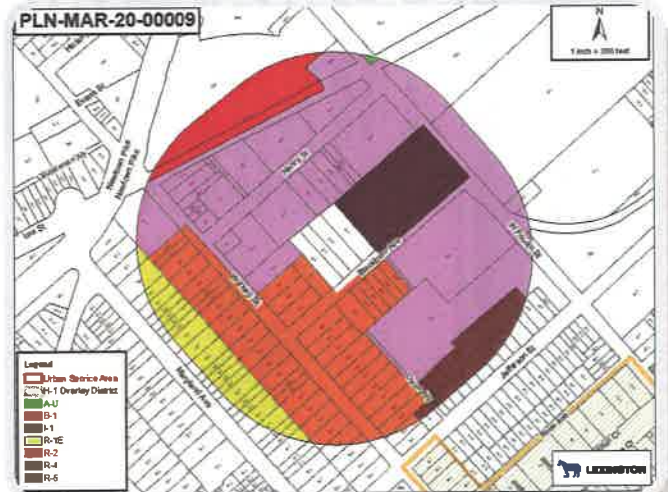
Acres: 0.655 net (0.717 gross) acres

Current Zoning:
Two-Family Residential (R-2) Zone

Proposed Zoning:
High Rise Apartment (R-5) Zone

Place-type / Development Type:
2nd Tier Urban* / Medium Density Residential
For More information about the 2nd Tier Urban Place-Type see Imagine Lexington pages 279-280.

Description:
The proposed development includes a three-story apartment building, with a total of 36 dwelling units. The proposed development represents a density of 55 dwelling units per acre. Dimensional variances have also been requested associated with the zone change.



Public Engagement

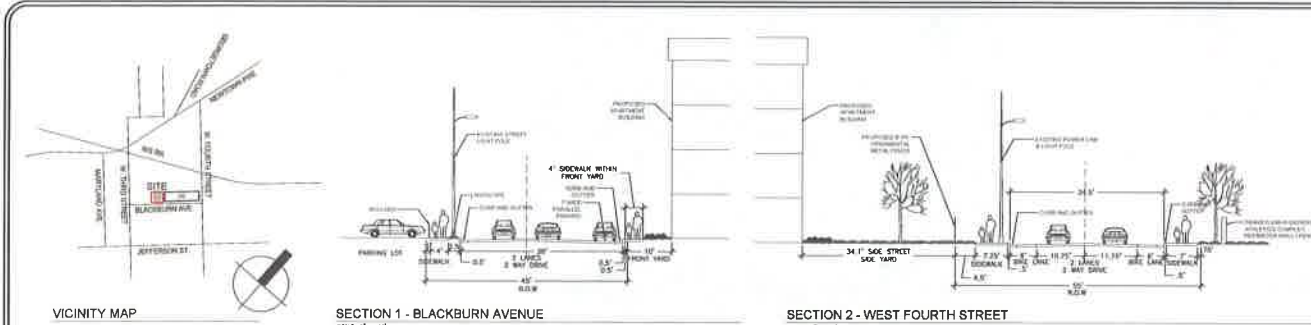
- Neighborhood Mailing
- Public Meeting 09/30/19
- Zoom Public Meeting 04/02/20
- Development of website for comment:
www.cowgilldevelopment.com

Status

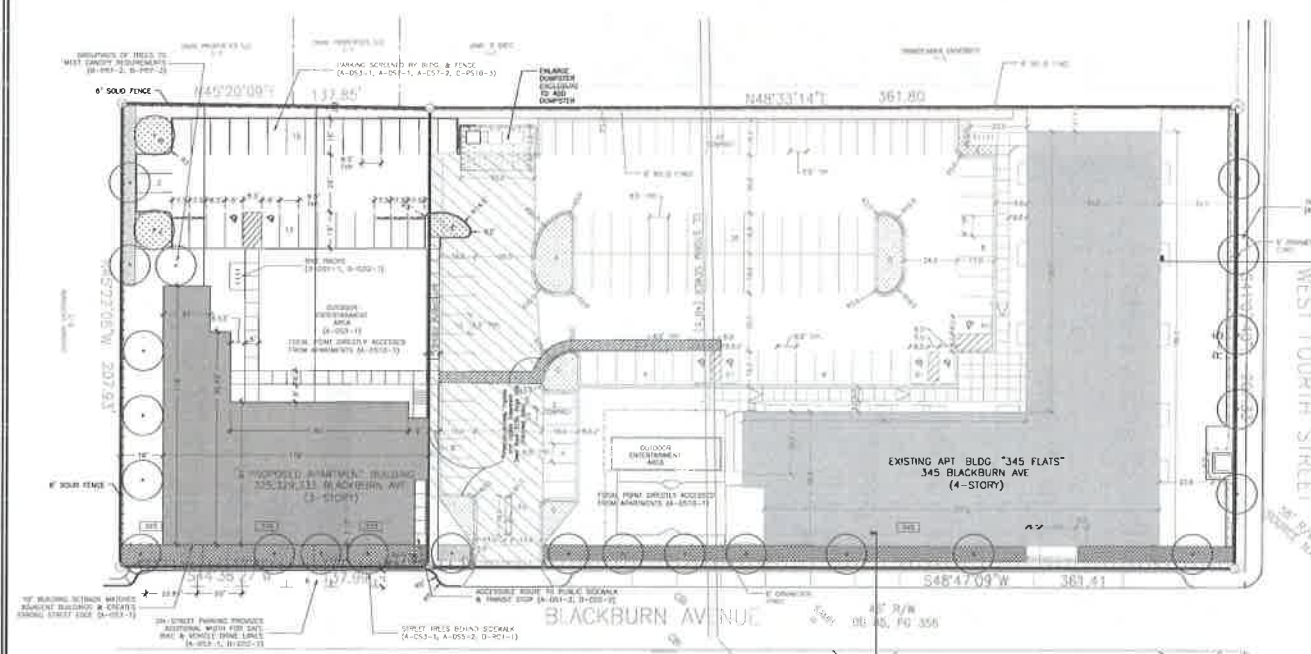
- Public Engagement
- Pre-Application Meeting
- Application Review
- Planning Staff Review
- Technical Review Committee
- Zoning/Subdivision Committee Meetings
- Planning Commission Hearing
- Urban County Council Meeting

DISCLAIMER: Plans are subject to change. Visit the Accela Citizen Portal (lexingtonky.gov/plans) or contact Planning for the latest information. You can also visit madeupwebsitehere.com for additional project information directly from the developer.

Latest Plan



- GENERAL NOTES**
- THIS DEVELOPMENT PLAN MAY BE AMENDED WITH THE APPROVAL OF THE PLANNING COMMISSION OR BOARD OF PLANNING UPON AS APPLICABLE TO THE ZONING ORDINANCE REGULATIONS.
 - ACCESS SHALL BE LIMITED AS INDICATED ON THIS PLAN.
 - STORM WATER MANAGEMENT AND SANITARY SEWERS SHALL BE DESIGNED AND CONSTRUCTED IN ACCORDANCE WITH THE DIVISION OF ENGINEERING MANUALS.
 - NO GRADING, STRIPPING, EXCAVATION, FILLING OR OTHER DISTURBANCE OF THE NATURAL GROUND COVER SHALL TAKE PLACE PRIOR TO APPROVAL OF AN EROSION CONTROL PLAN SUBMITTED IN ACCORDANCE WITH CHAPTER 16 OF THE CODE OF ORDINANCES.
 - DETAILED REBORN GEOMETRY OF ENTRANCES SHALL MEET THE SPECIFICATIONS AND APPROVAL OF THE URBAN COUNTY TRAFFIC ENGINEER.
 - SCULPTURE AND LANDSCAPING SHALL BE PROVIDED AS REQUIRED BY ARTICLE 18 OF THE ZONING ORDINANCE.
 - THIS DEVELOPMENT PLAN SHALL NOT BE USED AS A BASIS FOR SALE OF THE PROPERTY. ANY SALE OF LANDS SHALL BE BASED ON A RECORDED SUBDIVISION PLAN.
 - FINISH FLOOR ELEVATIONS SHALL BE A MINIMUM OF TWO FEET ABOVE THE REGULATORY FLOOD PROTECTION ELEVATION APPROVED BY THE URBAN COUNTY ENGINEER.
 - THE LOCATION OF THE FIRE SERVICE FEATURES, INFRANTS) AND THE SUBMITTAL COMMITMENTS) SHALL BE APPROVED BY THE DIVISION OF FIRE... WATER CONTROL OFFICE. THE ACCESS SPACES SHALL EXCEED BE 14' WIDE WITH ELEVATOR/ GATE ACCESS PROVIDED.
 - THIS DEVELOPMENT PLAN SHALL COMPLY WITH ARTICLE 10-7 OF THE ZONING ORDINANCE GOVERNING INFIL AND REDEVELOPMENT CONSTRUCTION WHEN APPLICABLE.
 - LANDSCAPING, STREETScape AND PEDESTRIAN AMENITIES WILL BE IN SUBSTANTIAL CONFORMITY WITH THE CONCEPTUAL GRAPHIC REPRESENTATIONS INCORPORATED HEREIN.
 - NO BUILDING PERMITS SHALL BE ISSUED UNLESS AND UNTIL A FINAL DEVELOPMENT PLAN IS APPROVED BY THE PLANNING COMMISSION.



