

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

IN RE: **PLN-MAR-21-00014: BROADWAY TWELFTH LLC** - a petition for a zone map amendment from a Single Family Residential (R-1C) zone to a High Density Apartment (R-4) zone, for 0.517 net (0.742 gross) acres, for properties located at 1114 N. Broadway and 1118 N. Broadway. (Council District 1)

Having considered the above matter on **November 11, 2021**, at a Public Hearing, and having voted **8-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL** of this matter for the following reasons:

1. The requested High Density Apartment (R-4) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
  - a. The proposed rezoning will accommodate the demand for housing in Lexington responsibly, prioritizing a mixture of housing types (Theme A, Goal #1), while also supporting infill and redevelopment (Theme A, Goal #2) by constructing on two parcels of land that have no evidence of historic construction (Theme A, Goal #2.a).
  - b. The proposed project will add to a well-designed neighborhood and community (Theme A, Goal #3), enabling existing and new neighborhoods to flourish by expanding options for mixed type housing (Theme A, Goal #3.a), providing positive and safe social interactions for pedestrians and all modes of transportation (Theme A, Goal #3.b), and minimizing the disruption of natural features on site (Theme A, Goal #3.c).
  - c. The proposed rezoning will allow for the maintenance of the urban service area concept (Theme E, Goal #1), by addressing the goal of absorbing vacant and underutilized land within the Urban Service Area (Theme E, Goal #1.a).
2. 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 safer development that supports pedestrian mobility, while also including well designed, higher density residential development along the Corridor.
  - b. The proposed rezoning is situated within an area that allows for safe and positive interactions for all forms of Mobility. The area meets the goals of 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 will maintains the natural features of the site and tree canopy, while adding tree canopy coverage along the eastern property boundary.
3. This recommendation is made subject to approval and certification of **PLN-MJDP-21-00047: Twelfth Street Addition**, 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 20<sup>th</sup> day of December, 2021.

  
Secretary, Jim Duncan

LARRY FORESTER  
CHAIR

Note: The corollary development plan, PLN- MJDP-21-00047: TWELFTH STREET ADDITION was approved by the Planning Commission on November 11, 2021 and certified on November 24, 2021.

Note: A dimensional variance was approved by the Planning Commission on November 11, 2021.

K.R.S. 100.211(7) requires that the Council take action on this request by February 9, 2022.

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

**OBJECTORS**

- None

**OBJECTIONS**

- None.

**VOTES WERE AS FOLLOWS:**

AYES: (8) Barksdale, Davis, de Movellan, Forester, Meyer, Nicol, Pohl, and Worth

NAYS: (0)

ABSENT: (3) Bell, Michler, and Penn

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL** of **PLN-MAR-21-00014** carried.

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

## MAP AMENDMENT REQUEST (MAR) APPLICATION

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

<b>Applicant:</b> BROADWAY TWELFTH LLC, 1507 EHUPUA PL, HONOLULU, HI 96821
<b>Owner(s):</b> BROADWAY TWELFTH LLC, 1507 EHUPUA PL, HONOLULU, HI 96821
<b>Attorney:</b> BRUCE SIMPSON, 300 WEST VINE STREET, LEXINGTON, KY 40507

### 2. ADDRESS OF APPLICANT'S PROPERTY

1114 & 1118 BROADWAY, LEXINGTON, KY 40505
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### 3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
R-1C	VACANT	R-4	RESIDENTIAL	0.258	0.327
R-1C	VACANT	R-4	RESIDENTIAL	0.258	0.414

### 4. COMPREHENSIVE PLAN

a. Utilizing Placebuilder, what Place-Type is proposed for the subject site?	CORRIDOR
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 provided)

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



September 7, 2021

Mr. Larry Forester, Chairman  
Lexington-Fayette Urban Co Planning Commission  
200 E. Main Street  
Lexington, KY 40507

Dear Chairman Forester:

Broadway Twelfth, LLC has filed a zone change application for properties located at 1114 & 1118 North Broadway in Lexington. These lots are at the corner of North Broadway and Twelfth Street, and total 0.5 acres. The application requests a zone change from R-1C to R-4. A more thorough justification letter is forthcoming.

### **Goals and Objectives**

We feel this development complies with the 2018 Comprehensive Plan by expanding housing choices (Theme A, Goal #1), supporting infill and redevelopment (Theme A, Goal #2), providing well-designed neighborhoods and communities (Theme A, Goal #3), and upholding the urban service area concept (Theme E, Goal #1). More specifically, the project addresses the goal of absorbing vacant and underutilized land within the Urban Service Area (Theme E, Goal #1, Objective a.), and emphasizing redevelopment of underutilized corridors (Theme E, Goal #1, Objective c.).

### **Engagement**

We met with the adjoining neighborhood on Wednesday, June 30th. Minutes from that meeting are forthcoming.

### **Site Description**

The two properties are located on the corner of North Broadway and Twelfth Street, and total 0.5 acres. Both properties are currently zoned R-1C. The existing site is vacant, mostly flat and has some sparse vegetation. It is one of very few vacant sites in an area developed with a mixture of single-family, multi-family and commercial developments. The Whitaker Bank ballfield is within 700' and provides a focal point for the neighborhood. The existing LexTran bus route provides public transportation along North Broadway. The nearest bus stop is only 100' from the site. We propose to create a medium density housing development that we feel will work well in conjunction with the surrounding neighborhood, include green infrastructure for stormwater mitigation, an increase in tree canopy and streetscape plantings, and places a priority on pedestrian friendly connectivity and building orientation.

### **Place-Type, Development Type & Requested Zone**

After review of the seven place-types defined within the Urban Service Area boundary, it was determined Corridor; Medium Density Residential is the place-type to best accommodate the proposed three (3) building, sixteen (16) unit multi-family development.

The most appropriate place-type for this development is Corridor, as this site sits directly on North Broadway. The proposed development is designed in a manner suitable to a corridor-adjacent site, with an emphasis on pedestrian connectivity and a respect for building orientation and streetscape. Medium density residential development is recommended for development along corridors. The major aspect of this zone change request is to increase density along a corridor, a goal that fits with the 2018 Comprehensive Plan.

