

SECOND SUPPLEMENTAL STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-22-00016 REALTY UNLIMITED BLUE GRASS, LLC



STAFF REVIEW

In the period following the October Planning Committee meetings, the applicant submitted a request for variances in order to reduce required side yard setbacks, required property perimeter landscaping, and increasing the amount of paving within the front yard area. Additionally, the applicant submitted a request for a waiver of the subdivision regulations pertaining to the proposed width of the cul-de-sac. To date, the applicant has not addressed the requests for further justification included within the previous staff report, nor did they provide any form of justification for the proposed variances.

Staff's consistent concern with this application has been the impact on the walkability and streetscape of Higbee Mill Road. The applicant's intent to maximize the number of homes on the parcel, while also maximizing parking in front of the homes results in a front yard area that are nearly 70% paved, with seven separate curb cuts. While the variance process provides relief from statutory requirements, the applicant must still demonstrate that their design is in agreement with the Comprehensive Plan. The proposal prioritizes parking over the built environment, does not create a pedestrian friendly environment, and is a significant shift in character from other development in the immediate vicinity (A-DS5-3).

Within the original staff report in 2022, the supplemental staff report in 2024, and this secondary supplemental report, Planning Staff have emphasized the importance of conducting neighborhood outreach to discuss the proposal. Based on conversations with the applicant, it appears that the last contact to discuss the project came prior to the application submission in 2022, as part of the applicant's attempt to procure additional right-of-way from the remnant portion of Higbee Mill Road (D-PL7-1).

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



1. The proposed zone change to the R-1T zone is not in agreement with the 2018 Comprehensive Plan or the 2045 Comprehensive Plan, for the following reasons:
 - a. The proposed development oriented towards the parking areas rather than the townhomes, and does not create a pedestrian friendly environment (A-DS5-3; D-C01-1).
 - b. The applicant has not demonstrated that they have made any attempt to engage the surrounding neighborhood regarding the updates to their proposal (D-PL7-1).
 - c. The request does not meet the requirements of the zoning ordinance, and the applicant has not provided any information or justification to support the variances that they are seeking.
2. The site's existing R-1C zone remains appropriate.
3. There has not been a significant physical, social, or economic change in the immediate area or to the subject property.

SUPPLEMENTAL STAFF REPORT ON VARIANCE REQUEST



The applicant is seeking dimensional variances to reduce their required side yards, property perimeter landscaping areas, and increasing the amount of impervious paving permitted within the required front yard area.

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 15-3 states that where a property adjoins the side or rear yard of a lot in another zone, the side or rear yard in the zone with the less restrictive yard requirements shall equal the adjoining side or rear yard (as appropriate) of the zone with the more restrictive yard requirements

Article 8-7(i) states that the required side yard for the adjoining R-1C zone is eight (8) feet.

Article 8-8(j) states that the required rear yard for the adjoining R-1D zone is eight (10) feet.

Article 8-10(i) states that the required side yard for the R-1T zone is six (6) feet.

Article 18-3(a)1 states that any R-1T zone that is developed with more than two units must be provide a property perimeter buffer from adjoining residential zones. This buffer shall be eight feet adjacent to all common boundaries, and include one tree/40 feet of linear boundary, OFT2, from Group A, B, or C of Plant List plus a continuous six feet high planting, hedge, fence, wall, or earth mound.

Article 16-5(a)9 states the maximum amount of paved area, including private walkways, shall not exceed sixty percent (60%) of the total required front or side street side yard in residential zones.

CASE REVIEW

The preliminary development plan submitted by the applicant details seven townhome units located at the termination of Higbee Mill Road. In order to accommodate the seven (7) townhome units and 14 front yard parking spaces, the applicant is seeking a variance to reduce the required side yard where the property adjoins Single Family Residential (R-1C) zoning from eight (8) feet to five (5) feet; a variance to reduce the required side yard where the property adjoins Single Family Residential (R-1D) zoning from ten (10) feet to three (3) feet; a variance to reduce the perimeter property landscape buffer from fifteen (15) feet to three (3) feet where the property adjoins single-family residential zoning; and a variance to increase the maximum amount of paving permitted in the required front yard area from 60% to 68%.

Staff cannot support the request. The applicant has not demonstrated that they meet any of the criteria necessary in order to be granted a variance. The applicant has not detailed any special circumstances that justify the need for the variance. The applicant has not provided any information that installing the required buffers and reducing the front yard paving would deprive them of use of their property.

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



1. The applicant has not provided a sufficient justification to meet the requirements of Article 7 of the Zoning Ordinance or KRS 100.243. There do not appear to be special circumstances that are unique to the subject property that do not generally apply to land in the general vicinity or in the same zone that justify the need for the variance.
2. The applicant has not provided sufficient information to determine that strict enforcement of the Zoning Ordinance will result in an unnecessary hardship or deprive the applicant of the reasonable use of their land. There is sufficient space on the property to install the required landscaping with a reduction in the structure sizes, or a decrease in the number of units provided.