- SITE STATISTICS - 325, 329, 333 BLACKBURN AVE**
- ZONING: R-5
 - PROPOSED USE: HIGH RISE RESIDENTIAL APARTMENTS
 - SITE AREA: 24,808 S.F. (0.56 AC)
 - BUILDING FOOTPRINT & SOGAL FLOOR AREA: 8,754 S.F.
 - X 4 STORIES = 35,022 S.F.
 - MAXIMUM LOT COVERAGE & PARK: 30% & 1.5'
 - PROPOSED LOT COVERAGE & PARK: 20.2% & 0.9'
 - BUILDING HEIGHT PERMITTED: 41' HEIGHT-TO-ROAD RATIO
 - BUILDING HEIGHT: 36'
 - BUILDING STORIES: 3 STORIES
 - TOTAL RESIDENTIAL UNITS: 39 (26 ONE-BEDROOM)
 - PARKING PROVIDED: 1.5 SPACES/UNIT = 1,563.8 = 84 ACCESSIBLE SPACES & 5 COMPACT SPACES
 - PARKING LOT AREA TOTAL: 3,282 S.F.
 - INTERIOR LANDSCAPE REQUIRED: 8% OF TOTAL PARKING AREA OR 2,626 S.F. = 204 S.F.
 - INTERIOR LANDSCAPE PROVIDED: 542 S.F. (74%)
 - PARKING LOT SURVEYING LANDSCAPE: 5' MIN. AROUND PARKING BOUNDARIES WITH 8' SOLID FENCE & 1 TREE/40'
 - MINIMUM USABLE OPEN SPACE: 20% OF LOT AREA. MINIMUM USABLE OPEN SPACE REQUIRED: 6,710 S.F.
 - USABLE OPEN SPACE PROVIDED:
 - LANDSCAPE AREA = 18,542(SQ. FOOTPRINT) = 1,000(SQ. FOOTPRINT) = 34(SQ. FOOTPRINT) LANDSCAPE = 1,000(SQ. FOOTPRINT) HEDGES & LANDSCAPE BATTERIES = 1,000(SQ. FOOTPRINT) = 1.00 AC

- TREE PROTECTION STATISTICS**
- TREE CANOPY REQUIRED: 30%
- EXISTING TREE CANOPY: 0% (0 S.F.)
- CANOPY TO BE REMOVED: 2% (0 S.F.)
- PROPOSED TREE CANOPY: 25.5% (6,710 S.F.)
- EPDS S.F. (20%) = 6,710 S.F.
- 10% TREE CANOPY: 31,536 S.F.

- SITE STATISTICS - 345 BLACKBURN AVE**
- ZONING: R-5
 - PROPOSED USE: HIGH RISE RESIDENTIAL APARTMENTS
 - SITE AREA: 14,730 S.F. (0.33 AC)
 - BUILDING FOOTPRINT & SOGAL FLOOR AREA: 14,530 S.F.
 - X 4 STORIES = 74,250 S.F.
 - MAXIMUM LOT COVERAGE & PARK: 30% & 1.5'
 - PROPOSED LOT COVERAGE & PARK: 20.2% & 0.9'
 - BUILDING HEIGHT PERMITTED: 41' HEIGHT-TO-ROAD RATIO
 - BUILDING HEIGHT: 42'
 - BUILDING STORIES: 4 STORIES
 - TOTAL RESIDENTIAL UNITS: 72 (24 TWO-BEDROOM + 34 ONE-BEDROOM = 110 BEDROOMS IN TOTAL)
 - PARKING PROVIDED: 1.5 SPACES/UNIT = 1,082 = 108
 - PARKING PROVIDED: 108 SPACES INCLUDING 3 HON ACCESSIBLE SPACES & 37 COMPACT CAR SPACES
 - PARKING LOT AREA TOTAL: 3,203 S.F.
 - INTERIOR LANDSCAPE REQUIRED: 8% OF TOTAL PARKING AREA OR 2,562 S.F. = 1,424 S.F.
 - INTERIOR LANDSCAPE PROVIDED: 1,722 S.F. (67%)
 - PARKING LOT SURVEYING LANDSCAPE: 5' MIN. AROUND PARKING BOUNDARIES WITH 8' SOLID FENCE & 1 TREE/40'
 - MINIMUM USABLE OPEN SPACE: 20% OF LOT AREA. MINIMUM USABLE OPEN SPACE REQUIRED: 14,844 S.F.
 - USABLE OPEN SPACE PROVIDED:
 - LANDSCAPE AREA = 18,542(SQ. FOOTPRINT) = 1,000(SQ. FOOTPRINT) = 34(SQ. FOOTPRINT) LANDSCAPE = 1,000(SQ. FOOTPRINT) HEDGES & LANDSCAPE BATTERIES = 1,000(SQ. FOOTPRINT) = 1.00 AC

DEVELOPMENT PLAN

OWNER CERTIFICATION

I (We) do hereby certify that I am (we are) the only owner(s) of the property whose name, as fully given to all graphic and textual representations shown herein, and do submit this my (our) development plan for the property.

Owner: _____ Date: _____

VARIANCES REQUESTED FOR 325, 329, & 333 BLACKBURN AVE

- A VARIANCE TO REDUCE THE FRONT YARD SETBACK FROM 20 FEET TO 10 FEET ALONG THE FRONT PROPERTY LINE.
- A VARIANCE TO REDUCE THE SIDE YARD SETBACK FROM 10 FEET TO 20% FEET ALONG THE EASTERN PROPERTY LINE ONLY.
- A VARIANCE TO REDUCE THE REQUIRED PARKING 8.22% FROM 14% TO 13% PARKING SPACES.

KEY

- PROPOSED BUILDING FOOTPRINT
- INTERIOR LANDSCAPE
- LANDSCAPE SCHEMATIC (1 TREE PER 40 S.F. + SOLID FENCE OR HEDGE)

SUBJECT PROPERTIES

325, 329, 333 & 345 BLACKBURN AVE

TOTAL AREA OF SUBJECT PROPERTIES: 2.27 AC

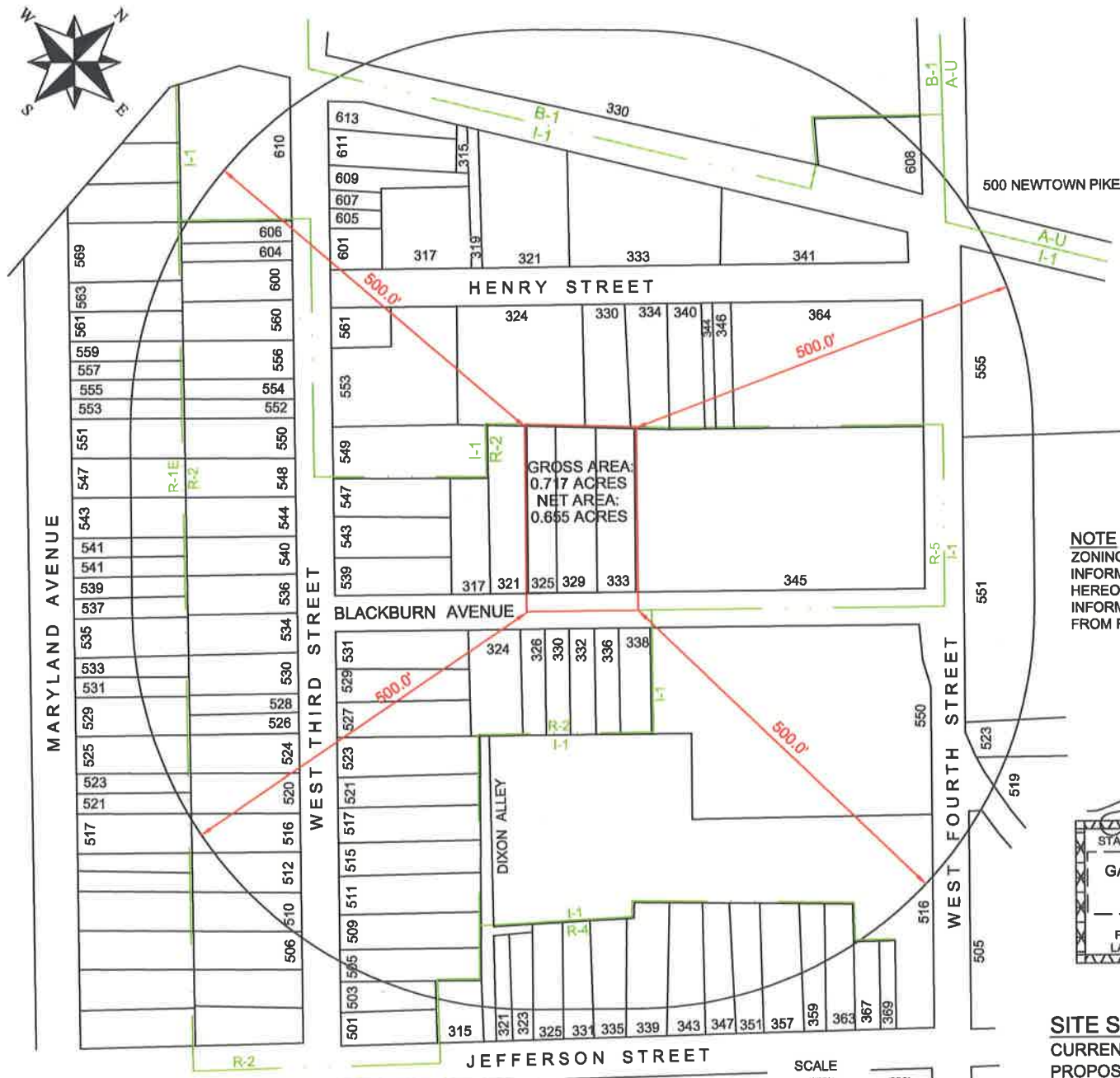
OWNER / DEVELOPER

PRELIMINARY DEVELOPMENT PLAN
PLN-MJD-P-20-00019

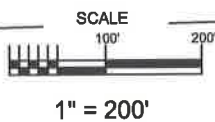
YELLMAN'S SUBDIVISION
(BLACKBURN AVENUE)
325, 329, 333 & 345 BLACKBURN AVE
LEXINGTON, KENTUCKY 40508

CARMAN
INCORPORATED

DATE: N/A
DRAWN: J.M. BROWN
CHECKED: S.M.
APPROVED: _____
CADDMAN: J.M. BROWN



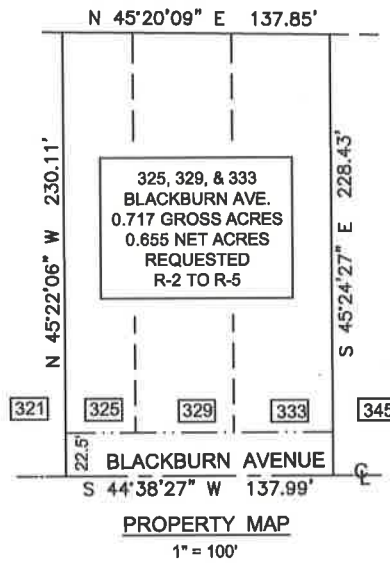
THIS DRAWING DOES NOT REPRESENT A BOUNDARY SURVEY AND SHOULD NOT BE USED FOR LAND TRANSFER. 201 KAR 18:150, SECTION 13



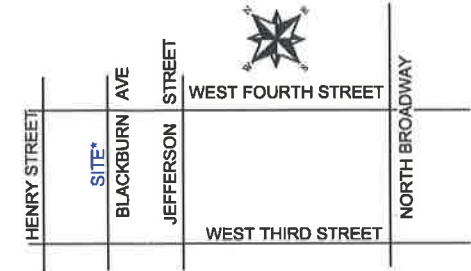
NOTE
ZONING AND PARCEL INFORMATION DEPICTED HEREON IS BASED ON INFORMATION OBTAINED FROM FAYETTE CO. PVA.