**Variance**

Variance for minimum side street side yard setback from 20' to 5'.

The multi-family development proposed includes three (3) buildings on three proposed lots. Although each building will have a unique façade, each of the buildings will be roughly 40' in width. This layout accommodates three lots of 50' frontage each (the minimum allowed frontage in an R-4 zone), with uniformly sized buildings. Strict application of the zoning ordinance would force a "shot-gun" style house at the corner lot. The variance will not have an adverse effect on the surrounding neighborhood as the 20' front yard setback keeps sight triangles open at the intersection of North Broadway and Twelfth Street.

**Conclusion**

We respectfully request consideration to approve the proposed zone change and variance request. We believe this proposed sixteen (16) unit multi-family development for this specific vacant property meets the criteria for the intended "infill site" development as outlined in Imagine Lexington; the 2018 Comprehensive Plan. We believe Corridor; Medium Density Residential in a R-4 zone is the highest and best use for this property.

Respectfully submitted.



**T. BRUCE SIMPSON, JR.**  
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October 26, 2021

Mr. Larry Forrester, Chairperson  
Lexington Fayette Urban County Planning Commission  
c/o Mr. Hal Baillie, Division of Planning  
101 East Vine Street  
Lexington, Kentucky 40507

Re: Supplemental Justification for Zone Map Amendment Request for properties located at 1114 & 1118 North Broadway. These lots are at the corner of North Broadway and Twelfth Street, and total 0.571 net and .0742 gross acre. The application requests a zone change from R-1C (Single Family) to R-4 (High Density Apartment).

Dear Chairperson Forrester,

I represent Broadway Twelfth, LLC in connection with a zone map amendment request for two properties located at 1114 and 1118 North Broadway, respectively. This is a supplemental justification to the previous justification filed for this rezoning request which seeks to develop 16 apartments with associated parking along one of Lexington's major corridors, North Broadway. These small parcels which consist of two lots facing North Broadway are currently vacant. This land is well suited for a small multifamily residential development. This new residential addition will be compatible with the existing neighborhood which consists of businesses and some houses along North Broadway and houses on 12<sup>th</sup> street, one of which adjoins the subject property. The subject property is bordered to the north by an auto repair shop zoned, B-1 (Neighborhood Business), to the east by property zoned R-1C (Single Family Residential), to the south by property zoned P-1 (Professional Office) and to the west, across North Broadway by property zoned P-1 (Professional Office). Also, located across North Broadway in relatively close proximity to the subject property is Northland Shopping Center zoned B-1 (Neighborhood Business) and the Legends Baseball Complex zoned B-3 (Highway Service Business).

This application is in compliance with the following, Goals, Objectives and Placebuilder criteria as set out in the 2018 Comprehensive Plan:

**GOALS AND OBJECTIVES**

**1. THEME A GROWING SUCCESSFUL NEIGHBORHOODS**

**Goal 1. Expand Housing Choices**

**Objectives:**

- b. Accommodate the demand for housing in Lexington responsibly, prioritizing higher density-density and mixture of housing types.**

**Goal 2. Support Infill and Redevelopment throughout the Urban Services Area as a strategic component of growth.**

**Objectives:**

- a. Identify areas of opportunity for infill, redevelopment, adaptive reuse and mixed-use development.**
- b. Respect the context and design features of areas surrounding development projects and develop design standards and guidelines to ensure compatibility with existing urban form.**

**Goal 3. Provide well designed neighborhoods and communities.**

**Objectives:**

- a. Enable existing and new neighborhoods to flourish through neighborhood character preservation and public commitment to expand options for mixed use type housing throughout Lexington Fayette County.**
- b. Strive for positive and safe social interactions in neighborhoods, including, but not limited to neighborhoods that are connected for pedestrians and various modes of transportation.**
- c. Minimum disruption of natural features when building new communities.**

**2. THEME E URBAN AND RURAL BALANCE**

**Goal 1: Uphold the Urban Service Concept.**

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**Objectives:**

- a. Ensure all types of development are environmentally, economically and socially sustainable to accommodate the future growth needs of all residents while safeguarding rural land.
- d. Maximize development on vacant land within the Urban Services Area and promote redevelopment of underutilized land in a manner that enhances existing urban form and/or historic features.

Goal 3: Maintain the Current Boundaries of the Urban Service Area and Rural Activity Centers and create no new rural activity centers. To ensure Lexington is responsive to its future land use needs, this goal shall be superseded and no longer in effect upon the completion of Theme E,

Goal 4: Objective

**3. THEME F IMPLEMENTING THE PLAN**

Goal 1: Engage and Educate the Residents of Lexington Fayette County in the Planning Process.

**Objectives:**

- b. Establish early and continuous communication with residents.

The proposed 16-unit apartment addition complies with the land use policies which underpin the Goals, Objectives set out in the above referenced provisions of the 2018 Comprehensive Plan. This Plan which specifically urges more intense development along Lexington's major corridors. Additionally, this development will provide alternative housing options along this mixed-use corridor. Two parcels of vacant and underutilized land will be developed which is consistent in preserving the present boundary of the Urban Services Area. This small multifamily development will also comply with the design guidelines established in the 2018 Comprehensive Plan. Throughout the development review process, care will be taken to safeguard against any adverse impact to surrounding neighborhood properties.

