

MARV 2012-18

Date Received 11/5/12

Pre-Application Date 10/3/12

Filing Fee \$360.00

### GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

#### 1. ADDRESS INFORMATION (Name, Address, City/State/Zip & PHONE NO.)

APPLICANT:	Givens Investments, Ltd., 1365 Cooper Drive, Lexington, KY 40502
OWNER:	Givens Investments, Ltd., 1365 Cooper Drive, Lexington, KY 40502
ATTORNEY:	Christine N. Westover, Esq. 201 E. Main Street, Suite 1000, Lexington, KY 40507

#### 2. ADDRESS OF APPLICANT'S PROPERTY (Please attach Legal Description)

1577 Martha Court
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#### 3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY (Use attachment, if needed--same format.)

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
R-2	Vacant	R-4	Multi Family Housing	.0144	.173
R-4	Vacant		Multi Family Housing		

#### 4. SURROUNDING PROPERTY, ZONING & USE

Property	Use	Zoning
North	Duplexes	R-2
East	Single Family Residential/Apartments	R-1C/R-4
South	Multi Family	R-4
West	Public Elementary School/Duplex	R-2

#### 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 checked="" type="checkbox"/> NO _____ Units

#### 6. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided.)

Roads	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Storm Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input type="checkbox"/> Existing	<input checked="" type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Curbs/Gutter/Sidewalks	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Refuse Collection	<input checked="" type="checkbox"/> LFUCG	<input type="checkbox"/> Other		
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

#### 7. DESCRIBE YOUR JUSTIFICATION FOR REQUESTED CHANGE (Please provide attachment.)

This is in... <input type="checkbox"/> in agreement with the Comp. Plan <input checked="" type="checkbox"/> more appropriate than the existing zoning <input type="checkbox"/> due to unanticipated changes.
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#### 8. APPLICANT/OWNER SIGNS THIS CERTIFICATION

I do hereby certify that to the best of my knowledge and belief, all application materials are herewith submitted, and the information they contain is true and accurate. I further certify that I am  OWNER or  HOLDER of an agreement to purchase this property since \_\_\_\_\_.

APPLICANT     *As Givens Sr*     DATE     11/5/12    

OWNER     *As Givens Sr*     DATE \_\_\_\_\_

LFUCG EMPLOYEE/OFFICER, if applicable \_\_\_\_\_ DATE \_\_\_\_\_



# ( M C B R A Y E R )

McBrayer, McGinnis, Leslie & Kirkland, PLLC

ATTORNEYS AT LAW

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November 5, 2012

Mr. Mike Owens, Chairman  
LFUCG Planning Commission  
101 E. Vine Street, Suite 700  
Lexington, Kentucky 40507

RE: Givens Investments, Ltd.  
1577 Martha Court  
Rezoning from R-2 to R-4

Dear Chairman Owens,

I have the honor to represent Ambrose "Buster" Givens, whose company owns the lot at 1577 Martha Court, and his grandson, Bruce Nichol, who seek to rezone a portion of the above referenced property from its existing R-2 category to the R-4 zone. They want to construct a multi-family dwelling the site that will be owned, managed and operated in conjunction with their existing apartment units on Martha Court, Northridge Apartments. Northridge Apartments provides affordable, attractive, safe, clean and sustainable dwelling units and helps fill the large unmet need in Lexington for such housing. The new multifamily unit that will be constructed on the lot when it is rezoned will serve the same purpose.

The justification for the rezoning is that the existing R-2 zoning is inappropriate and the proposed R-4 zoning is appropriate.

Northridge Apartments, a 75-unit R-4 apartment complex which extends from 1577 Martha Court all the way to Eastland Parkway was also developed by the Givens family and continues to be actively managed by them. Like the apartment building being proposed for the R-2 lot, Northridge Apartments offers safe, exceptionally well operated and maintained affordable housing to area residents. As part of rezoning the subject property, the entire complex will be consolidated into a combined development plan.

The subject property is a split-zoned, vacant lot that lies at the end of Martha Court, and is the only R-2 zoned property that fronts on the street. In addition to Northridge Apartments,



another solid row of R-4 apartments on the opposite side of the street extends up to the intersection with Eastland parkway. On the west side of the R-2 lot lies the rear portion of the Yates Elementary School property, which slopes down to a large storm water drainage basin on the school lot. Also on the west side and to the rear of the property are duplexes that front on Hisle Way. Northridge Apartments back up to the rear yards of single family lots on Cantrell Court. A driveway connects Martha Court with the school property, which is barricaded when school is not in session.