SITE STATISTICS
CURRENT ZONE: R-2
PROPOSED ZONE: R-5
GROSS AREA: 0.717 ACRES
NET AREA: 0.655 ACRES



PROPERTY MAP
1" = 100'



VICINITY MAP

TITLE INFORMATION

325 BLACKBURN AVE.:
BLACKBURN DEV., LLC
DEED BOOK 3739, PAGE 147

329 & 333 BLACKBURN AVE.:
COWGILL PARTNERS, LP
DEED BOOK 3448, PAGE 327
P.C. 'N', SLIDE 362

TITLE:	COWGILL PARTNERS, LP	FROM	TO	NET	GROSS
APPLICANT NAME:	BLACKBURN DEVELOPMENT, LLC 1999 RICHMOND RD. STE. 2A LEXINGTON, KY 40502				
PROPERTY ADDRESS:	325 BLACKBURN AVE.	R-2	R-5	0.172	0.190
OWNER NAME:	BLACKBURN DEVELOPMENT, LLC 1999 RICHMOND RD. STE. 2A LEXINGTON, KY 40502				
PROPERTY ADDRESS:	329 & 333 BLACKBURN AVE.	R-2	R-5	0.483	0.527
OWNER NAME:	COWGILL PARTNERS, LP 1999 RICHMOND RD. STE 2A LEXINGTON, KY 40502				
TOTAL				0.655	0.717
PREPARED BY:	CAM SURVEYING, LLC				
DATE SUBMITTED:	MAY 14, 2020				

PROPERTY / NOTIFICATION AREA MAP
325, 329, AND 333 BLACKBURN AVENUE
LEXINGTON, FAYETTE COUNTY, KEN.

APPLICANT: BLACKBURN DEVELOPMENT, LLC

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-20-00009: BLACKBURN DEVELOPMENT, LLC

DESCRIPTION OF ZONE CHANGE

Zone Change: From a Two Family Residential (R-2) zone
To a High Rise Apartment (R-5) zone
Acreage: 0.655 net (0.717 gross) acres
Location: 325, 329, and 333 Blackburn Avenue



EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Property	R-2 / A-U	Single Family Residential / Vacant
To North	R-5	Multi-Family Residential
To East	I-1 / R-2	Industrial / Church and Single Family Residential
To South	I-1	Industrial
To West	R-2	Single Family Residential

URBAN SERVICE REPORT

Roads - The subject properties are located on the west side of Blackburn Avenue, a local street that connects West Third and West Fourth Streets just to the northeast of downtown. Both West Third and West Fourth Streets intersect with Newtown Pike (US 25 and KY 922) to the west of the subject properties. Newtown Pike is an urban major arterial roadway, which extends from downtown to Scott County. Over the course of the last decade, recent improvements and changes along West Fourth Street include modification from one-way travel to two-way travel, and significant sidewalk upgrades from Newtown Pike to Jefferson Street. Following the rezoning of the property currently addressed as 345 Blackburn Avenue, Blackburn Avenue was expanded and on street parking was constructed along the west side of the street, near it's intersection with W. Fourth Street.

Curb/Gutter/Sidewalks - Blackburn Avenue currently has curbs, gutters, and sidewalks. The Legacy Trail and Town Branch Trail are both being constructed within the immediate vicinity of the subject properties.

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 in the Town Branch watershed. No known flooding problems exist within the immediate vicinity of the subject site. Multiple storm sewer lines exist on the subject property and will need to be relocated in order for the development to occur as planned. Stormwater detention may not be required for this redevelopment site; however, water quality will need to be addressed by the developer in accordance with the Engineering Stormwater Manuals.

Sanitary Sewers - The subject properties are located within the Town Branch sewershed, and are served by the Town Branch Wastewater Treatment Facility on Lisle Industrial Avenue. The subject properties are already served by a sanitary sewer line that runs along Blackburn Avenue. However, improvements to the line may need to be upgraded to properly serve this proposed high density residential development. The Capacity Assurance Program currently indicates a positive balance in the sewer bank associated with this portion of the Urban Service Area.

Refuse - The Urban County Government serves this area with refuse collection on Thursdays. The petitioner may also choose to consider supplemental service from a private refuse hauler for high density apartments.

Police -The nearest police station is the Main Headquarters located on East Main Street, about ¾ mile to the southwest of the subject properties.

Fire/Ambulance - The nearest fire station (#4) is only about two blocks to the southeast of the subject properties, located on Jefferson Street between West Second and West Third Streets.

Transit - LexTran service is available along West Fourth Street and there is a transit stop (# 576) located adjacent to 345 Blackburn Avenue. This stop serves both Route #2 and Route #4.

Parks - There are two nearby neighborhood parks in this area. Coolavin Park is located approximately ¼ mile to the northeast of the subject properties and the Smith Street Park is located less than ¼ mile to the east of the subject properties.

SUMMARY OF REQUEST

The applicant is seeking a zone change from the Two Family Residential (R-2) zone to the High Rise Apartment (R-5) zone for the properties located at 325, 329, and 333 Blackburn Avenue. The applicant is seeking to develop an apartment building associated with an established apartment development located at the corner of West Fourth Street and Blackburn Avenue. The applicant is seeking to replace one single family building and two vacant lots with the proposed structure. Two dimensional variances and a parking reduction are also requested with the zone change application.

PLACE-TYPE

2ND TIER URBAN
The 2nd Tier Urban Place-Type is 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

MEDIUM DENSITY RESIDENTIAL
Primary Land Use, Building Form, & Design
Primarily multi-family units. Multi-family units should complement and enhance existing development through quality design and connections.
Transit Infrastructure & Connectivity
Nearby commercial/employment uses and greenspaces should be easily accessible, and bicycle and pedestrian modes should be maximized to connect residents to destinations.
Quality of Life Components
These developments should include intentional open space designed to fit the needs of area residents, and a variety of neighborhood-serving commercial/employment uses.

PROPOSED ZONING



This zone is primarily for multi-family dwellings and particularly for high rise apartments. The R-5 zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan, and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.

PROPOSED USE



The applicant is seeking to construct a three (3) story multi-family residential structure that will be associated with the existing apartments. The structure is proposed to be 36 feet in height and contain 36 one-bedroom apartment units. The proposed residential density of the development is 55 dwelling units per net acre. To complete the residential development, the applicant is seeking to share the existing entryway and amenity space located on 345 Blackburn Avenue.

APPLICANT & COMMUNITY ENGAGEMENT



Representatives of the applicant and developer team met with the residential property owners of Blackburn Avenue on September 30, 2019. This was an in-person meeting held at the clubhouse located at the Flats at 345. Due to social distancing guidelines currently in place, a Zoom Video Conference meeting was held the evening of April 2, 2020. The applicant contacted all property owners within a 500-foot radius inviting them to attend the video conference. The applicant indicated within their letter of justification that further and similar meetings would be held in the future. Additionally, a website at www.cowgilldevelopment.com has been created to receive neighborhood comments, suggestions, questions, and input.

PROPERTY & ZONING HISTORY



The subject properties are located on the west side of Blackburn Avenue, a local roadway that connects West Third Street and West Fourth Street. The properties have been residential in nature, and were zoned Planned Neighborhood Residential (R-3) at the time of the comprehensive rezoning of Fayette County in 1969. They remained zoned R-3 until 2002 when the residents of West Third Street, West Second Street, and Blackburn Avenue submitted a petition to the Planning Commission to downzone from the established R-4, R-3, and I-1 zoning to the R-2 zone. The downzoning was precipitated by concerns that the previous zoning, high density residential and commercial and/or industrial uses would possibly intrude more into the neighborhood and could eventually dominate what was primarily a single family residential area. The Planning Commission found that application to downzone was in agreement with the Land Use Element of the 2001 Comprehensive Plan, which recommended medium density residential use for the area.

Since the rezoning of the area in 2002, there have been three studies that incorporated the subject properties: the *Downtown Lexington Masterplan (2005)*, the *Central Sector Small Area Plan (2009)*, and the *Fourth Street Zoning Study (2014)*. Each document suggests intensification of areas located near downtown through infill development. These plans specifically recommended that where possible, the city should seek to increase residential density, and encourage the redevelopment of underutilized properties.

The properties located at 329 and 333 have been vacant for at least the last 25 years. They have acted as green space and a buffer between the multi-family development located at 345 Blackburn Avenue. 325 Blackburn Avenue still contains the single family household that was constructed in 1910. There has not been significant modification to the form of the structure itself.

While the subject properties have not been the subject of rezoning or development, the property located at 345 Blackburn Avenue, has been the subject of three zone changes over the last 50 years (MAR 70-28, MAR 77-28, and PLN-MAR-16-00019). The most recent rezoning led to the development of the Flats at 345; a four-story development, with 72 dwelling units, a density of 41.86 dwelling units per net acre.

COMPREHENSIVE PLAN COMPLIANCE



GOALS & OBJECTIVES

The 2018 Comprehensive Plan, *Imagine Lexington*, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. This will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The applicant opines that the zone change request is in agreement with several of the Goals and Objectives of the 2018 Comprehensive Plan. First, the applicant indicates that they are seeking to expand housing choice (Theme A, Goal #1) by accommodating the demand for housing in Lexington responsibly, prioritizing higher-density and a mixture of housing types (Theme A, Goal #1.b). The applicant indicates that this proposal prioritizes higher density housing by adding 36 dwelling units to a two-family residential area presently zoned for a total of six (6) dwelling units on the three existing lots.