**ENGAGEMENT WITH NEIGHBORS**

A neighborhood meeting was held on June 30, 2021, in advance of the zone change application being filed. The following concerns were expressed:



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1. There were concerns expressed about the proposed apartments being "Section 8 housing".
2. One resident complained that the existing trees in front of the subject property made it difficult to see vehicles moving in the north bound lanes thereby making left hand turns from 12<sup>th</sup> Street to North Broadway more problematic.
3. No cars from the new apartments should be allowed to park on 12<sup>th</sup> street because existing homeowners park in these spaces which also make it difficult for two-way traffic to pass.
4. One neighbor said he did not want construction traffic interfering with his auto repair business located directly across 12<sup>th</sup> street from the subject property.
5. The owner of the property located at 1110 North Broadways and next door to subject property expressed concerns about losing trees next to his house where he also operates a video business. He also said he did not want the trees removed in front of the subject property. He expressed concerns about stormwater flooding. He says there is an "aquifer" of some kind under the subject property. He says his basement floods all the time from this aquifer and so he has sump pumps running constantly. He was concerned about the location of the dumpster and wanted to know how we were going to screen the development from the house next to subject property on 12<sup>th</sup> street.
6. The neighbor who lives at 139 12<sup>th</sup> street also said there was an underground stream or some kind of water source because her basement is constantly flooded and several years ago her sidewalk and driveway collapsed in front of her house due to this underground water.
7. Several people complained about traffic and how 12<sup>th</sup> street and other side streets off North Broadway were too heavily used. They said children lived in the area and they were concerned about their safety.
8. A couple of people expressed concern about loss of property values if apartments were built on the property.
9. One gentleman asked if the owner was going to have any "affordable housing" units as part of the project.

The subject property exists within the Royal Springs Aquifer area. This is a broad swath of land located in Fayette County that contains Royal Spring from which the city of Georgetown, Kentucky obtains much of its drinking water. In an effort to maintain the integrity and source of this water supply, all development proposed within this area must also be reviewed and approved by the Royal Springs Wellhead Protection Committee which meets in Georgetown, Kentucky. This review will take place before the final development plan is submitted to the Planning Commission for approval.

There is no evidence of any aquifer or underground cave underneath the subject property which would preclude residential development. Additionally, residential development in the area of the Royal Springs Aquifer has not proven to create any problems so long as public sanitary and storm sewers are in place to serve the development. The subject property will be served by available public sanitary and storm sewers. All trees will be preserved to the extent feasible. The applicant has sufficient onsite parking to accommodate its tenants in the apartments and the stormwater management plan will have to be approved by the Division of Engineering prior to any construction taking place. Once zoning is approved, there are of course, multiple levels of government review and approval which must be obtained before any development can take place. These decisions are all open to public review.

### 3. PLACEBUILDER DEVELOPMENT CRITERIA CORRIDOR/MEDIUM DENSITY RESIDENTIAL

This application addresses the following development criteria of Placebuilder (Corridor/Medium Density Residential):

A-DS3-1 Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1. This development will comply with these standards and be reviewed by the Planning Commission at the time of Final Development Plan review.

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 proposed 16 unit apartment addition will be compatible in size, scale and use which currently exists within the general vicinity of the nearby neighborhood homes and businesses. This will be reflected in the supporting documents and renderings at the time of Final Development review. However, conceptual renderings have already been tendered to the staff.

A-DS5-3 Building orientation should maximize connections with the surrounding area and create a pedestrian-friendly atmosphere. The subject property is located on a corner parcel (North Broadway and 12<sup>th</sup> Street) in which there are sidewalks to accommodate pedestrian movement.

A-DS5-4 Development should provide a pedestrian-oriented and activated ground level. See above. The two apartment buildings will have ground level access to and from the sidewalks and to the proposed parking lot.

A-DS7-1 Parking should be oriented to the interior or rear of the property for nonresidential or multi-family developments. The proposed parking will be located to the rear of the proposed development and comply with the appropriate screening

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requirements.

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. See above.

A-DS7-4 Parking structures should activate the ground level. There are no proposed parking structures.

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. There are single family houses to the east of the subject property. However, the site is located on a major corridor and is situated among a variety of businesses, single family homes and apartments along the corridor.

A-DS10-1 Residential units should be within reasonable walking distance to a focal point. The subject property is located across North Broadway from a shopping center and Legends' Field, a baseball and entertainment complex. Additionally, Castlewood Park is located within ½ mile of the subject property.

A-D511-1 Common public uses that serve as neighborhood focal points, such as parks and schools, should be on single loaded streets. No new streets are proposed for this project.

A-DN2-1 Infill residential should aim to increase density. The proposed development does increase density significantly because the subject property is vacant.

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 two proposed apartment structures will be compatible with the scale and massing of other structures along the corridor. The design of these structures will be complimentary and context sensitive to the neighborhood. The subject property is not close to any historic areas or historic neighborhoods.

A-DN3-2 Development should incorporate residential units in commercial centers with context sensitive design. This criterion does not apply as there are no commercial centers on the subject property.

A-DN6-1 Allow and encourage new compact single-family housing types. There is a single-family neighborhood east of the subject property but the subject property is better suited to multifamily development due its size and location along a major corridor.

A-EQ3-1 Development should create context sensitive transitions between intense corridor development and existing neighborhoods. The proposed apartments provide an appropriate transition because they are also residential units next to single family units. Moreover, the Comprehensive Plan emphasizes an increase in housing density along the corridors.

B-PR9-1 Minimize disturbances to environmentally sensitive areas by utilizing the existing topography to the greatest extent possible. The subject property is relatively flat so there will be minimal, if any cut and fill on the property. The subject property is located within the Royal Springs Aquifer area. However, sanitary and storm sewers are available which will protect this aquifer. This proposed development must also be approved by the Royal Springs Wellhead Protection Committee before any final development plan is approved.

A-Q7-1 School sites should be appropriately sized. No new schools are proposed for the subject property.

B-SU11-1 Green infrastructure should be implemented in new development. (E-GR3) Green infrastructure will be used if feasible and cost effective.

C-LI6-1 Developments should incorporate multi-family housing and walkable commercial uses into development along arterials/corridors. This is a multifamily proposed development along a major corridor with walkable commercial and park uses nearby.

C-LI7-1 Developments should create mixed-use neighborhoods with safe access to community facilities, greenspace, employment, businesses, shopping, and entertainment. The proposed multifamily housing will add to the residential uses already in existence with safe access to employment, businesses, shopping, entertainment and greenspace, all located within ½ mile of the site.