At one time the subject property, the school lot and several of the properties on Hisle Way were all under the same ownership. The entire site was originally recommended for future greenway uses, a recommendation that carries forward in the 2007 Comprehensive Plan. However, over the years, the Hisle Way and Martha Court lots were subdivided from the larger school property. The Hisle Way lots were developed as duplexes, but the subject property has remained undeveloped.

The existing R-2 zoning is inappropriate. About two thirds of the lot is zoned R-2 and the remainder closest to Northridge apartments is zoned R-4. This property is the only undeveloped lot on Martha Court and lies at the end of a street that has been uniformly developed as R-4 zoned apartment buildings. The lot is not suitable for R-2 development, as it lies wedged between the R-4 zoned apartments on one side and across from it, and the rear portion of the school lot next to a large storm water drainage basin. It is highly unlikely that the portion of the R-2 zoned school lot will ever be sold for development of any type because of the location of the stormwater improvements. Developing the subject property for R-2 uses is out of character with the other uses adjoining it and fails to make appropriate use of the site in light of its location, potential, and the fact that it is already partially zoned for R-4 uses.

The proposed R-4 zoning is appropriate because it will allow the lot to be incorporated with the existing R-4 zoned Northridge Apartments which immediately adjoin it, and will be subject to a unified development plan. Moreover, there is an overwhelming need for more safe, clean, sustainable and affordable housing in Lexington. According to the 2009 LFUCG Housing Market Study, Lexington's share of affordable housing is declining despite the fact that there are an increasing number of people who need such housing. The Housing Market Study's findings and conclusions reinforce the 2007 Comprehensive Plan's recommendation for more affordable housing in Lexington. As noted on pp. 179-184 of the Comprehensive Plan, the lack of adequate affordable housing affects transportation, schools, employment and other aspects of the community. Rezoning the property to R-4 will allow more affordable housing units to be built, thus helping to address this significant unmet need in Lexington. The R-4 zoning is appropriate at this location because it is close to mass transit, adjoins a public elementary school and is close to major commercial corridors on New Circle road and Winchester Road. This will help reduce residents' need to rely on automobiles to go to work, grocery stores, schools and all other necessities of day to day living. This will help reduce residents' expenses, including transportation costs, and help them have more dependable access to work, shopping areas and schools.

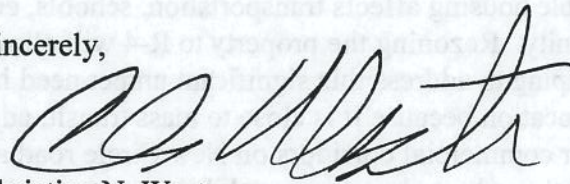


The proposed R-4 zoning is more appropriate than the 2007 Comprehensive Plan land use designation for future greenway uses for the subject property. At one time the lot was part of the larger parcel owned by the Fayette County Board of Education. Since that time, the parent tract was subdivided developed as duplexes on Hisle Court. It is not reasonable or appropriate to maintain the greenway designation for the subject property. The Comprehensive Plan is in error to the extent the land use designation fails to take into consideration that the lot is no longer part of the school tract or that nearby properties on Hisle Way that were also designated for greenway uses have already developed for residential purposes.

In addition to rezoning the property from R-2 to R-4 we also request a variance to reduce the minimum exterior yard required for group residential projects from twenty (20') feet to five (5') feet along the west side of the property. The variance will allow the building to be placed on the site at the best location to avoid an existing overhead electric line that bisects the property. Granting the variance will not be an unreasonable circumvention of the Zoning Ordinance because there are no residential lots on the side of the property for which the variance is being requested. This area is at the rear of the larger school property that is unlikely to ever be developed due to its topography and the presence of a significant storm water drainage feature just to the west of the property line. The unique location of this lot in relation to the surrounding uses, the sloping topography, and the presence of the overhead utility line are all unique circumstances that do not apply to the area or to the zone generally. The property owner did not create the need for the variance. The location of the electric line was determined by the utility company, not the owner. It would be an unreasonable hardship to develop this property for R-4 uses as proposed herein unless the variance is granted because it would prevent construction of sufficient dwelling units to make the project reasonably viable.

In conclusion for all the reasons stated above we respectfully request that the rezoning and variance requests be approved as submitted. We will attend the Planning Commission's Committee meetings on December 6<sup>th</sup> to answer questions and present additional information, and also at the full Commission hearing on December 13, 2012. Please contact me if you have questions or require more information. We look forward to working with the Commission and Planning staff to bring this very worthy and needed project to fruition. Thank you for your assistance in this matter.

Sincerely,



Christine N. Westover