Additionally, the applicant indicates that the proposed development will support Infill and Redevelopment throughout the Urban Services Area as a strategic component of growth (Theme A, Goal #2). The applicant opines that they are supporting this goal by identifying areas of opportunity for infill, redevelopment, adaptive reuse, and mixed-use development (Theme A, Goal #2.a). The applicant highlights that the subject properties are located within the Infill and Redevelopment area and are seeking to develop two vacant parcels of land.

The applicant also suggests the proposed rezoning seeks to maximize development on vacant land within the Urban Service Area and promote redevelopment of underutilized land in a manner that enhances existing urban form and/or historic features (Theme E, Goal #1.d). They state that two of the three lots involved in this proposal are vacant and unimproved lots. Additionally, the proposed rezoning will increase the available density on the third lot going from R-2 to R-5.

The staff agrees with that these aspects of the applicant's proposal and that these goals and objectives can be met



with the proposed development; however, the staff still has concerns regarding the applicant's application of Theme B, Goal #2.d, Theme D, Goal #1.a, as well as Theme A, Goal #2.b.

The applicant opines that the subject rezoning will prioritize multi-modal options that de-emphasize single-occupancy vehicle dependence (Theme B, Goal #2.d), by incorporating 16 bicycle spaces. The applicant indicates that through the inclusion of this infrastructure, they are seeking to de-emphasize dependence on single occupancy vehicle forms of transportation in and around their development. The applicant should describe how on site bike storage will allow for decreased single occupancy vehicle forms of transportation around their development. In addition to the focus on bike infrastructure, the applicant indicates that the proposed development seeks to support the Complete Streets concept, by prioritizing a pedestrian-first design that also accommodates the needs of bicycle, transit and other vehicles (Theme D, Goal#1.a). The applicant stresses the distance to two major institutions of higher learning and the bikeability and walkability. While the project is in close proximity to those locations, the applicant should describe in greater detail how this development will be pedestrian oriented and accommodate the needs of transit. Further, the applicant should discuss how they are seeking to tie their development to the Town Branch and Legacy Trail network.

In addition to those Goals and Objectives mentioned in the application, Staff is concerned with the compatibility of the proposed zoning to the surrounding development. The R-5 zone is a significant increase from the neighboring R-2 zone and was the neighborhood concern that led to the 2002 downzoning. Theme A, Goal #2.b seeks to promote development that respects the context and design features of areas surrounding development projects and develop design standards and guidelines to ensure compatibility with existing urban form. While the R-5 zone can be appropriate, the applicant should address this Goal and Objective to show agreement with the Comprehensive Plan.



CRITERIA

The criteria for a zone change are the distillation of the adopted Goals and Objectives, as well as the policies put forth in the 2018 Comprehensive Plan. The 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 has indicated that the site is located within the 2nd Tier Urban Place-Type and is seeking construct a Medium Density Residential Development Type. Staff concurs with the applicant's assessment of the Place-Type and agrees that medium density residential development can be appropriate for the subject property within a High Rise Apartment (R-5) zone.

While the applicant has addressed some of the Development Criteria, there are areas of concern as to how the applicant has applied or not applied the development criteria.

1. Site Design, Building Form and Location

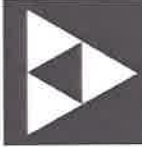
Despite compliance with some of the criteria for Site Design, Building Form and Location, there are areas of concern. The applicant should expand upon the following development criteria and staff comments.

A-DS3-1: Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.

The applicant touches upon a select few aspects of the multi-family design standards, including wall planes, height step downs, and screening surrounding the multi-family development. The applicant should comment on how the pedestrian walkways are connecting with the structures themselves and where the main points of access are located. Furthermore, the applicant should describe how they are integrating the development into the established development and the surrounding neighborhood.

B-SU11-1: Green infrastructure should be implemented in new development, is not applicable for this development.

The applicant has indicated that this criteria is not applicable to this development. As this development is increasing the overall utilization of the property, the applicant should seek to utilize green infrastructure on-site or expand upon how it is not possible. While staff does not require engineering of this infrastructure at this time, a commitment to its inclusion would meet the policies of the Comprehensive Plan, while also acting to prevent adverse impacts caused by the proposed development.



C-PS10-2: Flexible parking and shared parking arrangements should be utilized.

The applicant is asking for a reduction of the parking for this development and the neighboring development. Staff would like to discuss this arrangement and how the two parking areas will be associated.

2. Transportation and Pedestrian

Despite compliance with some of the criteria for Transportation and Pedestrian, there are areas of concern. The applicant should expand upon the following development criteria and staff comments.

A-DS1-1: Mass transit infrastructure such as seating and shelters should be provided/enhanced along transit routes. (A-EQ7).

LexTran service is available along West Fourth Street and there is a transit stop (# 576) located adjacent to 345 Blackburn Avenue. This stop serves both Route #2 and Route #4. As the applicant is asking for a reduction in the required parking for the proposed development and has cited their dedication to both de-emphasizing single-occupancy vehicle dependence and promoting the Complete Streets concept, the applicant should include an enhanced stop at this location.

D-CO2-1: Safe facilities for all users and modes of transportation should be provided.

The applicant is showing some areas of potential conflict between pedestrian and vehicular uses within the overall development. These conflicts should be removed. The applicant should focus on providing safe access not only to the right-of-way, but also between the proposed apartment lots.

3. Greenspace and Environmental Health

The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works with the current landscape, limits the impacts on the surrounding environment, adds landscape buffers and tree canopy, and provides delineated access to the required open space.

STAFF RECOMMENDS: POSTPONEMENT, FOR THE FOLLOWING REASONS:



1. The zone change application for the subject property, as proposed, does not completely address how they are meeting the Goals and Objectives of the 2018 Comprehensive Plan. The following Goals and Objectives require further discussion by the applicant to address compliance with the Comprehensive Plan:
 - a. Theme B, Goal #2.d: Prioritize multi-modal options that de-emphasize single-occupancy vehicle dependence.
 - b. Theme D, Goal #1.a: Support the Complete Streets concept, prioritizing a pedestrian-first design that also accommodates the needs of bicycle, transit and other vehicles.
2. The zone change application for the subject property, as proposed, does not completely address the development criteria for a zone change within the 2nd Tier Urban Place Type, and the Medium-Density Residential Development Type. The following criteria require further discussion by the applicant to address compliance with the Comprehensive Plan:
 - a. A-DS3-1: Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.
 - b. B-SU11-1: Green infrastructure should be implemented in new development, is not applicable for this development.
 - c. C-PS10-2: Flexible parking and shared parking arrangements should be utilized.
 - d. A-DS1-1: Mass transit infrastructure such as seating and shelters should be provided/enhanced along transit routes. (A-EQ7).
 - e. D-CO2-1: Safe facilities for all users and modes of transportation should be provided.

VARIANCE REQUEST



As part of their application, the petitioner is seeking two dimensional variances regarding the front and side yard setbacks, and a parking variance to reduce the required parking. Article 8-14(h) of the Zoning Ordinance requires that all structures located within the R-5 zone have a minimum side yard setback of 10 feet. The applicant is requesting a reduction to 0 feet. Article 8-14(i) of the Zoning Ordinance requires that all structures located within the R-5 zone have a minimum front yard setback of 20 feet. The applicant is requesting a setback of 10 feet. Finally, Article 8-14(n) of the Zoning Ordinance that development in the R-5 zone requires three (3) spaces for every two (2) dwelling units or .9 spaces for every bedroom, whichever is greater. The applicant is seeking a reduction of 12 spaces (8.2%).

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

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

ZONING ORDINANCE

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

Article 7-6(b) states that the Board may grant a variance to the maximum number of parking spaces allowed in a zone, or reduce the minimum number of parking spaces by fifty percent (50%).

Article 8-14(h) requires that all structures located within the R-5 zone to have a minimum side yard setback of 10 feet.

Article 8-14(i) requires that all structures located within the R-5 zone to have a minimum front yard setback of 20 feet.

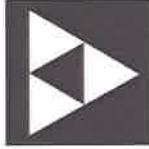
Article 8-14(n) references the regulations for parking, as outlined in the Planned Neighborhood Residential (R-3) zone. Multiple family dwellings in the R-3 zone require three (3) spaces for every two (2) dwelling units or .9 spaces for every bedroom, whichever is greater.

Article 16-10(a) states that sites having fifty (50) or more parking spaces may reduce the total minimum automobile parking space requirement by one (1) parking space for every one (1) bicycle space provided on a permanently constructed bicycle rack. The maximum reduction of required parking spaces shall not be reduced less than five percent (5%) of the otherwise required amount. Only the provision of additional bicycle spaces shall count toward this reduction when a minimum bicycle space is required. Provision of bicycle spaces shall not count against the otherwise required minimum for the calculation of the maximum parking allowed.

CASE REVIEW

The applicant is requesting a total of three variances for the proposed development. First, the applicant is seeking relief from the minimum side yard setback of 10 feet. The applicant is requesting a reduction to 0 feet. This reduction of the side yard setback will allow the applicant to shift the proposed structure to the edge of the property line, while also allowing for the proposed layout to meet the setback along the adjoin property of 18 feet.

Next, the applicant is requesting relief from the minimum front yard setback of 20 feet. The applicant is requesting a setback of 10 feet. This request is focused on bringing the proposed development in-line with the structure located on 345 Blackburn Avenue. During the 2016 zone change, the applicant, Cowgill Partners, LP, which is an affiliate of the current applicant, sought a reduction of the front yard from 20 feet to 5 feet. This



recommendation was disapproved, and the staff recommended approval of an alternative reduction that allowed for the decrease in the front yard setback from 20 feet to 10 feet.

Finally, the applicant is requesting relief from the minimum required off-street parking. At the proposed density the applicant indicates that the total required parking spaces would be 162 for both developments. Per Article 16-10(a) the applicant is seeking to reduce the required parking spaces by five (5) percent through the use of bicycle infrastructure. This reduction brings the required parking for the total area to 146 parking spaces. The applicant is seeking a variance to reduce the required parking an additional 12 spaces (8.2%). This request is permitted under Article 7-6(b). The proposed reduction would allow the applicant to provide the density associated with the zone change application.