C-PS1 0-2 Developments should explore options for shared and flexible parking arrangements for currently underutilized parking lots. This is a small parcel which will be able to accommodate only the parking necessary for tenants and guests.

C-PS10-3 Over-parking of new developments should be avoided. (B-SU5) (See above.)

D-PL7-1 Stakeholders should be consulted to discuss site opportunities and constraints prior to submitting an application. (Please see above.)

D-PL9-1 Historically significant structures should be preserved. There are no historical

structures on the subject property.

D-PL10-1 Activate the streetscape by designating public art easements in prominent locations. This a small ½ acre property. There is little to no room for any designated public art easement and none is planned.

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. Appropriate easements will be allowed for this infrastructure and wireless communications.

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. No cell towers will be located on the subject property.

D-7SP9-1 Encourage co-housing, shared housing environments, planned communities and accessory dwelling units for flexibility and affordability for senior adults and people with disabilities. The subject property will provide for an additional mixture of housing stock which is typically more affordable than single family homes. The property is much too small for accessory dwelling units.

E-GR4-1 Developments should incorporate reuse of viable existing structures. There are no structures on the subject property.

E-GR5-1 Structures with demonstrated historic significance should be preserved or adapted. There are no historic structures on the property.

E-GR9-1 Live/work units should be incorporated into residential developments. This small parcel is not large enough to accommodate anything more than the proposed apartment units. However, these units will be located in close proximity to existing businesses.

E-GR9-4 Development should intensify underutilized properties and develop vacant and underutilized gaps within neighborhoods. (E-GR6). This application is in perfect harmony with this criterion since the land is vacant and along a major corridor.

A-DS1-1 Mass transit infrastructure such as seating and shelters should be provided/enhanced along transit routes. (A-E07). The subject property is adjacent to a major Lextran route. However, no new bus shelters will be provided due to the small size of the project.

A-DS1-2 Direct pedestrian linkages to transit should be provided. Existing sidewalks are currently in place to provide this linkage.

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). The subject property is much too small to warrant such a plan. There are series of sidewalks which connect to the nearby Castlewood Park. Bus transportation is adjacent to the subject property.

A-DS5-1 Adequate multi-modal infrastructure should be provided to ensure vehicular separation from other modes of transport. No new infrastructure of this kind is being provided due to the small size of the project and available mass transit opportunities are already in existence.

A-DS5-2 Roadways should provide a vertical edge, such as trees and buildings. No new roadways are being provided. Existing trees will be maintained.

A-DS10-2 New focal points should be designed with multi-modal connections to the neighborhood. No new focal points will be created with this small project.

A-DS13-1 Stub streets should be connected. (D-004) There are no stub street connected to or on the subject property.

A-EQ3-2 Developments along corridors should be transit oriented (dense and intense, internally walkable, connected to adjacent neighborhoods, providing transit infrastructure & facilities). (B-SU3) The proposed project complies with this criterion as it is a more intense development along a major corridor and accompanying transit line for Lextran.

B-SU4-1 Where greenspace/community centers are not located within walking distance of a new development, applicants should attempt to provide these amenities. (A-DS9) Castlewood Park is located within ½ mile of the subject property as are a number of churches which serve, in part, as community type centers.

D-CO1-1 Rights-of-way and multimodal facilities should be designed to reflect and promote the desired place-type. The place type for this application will be served by the existing multimodal facilities.

D-CO2-1 Safe facilities for all users and modes of transportation should be provided. No

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new facilities of this type are planned for this small project. Existing facilities that serve Lextran will be used and the apartments will be in relatively close proximity to this bus line.

D-CO2-2 Development should create and/or expand a safe, connected multimodal transportation network that satisfies all users' needs, including those with disabilities. No new multimodal enhancements are planned for this small project. Existing multimodal options will be used along the corridor serving Lextran.

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. No new improvements of this nature are proposed for this small project.

D-CO5-1 Streets should be designed with shorter block lengths, narrower widths, and traffic calming features. No new streets are planned.

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. No new infrastructure of this nature is planned due to the small size of this project.

D-SP6-1 Social services and community facilities should be accessible via mass transit, bicycle and pedestrian transportation modes. (A-EQ7) The future residents of the subject property can, via mass transit, bicycle and walking connect to social services and community facilities located within ½ mile of the property. There are a number of social service type agencies across North Broadway from the subject property.

E-ST3-1 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). The subject property is too small to provide for this function.

A-DS4-3 Development should work with the existing landscape to the greatest extent possible, preserving key natural features. Existing trees shall be preserved to the extent feasible. New landscaping will be added.

A-Q7-3 Community open spaces should be easily accessible and clearly delineated from private open spaces. This criterion does not apply. No community open spaces are being provided. There is not sufficient room.

B-PR2-1 Impact on environmentally sensitive areas should be minimized within and

adjacent to the proposed development site. (Please see above for steps to be taken as regards the Royal Springs Aquifer.)

B-PR2-2 Dividing floodplains into privately owned parcels with flood insurance should be avoided. There are no floodplains on the property.

B-PR3 Floodplains should be incorporated into accessible greenspace, and additional protection should be provided to areas around them. There are no floodplains on the property.

B-PR7-1 Connections to greenways, tree stands, and stream corridors should be provided. Existing sidewalks are available to access Castlewood Park.

B-PR7-2 Trees should be incorporated into development plans, prioritize grouping of trees to increase survivability. Existing trees will be preserved to the extent feasible and new trees added as required by applicable ordinances or subdivision regulations.

B-PR7-3 Developments should improve the tree canopy. The tree canopy regulation will be followed.

B-RE1-1 Developments should incorporate street trees to create a walkable streetscape. There are existing street trees and these will be maintained.

BR-E2-1 Green infrastructure should be used to connect the greenspace network. There are no plans for such infrastructure to be created. The project is too small.

D-SP2-1 Visible, usable greenspace and other natural components should be incorporated into school sites. This criterion does not apply to this site as no schools will be on this property.

D-5P2 Visible, usable greenspace and other natural components should be incorporated into school sites.