For each of the requested variances, the applicant makes the same three arguments for the granting of the variances. First, the applicant indicates that by granting the requested variances, the proposed development will not adversely affect public health, safety or welfare, and will not alter the character of the general vicinity and will to cause a hazard or nuisance to the public. Next, the applicant indicates that the strict application of the regulations of the Zoning Ordinance would deprive the of reasonable use of its land and would not enable the applicant to implement its preferred applicant design incorporating shared use of both buildings. Finally, the applicant opines that the circumstances surrounding the requested variances are not the result of actions the applicant has taken subsequent to the regulation from which relief is sought. The applicant reiterates that no construction of the new development has started.

Staff would like the applicant to clarify several issues regarding the requested variances proposed with this application. First, regarding the parking, the applicant has proposed a reduction based on the total units of both structures, rather than just the area of proposed rezoning. This is problematic from both a technical perspective, as well as site plan perspective. From a technical perspective, the applicant has not notified those individuals within the required notification area to seek a reduction for the property at 345 Blackburn Avenue. The notice that was provided was only for those properties located at 325, 329, and 333 Blackburn Avenue.

From a site plan perspective, if the applicant is seeking to join these properties under one variance request, the process would be cleaner if the applicant utilized the group residential project standards. This would also allow the applicant to take full advantage of the reductions in parking allowable in the defined Infill and Redevelopment area. Furthermore, the group residential standards would remove the need for the requested side yard setback variance.

Additionally, staff is concerned with the transition between the proposed development and the established neighborhood. While the variance requested for the front yard set back is in line with 345 Blackburn Avenue, the applicant should seek to transition from that setback to the neighboring properties along Blackburn Avenue to the south and west. This will reduce the visual impact of the proposed building's massing on the street's sight lines. It will also indicate a transition out of the denser housing types to the lower density areas.

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



1. The applicant has not notified those individuals within the required notification area to seek a reduction for the property at 345 Blackburn Avenue.
2. The applicant should consider the use of Group Residential Project standards to allow for greater reductions in the required parking, as well as remove the need for the side yard setback variance request.
3. The requested front yard variance does not transition to the lower density residential setbacks that are established along Blackburn Avenue.

HBB/TLW
6/2/2020

Planning Services/Staff Reports/MAR/2019/PLN-MAR-20-00009 Blackburn Development, LLC.pdf

SUPPLEMENTAL STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-20-00009: BLACKBURN DEVELOPMENT, LLC



STAFF REVIEW

In the period following the June Subdivision and Zoning Committee meetings, the applicant met with staff to discuss the proposed rezoning. Following those meetings, the applicant reviewed staff's and zoning sub-committee's comments, and modified their application regarding the proposed development and its agreement with the 2018 Comprehensive Plan. New information submitted by the applicant includes a supplemental justification letter, revised variance request, updated development plan, and an illustrative massing study. The new information provided by the applicant addresses the majority of staff's concerns. The materials submitted specifically focused on those Goals and Objects, and Development Criteria that were deficient within the original application. These elements included how the proposed development would prioritize multi-modal options, while prioritizing a pedestrian-first design that accommodates the needs of bicycle, transit and other vehicles (Theme B, Goal #2.d and Theme D, Goal #1.a). Furthermore, the applicant addresses the integration and layout of the proposed development (A-DS3-1), the implementation of green infrastructure (B-SU11-1), the reduction of parking surface through shared-use agreements (C-PS10-2), the enhancement of transit infrastructure (A-DS1-1), and the promotion of safe facilities for all users and modes of transportation (D-CO2-1).

Staff can now recommend approval of the proposed zone change from a Two Family Residential (R-2) zone to a High Rise Apartment (R-5) zone for the properties located at 325, 329, and 333 Blackburn Avenue, as the proposal is in agreement with the 2018 Comprehensive Plan, including the applicable Goals and Objectives, Policies, and Development Criteria.

Furthermore, staff finds the subject application is in agreement with the Fourth Street Zoning Study, which recommends medium density residential development (pg. 15). The applicant's proposed Development Type is the Medium Density Residential, which is primarily comprised of multi-family residential dwelling units and should complement and enhance existing development through quality design and connections. The massing study provided by the applicant and the modified setback variance request depicts how the proposed multi-family development can transition into the established neighborhood, specifically focusing on the properties located on the northwest side of Blackburn Avenue.

While the proposed rezoning is in agreement with the Comprehensive Plan and the Fourth Street Zoning Study, staff thinks that is important to lessen the impact of a more intense development on the surrounding lower intensity development. The staff recommends the use of Conditional Zoning Restrictions to limit the impact of the proposed multi-family residential structure on the neighboring property located to the southwest. Staff recommends that there shall be no exterior lighting along the portion of the structure that abuts 321 Blackburn Avenue and that the 18 foot side yard be maintained as a landscape buffer yard for the length of the proposed structure. Existing mature trees should be maintained within the buffer if possible. Maintaining existing property line trees will help meet the ordinance requirements as well. These restrictions are focused on limiting the impact of the development on the neighboring property.

In addition to the recommended Conditional Zoning Restriction, staff is also concerned with the required property perimeter screening for the property located at 345 Blackburn Avenue. This development is complementary and integral to the functionality of the proposed rezoning. Staff recommends to denote on the associated preliminary development plan, compliance with the property perimeter screening, outlined in Article 18-3 of the Zoning Ordinance, be documented for 345 Blackburn Avenue at the time of the final development plan prior to certification.

STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASON:



1. The requested High Density Apartment (R-5) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed rezoning will expand housing choice (Theme A, Goal #1) by accommodating the demand for housing in Lexington responsibly, prioritizing higher-density and a mixture of housing types (Theme A, Goal #1.b). The proposed development prioritizes higher density housing by adding 36 dwelling units to a two-family residential area presently zoned for a total of six (6) dwelling units on the three existing lots.
 - b. The proposed development will support Infill and Redevelopment throughout the Urban Services Area as a strategic component of growth (Theme A, Goal #2) through the infill of two vacant parcels of land and increasing the utilization of an underutilized structure (Theme E, Goal #1.d).
 - c. The proposed rezoning will prioritize multi-modal options through the establishment of an enhanced transit stop (Theme B, Goal #2.d), while also prioritizing a pedestrian-first design that accommodates the needs of bicycle, transit and other vehicles through the increased infrastructure along the frontage of the property (Theme D, Goal #1.a).
2. The requested Development Type and proposed development is in agreement with the Fourth Street Zoning Study, which recommends medium density residential for this area.
3. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location as the site creates a residential development that supports pedestrian mobility, while also complementing the existing structures along Blackburn Avenue.
 - b. The proposed rezoning includes safe facilities for the potential users, through the incorporation of enhanced pedestrian facilities along the property frontage and the establishment of an enhanced transit stop. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
 - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works with the current landscape, limits the impacts on the surrounding environment, and increases tree canopy coverage.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following buffering restriction is recommended via conditional zoning:
 - a. There shall be no external light along the southwest portion of the structure, which is adjacent to the property located at 321 Blackburn Avenue.
 - b. There shall be an 18-foot landscape buffer yard adjacent to the property located at 321 Blackburn Avenue for the length of any principal structure on the subject property.
5. This recommendation is made subject to approval and certification of PLN-MJDP-20-00019: Yellman's Subdivision (Powerhouse Church of God)(Blackburn Development), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

VARIANCE REQUEST UPDATE



Following the Zoning Subcommittee meeting the applicant revised two of their requests and clarified their rationale. The petitioner is still seeking two dimensional variances regarding the front and side yard setbacks, and a parking variance to reduce the required parking. Article 8-14(h) of the Zoning Ordinance requires that all structures located within the R-5 zone have a minimum side yard setback of 10 feet. The applicant is requesting a reduction to 0 feet. Article 8-14(i) of the Zoning Ordinance requires that all structures located within the R-5 zone have a minimum front yard setback of 20 feet. The applicant originally requested a setback of 10 feet, and has amended their request to a lesser variance with a setback of 14 feet. Finally, Article 8-14(n) of the Zoning Ordinance that development in the R-5 zone requires three (3) spaces for every two (2) dwelling units or .9 spaces for every bedroom, whichever is greater. The applicant originally sought a reduction of 12 spaces; however, the applicant's calculation was incorrect. The applicant has revised their math and is now requesting a lesser variance of 5 parking spaces.

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

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

ZONING ORDINANCE

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

Article 7-6(b) states that the Board may grant a variance to the maximum number of parking spaces allowed in a zone, or reduce the minimum number of parking spaces by fifty percent (50%).

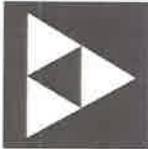
Article 8-14(h) requires that all structures located within the R-5 zone to have a minimum side yard setback of 10 feet.

Article 8-14(i) requires that all structures located within the R-5 zone to have a minimum front yard setback of 20 feet.

Article 8-14(n) references the regulations for parking, as outlined in the Planned Neighborhood Residential (R-3) zone. Multiple family dwellings in the R-3 zone require three (3) spaces for every two (2) dwelling units or .9 spaces for every bedroom, whichever is greater.

Article 16-10(a) states that sites having fifty (50) or more parking spaces may reduce the total minimum automobile parking space requirement by one (1) parking space for every one (1) bicycle space provided on a permanently constructed bicycle rack. The maximum reduction of required parking spaces shall not be reduced less than five percent (5%) of the otherwise required amount. Only the provision of additional bicycle spaces shall count toward this reduction when a minimum bicycle space is required. Provision of bicycle spaces shall not count against the otherwise required minimum for the calculation of the maximum parking allowed.

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



CASE REVIEW

The applicant is requesting a total of three variances for the proposed development. First, the applicant is seeking relief from the minimum side yard setback of 10 feet. The staff was originally concerned with the potential that the applicant was circumventing the Group Residential Project standards, described in Article 9 of the Zoning Ordinance. During the Zoning Subcommittee meeting in June, the applicant explained that the ownership regime was slightly different for both properties. The applicant further explained why and how these two groups would work in tandem, but the banking arrangement for the development hinders consolidation. By not applying the group residential standards the applicant is held to either the minimum side yard of 10 feet or the height to yard requirements of 4 feet of height for every 1 foot in width (Article 8-14(m)). In this case the side yard would default to the 10 foot set back. The applicant is requesting a reduction to 0 feet on the northeastern portion of the site, which abuts 345 Blackburn Avenue. This reduction of the side yard setback will allow the applicant to shift the proposed structure to the edge of the property line, while also allowing for a greater buffer of 18 feet, along 321 Blackburn Avenue. This is done to allow a greater buffer between the two properties, while being able to construct a building that would fit within the normal setback parameters. Staff agrees that the application of the provisions could impact neighboring property and in an effort to reduce that impact, strict application of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant. In granting this variance, the staff requires that the side yard setback for the property along 321 Blackburn Avenue be set at 18 feet via conditional zoning restrictions.

Next, the applicant is requesting relief from the minimum front yard setback of 20 feet. The applicant originally requested a reduction of 10 feet, which would have established the setback at 10 feet from the right-of-way. This request is focused on bringing the proposed development in-line with the structure located on 345 Blackburn Avenue. During the 2016 zone change, the applicant, Cowgill Partners, LP, which is an affiliate of the current applicant, sought a reduction of the front yard from 20 feet to 5 feet. That recommendation was disapproved, and the staff recommended approval of an alternative reduction that allowed for the decrease in the front yard setback from 20 feet to 10 feet.

In this case the applicant is extending the multi-family development into a more established portion of Blackburn Avenue and replacing one single family structure. Staff recommended to the applicant that they review the context of the neighborhood and seek to transition from the larger building located at 345 Blackburn Avenue to the surrounding properties. The applicant submitted an updated variance request, which seeks to reduce the front yard setback from 20 feet to 14 feet. The applicant states that the 14 foot request is more in keeping with the properties along Blackburn Avenue and is the same setback from the existing right-of-way as the adjoining property, located at 321 Blackburn Avenue. Staff agrees that the requested variance arises from special circumstances, as this is an established neighborhood with an established setback, which is less than 20 feet.

Finally, the applicant has clarified and reduced the variance request for their reduction of parking for their proposed development. Initially, the applicant requested a variance for the parking for both the proposed development and the established development. Staff has concerns with this application due to notification and site organization. The petitioner has reviewed their application and through the parking reductions allotted to them in Article 16-10(a) and 16-10(b), as well as the establishment of a reciprocal parking agreement, the applicant is asking for a reduction from 46 spaces to 41 spaces. Through the Infill and Redevelopment Area standards, described in Article 7-6(b) (a) projects may reduce the minimum number of parking spaces by fifty percent (50%) of the otherwise required number. The subject property is located within the defined Infill and Redevelopment Area and seeing that the proposed residential units for the development are efficiencies and one-bedrooms and that the applicant will have available on-street and off-street spaces for visitor, staff recommends approval of the variance.

STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASONS:



1. Granting the requested variances should not adversely affect the public health, safety, or welfare; nor should it affect the character of the general vicinity as the applicant is adding buffering to the adjacent single family land use, matching the character of the established neighborhood, and is providing adequate parking for their users and potential visitors.
2. The need for the variances arises from the special circumstances of the proposed development, and the established character of the neighborhood.
3. The strict application of the minimum side yard setback requirements would create an unnecessary hardship on the proposed development with the proposed buffering that has been added to the southwest portion of the property. Additionally, the strict application of the front yard set back would necessitate the building be setback further than the surrounding residential development. Finally, the inclusion of the five (5) parking spaces would result in the decrease in useable open space and building footprint.
4. The requests are not a result of a willful violation of the Zoning Ordinance. The applicant has taken care to go through the necessary process for this project and has requested the variances prior to commencing construction.

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

- a. Provided the Planning Commission approves 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 Final Development Plan, or as amended to address design requirements of the Divisions of Engineering, Traffic Engineering, or Building Inspection.
- c. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
- d. Action of the Planning Commission shall be noted on the Development Plan for the subject property.

2. **BLACKBURN DEVELOPMENT LLC ZONING MAP AMENDMENT & YELLMAN'S SUBDIVISION (POWERHOUSE CHURCH OF GOD)(BLACKBURN DEVELOPMENT) ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-20-00009: BLACKBURN DEVELOPMENT LLC (8/20/20)* - a petition for a zone map amendment from a Two Family Residential (R-2) zone to a High Rise Apartment (R-5) zone, for 0.655 net (0.717 gross) acre, for property located at 325, 329, and 333 Blackburn Avenue. Two dimensional variances and a parking variance have also been requested.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2018 Comprehensive Plan, Imagine Lexington, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. This will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The applicant is seeking a zone change from the Two Family Residential (R-2) zone to the High Rise Apartment (R-5) zone for the properties located at 325, 329, and 333 Blackburn Avenue. The applicant is seeking to develop an apartment building associated with an established apartment development located at the corner of West Fourth Street and Blackburn Avenue. The applicant is seeking to replace one single family building and two vacant lots with the proposed structure. Two dimensional variances and a parking reduction are also requested with the zone change application.

The Zoning Committee Recommended: Postponement to the full Commission.

The Staff Recommends: Postponement, for the following reasons:

1. The zone change application for the subject property, as proposed, does not completely address how they are meeting the Goals and Objectives of the 2018 Comprehensive Plan. The following Goals and Objectives require further discussion by the applicant to address compliance with the Comprehensive Plan:
 - a. Theme B, Goal #2.d: Prioritize multi-modal options that de-emphasize single-occupancy vehicle dependence.
 - b. Theme D, Goal #1.a: Support the Complete Streets concept, prioritizing a pedestrian-first design that also accommodates the needs of bicycle, transit and other vehicles.
 2. The zone change application for the subject property, as proposed, does not completely address the development criteria for a zone change within the 2nd Tier Urban Place Type, and the Medium-Density Residential Development Type. The following criteria require further discussion by the applicant to address compliance with the Comprehensive Plan:
 - a. A-DS3-1: Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.
 - b. B-SU11-1: Green infrastructure should be implemented in new development, is not applicable for this development.
 - c. C-PS10-2: Flexible parking and shared parking arrangements should be utilized.
 - d. A-DS1-1: Mass transit infrastructure such as seating and shelters should be provided/enhanced along transit routes. (A-EQ7).
 - e. D-CO2-1: Safe facilities for all users and modes of transportation should be provided.
- b. **VARIANCE REQUEST** – The applicant is requesting a reduction of front yard setback from 20 feet to 14 feet, side yard setback from 10 feet to 0 feet and a reduction of the required parking spaces from 46 spaces to 41 spaces (reduction of 5 required spaces).

The Subdivision Committee Recommended: Postponement, for the following reasons:

1. The applicant has not notified those individuals within the required notification area to seek a reduction for the property at 345 Blackburn Avenue.
 2. The applicant should consider the use of Group Residential Project standards to allow for greater reductions in the required parking, as well as remove the need for the side yard setback variance request.
 3. The requested front yard variance does not transition to the lower density residential setbacks that are established along Blackburn Avenue.
- c. PLN-MJDP-20-00019: YELLMAN'S SUBDIVISION (POWERHOUSE CHURCH OF GOD)(BLACKBURN DEVELOPMENT) (8/20/20)* - located at 325,329, 333 AND 345 BLACKBURN AVENUE, LEXINGTON, KY.
Project Contact: Carman

Note: The purpose of this development plan is to rezone the property.

The Subdivision Committee Recommended: Postponement, There were questions the development meeting Article 9-6(c)(1) front yard setback and Article 9-6(f) parking.

1. Provided the Urban County Council rezones the property R-5; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.

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

3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. United States Postal Service Office's approval of kiosk locations or easement.
7. Provided the Planning Commission grants the requested variances.
8. Denote who will be responsible for the maintenance for access easement.
9. Discuss Placebuilder criteria:
 - a. A-DS3-1: Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.
 - b. B-SU11-1: Green infrastructure should be implemented in new development, is not applicable for this development.
 - c. C-PS10-2: Flexible parking and shared parking arrangements should be utilized.
 - d. A-DS1-1: Mass transit infrastructure such as seating and shelters should be provided/enhanced along transit routes. (A-EQ7).
 - e. D-CO2-1: Safe facilities for all users and modes of transportation should be provided.

Staff Zoning Presentation – Mr. Baillie said that the staff has received two letters of opposition to this zone change. He then presented the staff report and recommendations for the zone change application. He said that this zone change is for the properties located at 325, 329, and 333 Blackburn Avenue, but 345 Blackburn Avenue plays an imperative part to the proposed development. He said the applicant is seeking to construct a three (3) story multi-family residential structure that will be associated with the existing apartments. The structure is proposed to be 36 feet in height and contain 36, one-bedroom apartment units. The proposed residential density of the development is 55 dwelling units per net acre. To complete the residential development, the applicant is seeking to share the existing entryway and amenity space located on 345 Blackburn Avenue. He added that there are two dimensional variances and a parking variance that have been requested with this zone change.

Mr. Baillie displayed photographs of the subject property and aerial photographs of the general area. He said that this area historically served industrial and warehousing type uses because of its location near to the railroad. He said that overtime, there has been more residential development in the area. The immediate vicinity includes Light Industrial (I-1), Two Family Residential (R-2), and High Rise Apartment (R-5) zoning. He said that the subject property is two vacant parcels and one currently standing single-family structure, which has been vacated.

Mr. Baillie said that the subject property is located within the Northside Historic Residential District, which was established in 1979. He added that the subject property is not located within an H-1 Overlay zone and the structure proposed for demolition is not recognized as a structure of historic significance. He said that this area has had numerous small area plans, including the Central Sector Small Area Plan, the Newtown Pike Extension Corridor Plan, and the Fourth Street Zoning Study, which have been adopted as part of the 2018 Comprehensive Plan. The Fourth Street Zoning Study specified the wants and needs of the neighborhood and future development in the area. He pointed to specific properties that were named as opportunity districts and recommended as mid-density residential uses, which include the subject property.

Mr. Baillie said that the applicant has reached out the neighborhood several times and he recommended that the applicant discuss those meetings at the time of their presentation. He said that the applicant is proposing the 2nd Tier Urban Place-Type, which is where many significant infill and redevelopment opportunities exist. He said that the high-rise zone is not generally included in the place type. However, it could work with step-downs and buffering. The applicant is proposing the Medium-Density Residential development type. He said that these are typically near commercial and employment uses and have access to greenspace. He said that the applicant has access to transit, to the future bike and trail system, and to Coolavin Park.