This criterion does not apply. There will be no schools on this property.

E-GR3-1 Physical and visual connections should be provided to existing greenway networks. No new connections are planned from this small site.

E-GR3-2 New focal points should emphasize geographic features unique to the site. This criterion does not apply. No new focal points are being proposed.



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In light of compliance with the above Compressive Plan provisions, this application is deserving of approval by the Planning Commission, and we look forward to more fully discussing it with the Commission during its review of this zone map amendment request.

Sincerely,

A handwritten signature in black ink that reads "T. Bruce Simpson, Jr." The signature is written in a cursive style with a large, prominent initial "T".

T. Bruce Simpson, Jr.

991187.801187/8659097.1



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August 4, 2021

Chairperson Larry Forester  
Lexington Fayette Urban County Planning Commission  
c/o Hal Baillie, Division of Planning  
101 East Vine Street  
Lexington, KY 40507

Re: Variance Requested for 1114 and 1118 North Broadway (Side yard variance from 20 feet to 5 feet, next to 12<sup>th</sup> Street.

Dear Chairperson Forester,

I represent Broadway Twelfth, LLC in connection with a zone map amendment request scheduled to be heard by the Planning Commission on November 11, 2021. This is to also request a side yard variance from 20 feet to 5 feet as the subject property borders 12<sup>th</sup> Street. This variance request does not impact any adjacent home. Approval of this variance will allow the construction of three equally sized apartment buildings housing 16 apartment units. Without the variance the third building would have to be long and narrow which would be out of character with the other two proposed buildings.

There would also be a loss of density with 3 apartments having to be eliminated. This is a small property, so the loss of nearly 20% of the density is significant. The loss of these units along one Lexington's major corridors would not be consistent with the expressed policies of the 2018 Comprehensive Plan which urge increasing residential density along the corridors. Although granting this request will allow the building to be closer to the sidewalk on 12<sup>th</sup> Street, there will be a 6-foot wooden fence between the sidewalk and the building. The property directly opposite the subject property at the northeast corner of North Broadway and 12<sup>th</sup> street is an auto repair business.

The subject property is also located within the "Infill and Redevelopment Area" which is intended to promote development that enhances the livability of the neighborhood, add appropriate density, and promote affordable housing, all while adding value to areas of town that were previously overlooked because the primarily suburban Zoning Ordinance provisions were out of place in these neighborhoods. The Infill and Redevelopment Area has been a part of every Comprehensive Plan since 2001. Granting this request is generally in conformity with character of other side lots on corner lots along North Broadway, to wit: North

Broadway/Fairlawn – side yard is 10 feet, North Broadway/North Broadway Park, side yard is 5 feet, North Broadway/Kenyon side yard is 7 feet and North Broadway/Withers Avenue, side yard is 13 feet.

In order to avoid requesting a variance, the proposed development would have to be consolidated into one building which is not in character with the neighborhood along 12<sup>th</sup> Street or have smaller buildings which don't resemble the single-family houses along 12<sup>th</sup> street. The proposed development has three (3) fifty-foot lots which present a much more aesthetically pleasing and neighborhood character design than the alternatives.

The subject property is principally oriented towards the neighborhood which consists of the properties along North Broadway rather than 12<sup>th</sup> Street. The vast majority of the properties on the east side of North Broadway, the same side as the subject property are business. The property next door is zone Professional Office (P-1) and operates as a video business. From the corner of 12<sup>th</sup> street and North Broadway to New Circle Road, there are no residences facing North Broadway. There are some residential homes being used for business purposes. OF the 12 houses facing North Broadway between from 12<sup>th</sup> street to New Circle Rd, 11 of these properties is a business and one is a church. Directly across North Broadway from the subject property is Dillon Tax Service zoned P-1. The Northland Shopping Center and the Lexington Legends Ball Park are located diagonally opposite the subject property on the opposite site of North Broadway. The point is residential side yards along this segment of North Broadway are for virtually nonexistent.

November 4, 2021

Page 2

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. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone. Likewise, 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. Additionally, the circumstances applicable to the need for this variance are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

The vacant subject property is ideally suited for higher density residential use along this segment of North Broadway which is heavily commercialized. Granting this variance to maintain a consistent single-family home design look at the entrance to the 12 street homes is appropriate. The requested side yard variance will likely not be noticeable along the North Broadway corridor where many properties are fully developed businesses. Approval of this request will prevent close to a 20% loss in density. Considering all of the relevant factors, this variance request is more than worthy of approval.

I look forward to presenting this request to the Planning Commission on November 11, 2021.

Sincerely,

A handwritten signature in black ink that reads "T. Bruce Simpson, Jr." in a cursive style.

T. Bruce Simpson, Jr.,

Legal Description

BROADWAY TWELFTH, LLC PROPERTY

Zone Change from R-1C TO R-4

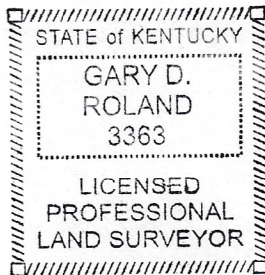
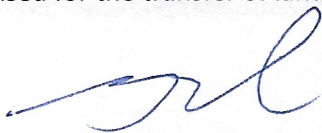
1114 & 1118 North Broadway

Lexington, Fayette County, Kentucky

A certain tract of land situated in Lexington, Fayette County, Kentucky, said tract of land lying southeast of the intersections of the centerlines of Twelfth Street and North Broadway, being commonly known as 1114 & 1118 North Broadway; and being more particularly described as follows:

Beginning at a point at the intersection of the centerlines of North Broadway and Twelfth Street; thence with the centerline of Twelfth Street S41°00'00"E 190.00' to a point; said point being a corner to the northwesterly line of 148 Twelfth Street extended; thence with the line of 148 Twelfth Street and said line extended S49°00'00"W 170.00' to a point in the line of 1110 North Broadway; thence with the line of 1110 North Broadway and said line extended N41°00'00"W 190.00' to the centerline of North Broadway; thence with the centerline of North Broadway N49°00'00"E 170.00' to the point of beginning and containing a gross area of 0.742 acres, and a net area of 0.517 acres.