Mr. Baillie said at the Zoning Committee meeting, on July 2, 2020, there was a concern of how the development would fit with the surrounding properties. The need for a massing study showing how the development could fit into the context of the area and how the applicant could step-down from a four-story structure to meet the existing neighborhood was also discussed. Mr. Baillie displayed an exhibit that depicted the heights and approximate sizing of the proposed structures compared to the existing structure. He said that staff is concerned that there will be an adequate buffer between the proposed new development and the established homes. Staff is recommending conditional zoning restrictions along that boundary for this reason. He said that the staff is recommending approval of the zone change at this time, for the following reasons:

1. The requested High Density Apartment (R-5) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed rezoning will expand housing choice (Theme A, Goal #1) by accommodating the demand for housing in Lexington responsibly, prioritizing higher-density and a mixture of housing types (Theme A, Goal #1.b). The proposed development prioritizes higher density housing by adding 36 dwelling units to a two-family residential area presently zoned for a total of six (6) dwelling units on the three existing lots.
 - b. The proposed development will support Infill and Redevelopment throughout the Urban Services Area as a strategic component of growth (Theme A, Goal #2) through the infill of two vacant parcels of land and increasing the utilization of an underutilized structure (Theme E, Goal #1.d).

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- c. The proposed rezoning will prioritize multi-modal options through the establishment of an enhanced transit stop (Theme B, Goal #2.d), while also prioritizing a pedestrian-first design that accommodates the needs of bicycle, transit and other vehicles through the increased infrastructure along the frontage of the property (Theme D, Goal #1.a).
2. The requested Development Type and proposed development is in agreement with the Fourth Street Zoning Study, which recommends medium density residential for this area.
3. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location as the site creates a residential development that supports pedestrian mobility, while also complementing the existing structures along Blackburn Avenue.
 - b. The proposed rezoning includes safe facilities for the potential users, through the incorporation of enhanced pedestrian facilities along the property frontage and the establishment of an enhanced transit stop. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
 - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works with the current landscape, limits the impacts on the surrounding environment, and increases tree canopy coverage.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following buffering restriction is recommended via conditional zoning:
 - a. There shall be no external light along the southwest portion of the structure, which is adjacent to the property located at 321 Blackburn Avenue.
 - b. There shall be an 18-foot landscape buffer yard adjacent to the property located at 321 Blackburn Avenue for the length of any principal structure on the subject property.
5. This recommendation is made subject to approval and certification of PLN-MJDP-20-00019: Yellman's Subdivision (Power-house Church of God)(Blackburn Development), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

Mr. Baillie said that the applicant has discussed construction of a bus shelter and bench at the corner near Blackburn Avenue and Fourth Street with LexTran. This will also allow a reduction in the number of required parking spaces.

Commission Questions – Mr. Pohl asked if there is any restriction on the height of the proposed building in this R-5 zone. Mr. Baillie said it is the height-to-yard ratio, which for this location is a 4:1 height-to-yard ratio, or a minimum of 10 feet. He said that the conditional zoning restrictions that the staff is recommending the yard buffer be 18 feet or the side of the property abutting the R-2 zone. If they sought to increase the height, they would need to request another variance from the Board of Adjustment (BOA). Mr. Pohl then asked if they could limit the height with this proposal. Mr. Baillie said that the Planning Commission could limit the height of this structure as part of a density restriction. Mr. Pohl also expressed concern regarding the layout of the proposed structure and asked if the structure could be flipped so that a large building will not be directly adjacent to an existing single-family home. Mr. Baillie said that the applicant may be able to comment on that and added that it is the reason why the staff is recommending the buffering restriction along the length of the building.

Development Plan Presentation – Ms. Gallt presented the revised preliminary development plan associated with this zone change. She displayed a color rendering of the proposed development and pointed to the existing building and to the proposed building. She said that the applicant is proposing 3-story building, 36 feet in height, with 36 one-bedroom units. She said that for the applicant to meet the parking requirements, that the open space will be restrictive.

Ms. Gallt said that revised conditions were distributed to the Planning Commission, as follows:

1. Provided the Urban County Council rezones the property R-5; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways, greenspace and open space.
- ~~6. United States Postal Service Office's approval of kiosk locations or easement.~~
- ~~7. Addition of required topography information source.~~
6. 8. Provided the Planning Commission grants the requested variances.
- ~~9. Denote: The 15' landscape buffer easement on property will be released prior to Final Development Plan certification.~~
7. 10. Discuss Denote maintenance responsibility for access easement.
- ~~11. Denote compliance with Article 15-7(a) of the Zoning Ordinance for infill and redevelopment shall be determined at time of Final Development Plan (note #10).~~
8. Addition of conditional zoning restrictions.
9. Denote: Documentation that the property at 345 Blackburn Avenue complies with Article 26-5 of the Zoning Ordinance and Article 18-3 for property perimeter screening prior to the certification of the Final Development Plan for 325-333 Blackburn Avenue.
10. 12. Discuss Placebuilder criteria:

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

- a. A-DS3-1: Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.
- b. B-SU11-1: Green infrastructure should be implemented in new development, is not applicable for this development.
- c. C-PS10-2: Flexible parking and shared parking arrangements should be utilized.
- d. A-DS1-1: Mass transit infrastructure such as seating and shelters should be provided/enhanced along transit routes. (A-EQ7).
- e. D-CO2-1: Safe facilities for all users and modes of transportation should be provided.

Ms. Gallt said that in regards to condition #7, the access to their parking area, they must use the access from the adjacent property; therefore, the applicant must create an access easement that will direct them to the parking lot in the rear. With the access being located on the adjacent property, it needs to be noted that Blackburn Development, LLC will be responsible for the maintenance of this easement. She said that condition #8, the conditional zoning restrictions need to be noted on the development plan. She pointed to the landscaping on the property, as well as on the adjacent property along Blackburn Avenue and Fourth Street and said that in regards to condition #9, the applicant needs to document that the perimeter screening meets the Zoning Ordinance. She added that the staff would like to have this completed prior to certification of the Final Development Plan.

Commission Questions – Ms. Plumlee asked where the waste services will be located on the proposed development. Ms. Gallt said that at this current time, they are going to share trash services with the adjacent property. The dumpster is located at the rear of the property.

Mr. Penn asked if these two properties are owned by the same entity. Mr. Baillie said that they have overlapping membership and ownership but it is not the exact same ownership group, which is why they are not consolidating the lots together. Mr. Penn is concerned that the access is placed on the adjacent property and it gets sold. Mr. Baillie added that there will be a Final Development Plan and a Record Plat for this and they will need to consolidate the three properties that are being rezoned today. They will also need to create the access easement and maintenance agreements.

Variance Presentation – Mr. Baillie presented the variance associated with this zone change. He said that the applicant is requesting two dimensional variances regarding the front and side yard setbacks, and a parking variance to reduce the required parking. They are seeking to reduce the required front yard setback from 20 feet to 14 feet and the side yard setback from 10 feet to 0 feet. He said that they are also seeking to reduce their off-street parking by 5 spaces.

Mr. Baillie said originally the applicant was seeking to match their front yard setback with 345 Blackburn Avenue, but the staff perceived that as not transitioning into the neighborhood and recommended to the applicant to review the context of the neighborhood and match that setback. He said that the side yard setback is a minimum of 10 feet or 4:1 height-to-yard ratio. He said that the applicant is proposing more buffering in the 18-foot area along the south of the property, so that they could shift the location of the building over to create a more cohesive development between the subject property and the 345 Blackburn Avenue.

Mr. Baillie said that the last variance is for a reduction to the required parking of 5 spaces. The applicant is only providing the spaces in the rear of the proposed development, but they have worked out a reciprocal parking agreement with 345 Blackburn Avenue, which has an excess of required parking by 11 spaces. This will bring the applicant's number of parking spaces to 41. They are able to ask for relief by 50%, but they are only asking for 5 spaces. He said that the applicant is also depicting that they are enhancing the right-of-way along Blackburn Avenue by increasing the width of the sidewalk and adding pedestrian amenities and incorporating on-street parking spaces.

Mr. Baillie said that the staff is recommending approval of these variances, for the following reasons:

1. Granting the requested variances should not adversely affect the public health, safety, or welfare; nor should it affect the character of the general vicinity as the applicant is adding buffering to the adjacent single family land use, matching the character of the established neighborhood, and is providing adequate parking for their users and potential visitors.
2. The need for the variances arises from the special circumstances of the proposed development, and the established character of the neighborhood.
3. The strict application of the minimum side yard setback requirements would create an unnecessary hardship on the proposed development with the proposed buffering that has been added to the southwest portion of the property. Additionally, the strict application of the front yard set-back would necessitate the building be setback further than the surrounding residential development. Finally, the inclusion of the five (5) parking spaces would result in the decrease in useable open space and building footprint.
4. The requests are not a result of a willful violation of the Zoning Ordinance. The applicant has taken care to go through the necessary process for this project and has requested the variances prior to commencing construction.

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

- a. Provided the Planning Commission approves 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 Final Development Plan, or as amended to address design requirements of the Divisions of Engineering, Traffic Engineering, or Building Inspection.

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

- c. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
- d. Action of the Planning Commission shall be noted on the Development Plan for the subject property.

Commission Question – Ms. Plumlee asked how many on-street parking spaces there are. Mr. Baillie said there are 4 parking spaces on the street. He added that this development is proposing 36 one-bedroom apartment, which the parking requirement is 1.5 spaces per unit. The applicant has indicated that is more spaces than they need for this site. However, if you include those four on-street parking spaces, they are missing one parking space, but they asked for a reduction of five.

Mr. de Movellan confirmed that the front yard setback was originally 10 feet and has been changed to 14 feet, to meet the adjacent property. Mr. Baillie said that the property located at 321 Blackburn Avenue currently has a 14-foot setback.

Applicant Presentation – Mr. Chris Clendenen, attorney; Kevin Warner, Carmen Engineering; and Carson Baughman, Cowgill Properties, were present. Mr. Clendenen presented an architectural rendering and said that they are proposing to consolidate the three properties. He said that they are proposing a 2nd Tier Urban Place-Type and a Medium Density Development Type. He said that this is a complimentary project to the adjacent property, 345 Blackburn Avenue. He said that they don't have the same ownership, but there is a desire for the two projects to work together, complimenting each other, and sharing parking and amenities.