The foregoing legal description was prepared by Gary Roland, P.L.S. based upon information of record at the Fayette County Clerk's Office. It is not intended to describe an actual boundary survey and should not be used for the transfer of land. 201 KAR 18:150, Section 13.



9-2-2021

# Broadway Twelfth, LLC (PLN-MAR-21-00014)

1114 & 1118 NORTH BROADWAY

Rezoning the property to allow for the construction of multi-family dwelling units.

## Applicant/Owner

**BROADWAY TWELFTH, LLC**  
1507 Ehupua Place  
Honolulu, HI 96821  
bruce.simpson@skofirm.com



## Application Details

### Acreeage:

0.516 net (0.741 gross) acres

### Current Zoning:

Single Family Residential (R-1C) zone

### Proposed Zoning:

High Density Apartment (R-4) zone

### Place-Type / Development Type:

Corridor /

Medium Density Residential

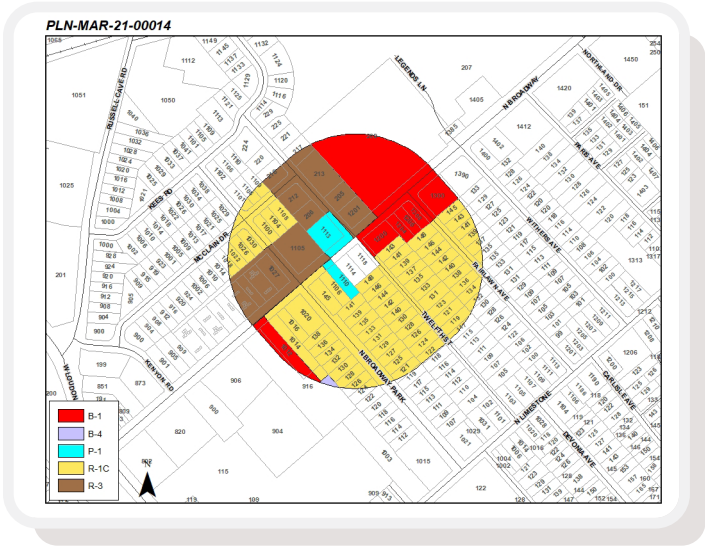
*For more information about the Corridor Place-Type see Imagine Lexington pages 303-304. For more information on Medium Density Residential Development Type see page 271.*

### Description:

The applicant is seeking to rezoning the properties to allow for the construction of three, three-story multi-family structures and associated parking. The proposed development would be oriented toward N. Broadway with parking in the rear.

## Public Engagement

- The applicant indicated that they held a meeting with the adjoining neighborhood on June 30th, 2021.

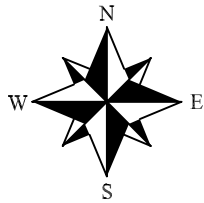


## Status

- 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](http://lexingtonky.gov/plans)) or contact Planning for the latest information.





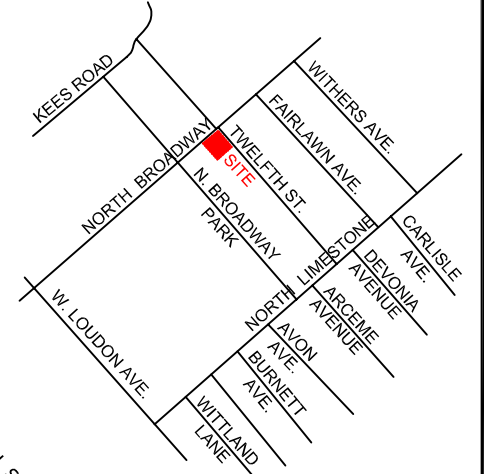
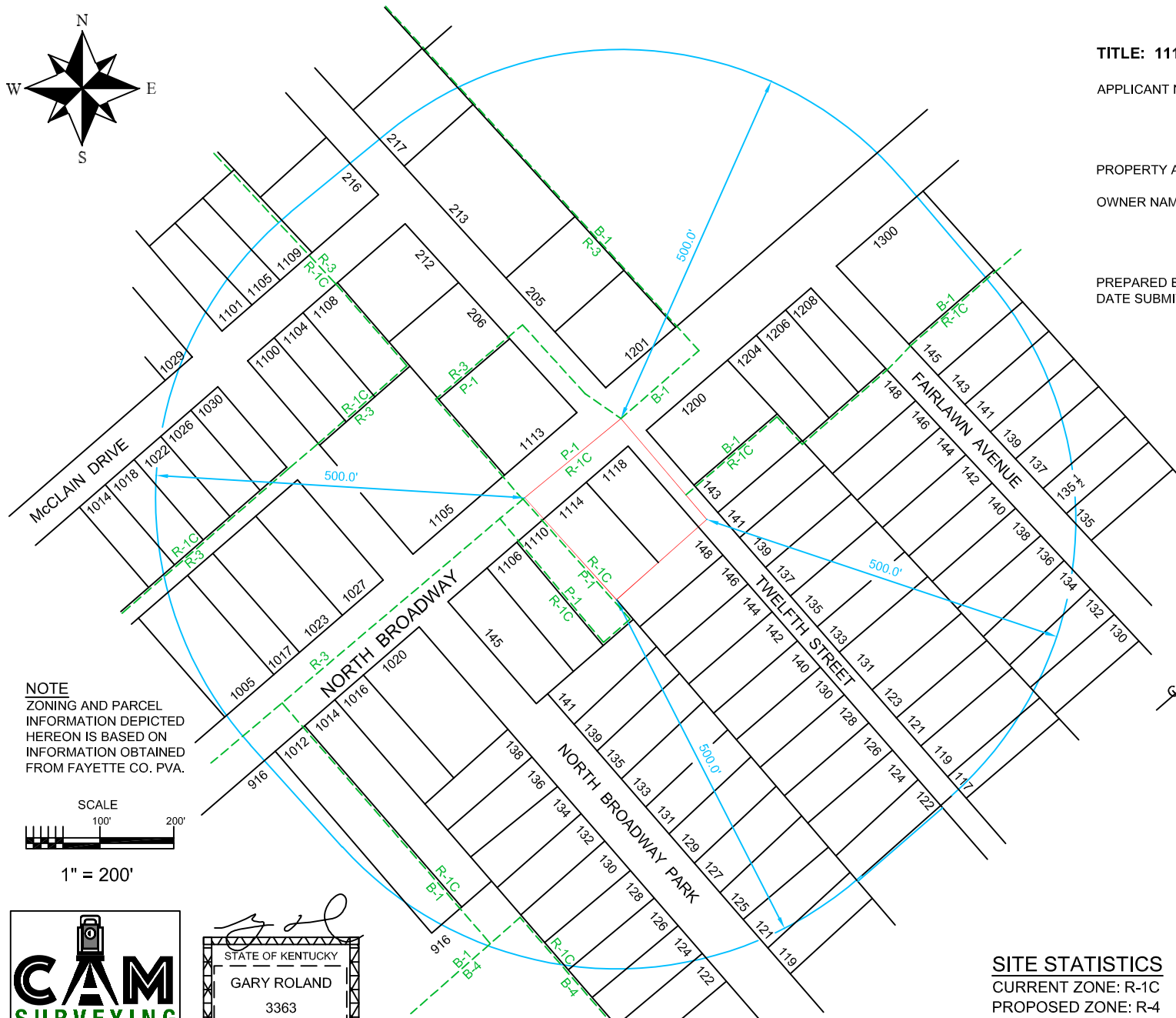
**TITLE: 1114 & 1118 NORTH BROADWAY** FROM TO NET GROSS