Mr. Clendenen said that the zone change is for 325, 329, and 331 Blackburn Avenue. He said that 325 Blackburn Avenue currently has a vacant single-family home located on it. He added that 329 and 331 Blackburn are vacant lots. He said that they are seeking two dimensional variance requests and a parking variance. He displayed some photos of the proposed site and nearby structures and said that 345 Blackburn was developed to cater to young professionals. He said that the parking area will be extended toward the proposed development.

Mr. Clendenen said that Mr. Baillie had mentioned a transit stop located in front of 345 Blackburn, but there isn't a shelter or bench. He said that LexTran has indicated to him that there has been increased ridership at this location and they are projecting more with this development. He said that the applicant has agreed to construct a transit shelter and bench at this location, which meets the Goals and Objectives of the Comprehensive Plan and the Placebuilder criteria.

Mr. Clendenen said that this development is proposing 36 one-bedroom units, but since a recent neighborhood meeting, the development plan has been revised to reduce the footprint of the building, by changing some of the units to studio apartments. This reduces the length of the structure by 12 feet. He displayed the development plan and said that they are proposing to construct their structure closer to the 345 Blackburn Avenue building and further away from the property located at 321 Blackburn Avenue, which is the reason for the side yard setback. He then displayed the tree inventory map and said they will remove some of the existing trees, but they will be replaced with trees along the perimeter. He displayed a massing study, which depicts that the proposed structure is smaller in height than the adjoining property. He added that this proposed zone is in agreement with the Fourth Street Zoning Study. He then displayed a list of the changes they have made since their initial application and said that they appreciate the staff working with them. He also displayed some letters of support from the neighbors and the Powerhouse Church of God. He added that there will be bike racks and maps to get to nearby attractions.

Citizens in Favor – Blake Hall, 36 Richmond Avenue, said that he believes this project is textbook infill and redevelopment, especially when there is a housing shortage. He said that this is near great City attractions and is the exact place for increased density. He said that it is converting one dwelling unit to 36 dwelling units and asked for the Planning Commission's support the change.

Citizens in Opposition – Mark Klar, 321 Blackburn Avenue, said that he received the supplemental staff report late and presented that the mass and scale of this development is too large for this site, which provides housing and parking challenges for the neighborhood. He said that this proposed development is ten times the size of the adjacent house. He said this development will be 2/3 of the side of the street and removes the existing historic fabric of the neighborhood. He doesn't believe that the R-5 zone meets the Fourth Street Zoning Study, since the meaning of "Medium Density" has changed. He said that the Fourth Street development was not approved by the Urban County Council. He said that density of the proposed development (55 units/acre) is higher than the structure located 345 Blackburn Avenue (42 units/acre). He believes that these will used as dormitories for the nearby university. He would prefer to see a mixed housing development, which is incremental at this site. He also voiced an objection for the amount of time given to the applicant and the amount of time given to the citizens. Chairman Forester confirmed that it is on the record.

Amy Clark, 628 Kastle Road, said that she would like for the applicant to meet with the tenants of the adjoining apartment regarding the parking. She said in regards to Mr. Klar's comment about the parking, she said that in a transcript of the discussion about parking for the 2016 Planning Commission hearing for 345 Blackburn Avenue, the applicant stated they would need every parking space available. She said that they are currently at capacity. She doesn't believe that this proposed development should qualify for the transit reduction because of its distance from the transit stop. She said that the bike reduction requires 50 furnished spaces and they are proposing only 25 furnished spaces.

Faith Harders, 539 W. Third Street, displayed photos depicting the closeness of the existing houses. She said that Blackburn Avenue is a narrow street and with on-street parking it becomes a one-way street. She doesn't believe that a solid brick wall fits the category of transitioning.

Brooks Scudder, 445 W. Second Street, President of Northside Neighborhood Association, is concerned about the demolition of the existing house located at 325 Blackburn Avenue.

Marlee Bauman, 550 W. Third Street, expressed concern about parking and believes there should be separate residential street parking for those residents that don't have parking on their property. She believes that this development will be targeting students. She also said that the 345 Blackburn apartment building is at their parking capacity.

Evelyn Knight, 516 W. Third Street, believes that this is a special neighborhood and prefers housing that will appeal to people of the creative class. She believes that the applicant is removing more than 8% of the existing trees, which should be maintained. She also doesn't believe that a brick wall building can be integrated with the existing neighborhood and will not enhance their neighborhood.

Mr. Klar asked that the transcripts of the Planning Commission hearing from December 15, 2016, be entered into the record.

Applicant Rebuttal – Mr. Clendenen thanked the neighbors for contributing in today's hearing and voicing their concerns. He said that they are proposing 2nd Tier Urban / Medium Residential under the Placebuilder criteria, and the R-5 zone is a recommended zone. He believes that they are adhering to the parameters provided in the Comprehensive Plan. He said in regards to the bicycle racks not being utilized, it is the summer and some students may not be there at this time. He said that this is an infill and redevelopment development project and it doesn't matter if the house is gutted or not, it is vacant. He said they are proposing a mixture of housing types in a denser manner, and transitioning from an industrial area and a four-story building to a three-story building. He said they are also maintaining the buffer, as the staff has requested, by using the setbacks to locate the building as far away from Mr. Klar as possible.

In regards to the parking concern, Mr. Baughman said that parking stickers were issued to all of the residents of 345 Blackburn Avenue, which they have discontinued because of the excess of empty parking spaces. He added that there are 13 spaces along the street that are not calculated into their required parking spaces. He said that they have never had any parking concerns and actually allow church members to park in the lot on weekends.

Mr. Clendenen said that he objects to Mr. Klar's introduction of evidence into the record, because the Planning Commission hasn't received it (transcript records of the 2016 meeting). He said that it was only speculation that this area would remain a buffer.

Citizen Rebuttal – Mr. Klar said that there were four comments that the former attorney in the 2016 Planning Commission hearing that reiterated that this space would remain a buffer. He said that he submitted it earlier in the day. He said that if this development is built, he questioned if there would be enough parking. He added that the tree boundary that the applicant is mentioning is on his property.

Mr. Scudder said that the vacant property doesn't have any bearing on this case, since the developer owns it. He would like more consideration of the old house since it was built over 100 years ago.

Ms. Knight said in regards to the community meetings, she was not informed of any of them and would like to obtain the transcripts from the meetings.

Ms. Clark mentioned a policy of the Comprehensive Plan to not heed unjustified claims for historic significance. She said that this is a National Register District and has the criteria stated in the Comprehensive Plan and there shouldn't be any incentive offered for the destruction of historic property, even when it isn't under an Historic Overlay (H-1) zone. She believes that the side yard setback should be 20 feet, not 18 feet.

Ms. Harders said she was on the Fourth Street Zoning Study committee and said that the overall goal was to preserve the neighborhood.

Staff Rebuttal – Mr. Baillie clarified the calculation of the parking for the proposed development and stated for the record that the proposed calculations associated with both the variance and the development plan are correct. He said that the applicant is taking advantage of the Zoning Ordinance that don't need review and asking for only the reduction of those five parking spaces.

Commission Comments – Mr. Pohl said that applicant is trying to match the context of the neighborhood, but he believes this development is more designed to match the building located at 345 Blackburn Avenue and not the existing residential neighborhood and said that it is not following the Fourth Street Zoning Study or the Comprehensive Plan.

Ms. Plumlee said that one of the Comprehensive Plan Goals and Objectives is to keep neighborhoods livable and she believes that is not being met.

Mr. Bell asked Mr. Pohl to clarify if one apartment has already been approved and constructed, how would another not comply adjacent to it. Mr. Pohl said that the first apartment building complex had two vacant lots between it and the residential neighborhood. This proposed development is directly next to it. He believes that the applicant could mediate the difference to form more of blend with the existing historic neighborhood.

Zoning Action – A motion was made by Mr. Nicol, seconded by Mr. de Movellan, and carried 7-3 (Plumlee, Pohl, and Meyer opposed) to approve PLN-MAR-20-00009: BLACKBURN DEVELOPMENT LLC, for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Nicol, seconded by Mr. de Movellan, and carried 6-4 (Penn, Plumlee, Pohl, and Meyer opposed) to approve PLN-MJDP-20-00019: YELLMAN'S SUBDIVISION (POWERHOUSE CHURCH OF GOD)(BLACKBURN DEVELOPMENT), with the conditions presented by the staff.

Variance Request Action – A motion was made by Mr. Nicol, seconded by Mr. de Movellan, and carried 6-4 (Penn, Plumlee, Pohl, and Meyer opposed) to approve associated variance requests, for the reasons provided by the staff, with a note that the recommendation on the supplemental staff report should state "High Rise Apartment (R-5)" zone and not "R-4" zone.

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

Legal Description
for
Cowgill Partners, LP

325, 329, & 333 Blackburn Avenue
D.B. 3448, P. 327, D.B. 3703, P. 479, D.B. 3737, P. 147-155

Lexington, Fayette County, Kentucky

Zone Change from R-2 to R-5

Being a tract or parcel of land situated on the northwest side of Blackburn Avenue in Lexington, Fayette County, Kentucky between West Third Street and West Fourth Street and being more particularly described as follows:

Beginning at a point in the centerline of Blackburn Avenue, said point being approximately 242' northeast of West Third Street; thence with the line of Barbara J. Grossman (D.B. 2599, P. 446) N 45°22'06"W 230.11' to a point in the line of Onan Properties, LLC (Deed Book 3687, Page 111); thence with Onan Properties, LLC N45°20'09"E 137.85' to a point, said point being a corner to Flats At 345, LLC (Deed Book 3516, Page 682); thence with Flats At 345, LLC S45°24'27"E 228.43' to a point in the centerline of Blackburn Avenue; thence with the centerline of Blackburn Avenue S44°38'27"W 137.99' and containing 0.717 gross acres and 0.655 net acres.

The description above was prepared by Gary Roland, PLS 3363 and is intended to be used to aid in a Zone Change Request with the LFUCG. It should not be used for the transfer of property.
201 KAR 18:150, SECTION 13.



4-6-2020