APPLICANT NAME: BROADWAY TWELFTH, LLC  
1507 EHUPUA PLACE  
HONOLULU, HI 96821

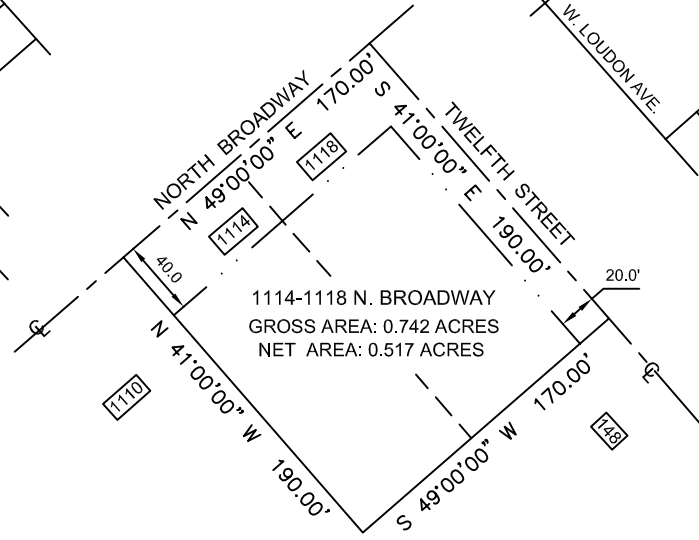
PROPERTY ADDRESS: 1114 & 1118 NORTH BROADWAY R-1C R-4 0.517 0.742

OWNER NAME: BROADWAY TWELFTH, LLC  
1507 EHUPUA PLACE  
HONOLULU, HI 96281

PREPARED BY: CAM SURVEYING, LLC  
DATE SUBMITTED: AUGUST 31, 2021



**VICINITY MAP**



**PROPERTY MAP**

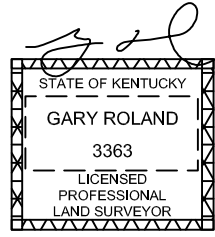
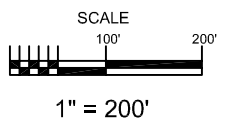
1" = 100'

**PROPERTY / NOTIFICATION AREA MAP**

1114 & 1118 NORTH BROADWAY  
LEXINGTON, FAYETTE COUNTY, KEN.

APPLICANT: BROADWAY TWELFTH, LLC

**NOTE**  
ZONING AND PARCEL  
INFORMATION DEPICTED  
HEREON IS BASED ON  
INFORMATION OBTAINED  
FROM FAYETTE CO. P.V.A.



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

**SITE STATISTICS**  
CURRENT ZONE: R-1C  
PROPOSED ZONE: R-4  
GROSS AREA: 0.742 ACRES  
NET AREA: 0.517 ACRES



# STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-21-00014: BROADWAY TWELFTH, LLC

## DESCRIPTION OF ZONE CHANGE

Zone Change: From a Single Family Residential (R-1C) zone  
To a High Density Apartment (R-4) zone

Acreage: 0.517 net (0.742 gross) acres

Location: 1114 & 1118 North Broadway

## EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Properties	R-1C	Vacant
To North	B-1 / R-3	Auto Service Station Multi-Family Residential
To East	R-1C	Single Family Residential
To South	P-1	Office
To West	P-1	Office



## URBAN SERVICE REPORT

**Roads** - The subject properties are located on the south side of North Broadway (US 27/US 68), a major arterial highway, situated between the intersection with East Loudon Avenue and East New Circle Road. At this location, North Broadway experiences approximately 15,500 average daily trips. The site is bound by Twelfth Street on the east, which connects North Broadway and North Limestone. Twelfth Street is a local street that cuts through the North Limestone Neighborhood Association area.

**Curb/Gutter/Sidewalks** - North Broadway was constructed without curb, and gutter in this portion of the Urban Service Area. Twelfth Street was constructed with curb, gutter and sidewalks along the subject property's frontage. Improvements (½ section) are required to be made along the unimproved frontages of the subject property at the time of site development.

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

**Storm Sewers** - The subject properties are located within the Cane Run watershed and there are no known flooding issues in the immediate area. Storm sewers have been constructed along Twelfth Street at the intersection with North Broadway.

**Sanitary Sewers** - The subject properties are located within the Cane Run watershed, and will be serviced by the Town Branch Wastewater Treatment Facility, located on Lisle Industrial Avenue inside New Circle Road, between Leestown Road and Old Frankfort Pike. Sanitary sewers have been constructed within the immediate area. Capacity of the sewer system will need to be verified prior to construction of any use on the subject property. Under the Capacity Assurance Program, there is currently available sanitary sewer capacity in this area.

**Refuse** - The Urban County Government serves this area with refuse collection on Thursdays. However, supplemental service by private refuse haulers is commonly utilized for multi-family residential land uses, such as those proposed on the associated development plan.

**Police** - The nearest police station is the Main Headquarters located on East Main Street, about one and a half (1½) miles to the south of the subject properties.

**Fire/Ambulance** - Fire Station #8 is the nearest station to this site and is located less than one (1) mile to the northeast of the subject property on North Broadway.

**Transit** - LexTran service is available within the immediate area of the subject property. The North Broadway Route (#6) has outbound and inbound service along North Broadway, with an existing transit stop less than 100 feet from the subject properties. The applicant should contact LexTran to discuss the need for a shelter for this location.

**Parks** - There are two public parks within proximity to the subject properties. Brucetown Park is located approximately a half mile (½) southwest of the subject properties and Castlewood Park is located just over a half mile (1/2) southeast of the subject properties.

## SUMMARY OF REQUEST

The applicant is seeking to rezone the subject properties from a Single Family Residential (R-1C) zone to the High Density Apartment (R-4) zone in an effort to construct three (3) multi-family residential structures with a total of sixteen dwelling units.

## PLACE-TYPE

CORRIDOR

The Corridor Place-Type is Lexington’s major roadways focused on commerce and transportation. The overriding emphasis of Imagine Lexington is significantly overhauling the intensity of the major corridors. The future of Lexington’s corridors lies in accommodating the shifting retail economic model by incorporating high density residential and offering substantial flexibility to available land uses. Adding a mix of land uses to support the existing retail will provide a built-in customer base, create a more desirable retail experience, and allow a greater return on investment for landholders. Additional focus is on increasing the viability of enhanced mass transit, thereby reducing the reliance on single-occupancy vehicles and improving Lexington’s overall transportation efficiency.

## DEVELOPMENT TYPE

MEDIUM DENSITY RESIDENTIAL

### Primary Land Use, Building Form, & Design

Primarily attached and 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.

### Parking

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, but at a higher density than the R-3 zone. The R-4 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 petitioner proposes the rezoning of the subject property to the High Density Apartment (R-4) zone to allow for the construction of three (3) multi-family residential structures and associated open space and parking on vacant parcels. The applicant is proposing to re-lot the subject properties to create three independent lots. The applicant is seeking to develop a total of sixteen (16) dwelling units, with a total of 26 bedrooms, at a residential density of approximately 31 dwelling units per net acre.

## APPLICANT & COMMUNITY ENGAGEMENT



The applicant indicated that they met with the adjoining neighborhood on Wednesday, June 30th, 2021. The applicant should provide greater detail regarding the meeting and the comments from the attendees.

## PROPERTY & ZONING HISTORY



The subject properties have been zoned Single Family Residential (R-1C) since the comprehensive rezoning of the city and county in 1969. Over the course of the review of this application, staff has been unable to find evidence that these two properties have ever had any form of development. The 1958 Sanborn Insurance Maps and the 1972 updates to the Sanborn Insurance Maps both show the subject properties as vacant. Aerial photography from the 1990s also shows the subject properties as vacant and there has been no construction on the site since that time.

## COMPREHENSIVE PLAN COMPLIANCE



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.

Within the submission of their application, the petitioner indicated that the letter of justification was preliminary and that they would be submitting a more comprehensive letter that addresses the Comprehensive Plan in a more substantial manner. Through the analysis of the illustrative documentation and some of the additional materials that have been submitted with the application, staff believes that the application may be able to meet the Goals, Objectives, Policies, and Development Criteria of the 2018 Comprehensive Plan; however, the current justification statement does not provide enough information to find that the request is in agreement with the Comprehensive Plan.

Staff recommends postponement of the application until a more substantial letter of justification that addresses the Goals, Objectives, Policies, and Development Criteria of the 2018 Comprehensive Plan is submitted.

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



1. The letter of justification does not fully discuss the Goals, Objectives, Policies, and Development Criteria of the 2018 Comprehensive Plan and the applicant has indicated that they are currently working on a updated and more substantial letter of justification. Until this information is received by staff and the Planning Commission, a substantive recommendation is premature.

HBB/TM  
8/31/2021

Planning Services/Staff Reports/MAR/2021/PLN-MAR-21-00010 LEXINGTON HOME OWNERSHIP.pdf

# SUPPLEMENTAL STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-21-00014: BROADWAY TWELFTH, LLC



In the period following the October Subdivision and Zoning Committee meetings, the applicant provided staff with additional information regarding the proposed rezoning. Following those meetings, the applicant reviewed staff's comments, as presented in the staff report, and supplemented their application regarding the neighborhood outreach, the proposed development, and its agreement with the 2018 Comprehensive Plan.

## APPLICANT & COMMUNITY ENGAGEMENT



Included in the applicant's supplemental justification letter, the petitioner described the neighborhood meeting that was held on June 30, 2021, prior to the submission of the zone change application. The applicant indicated that there were several concerns voiced at this meeting including whether or not the property would be utilized as affordable housing, the potential impact on the traffic on Twelfth Street, perceived negative impact on property values caused by apartments, fears that trees would be impacted, and a concern with flooding on the subject properties and the potential stormwater impacts on surrounding property and the Royal Springs Aquifer. A resident of the area also noted an "underground stream" or water source located on the property that has caused problems in the area historically.

In regards to the stormwater impact and the Royal Springs Aquifer, the applicant has indicated that they were planning on attending the Royal Springs Wellhead Protection Committee meeting prior to the review of the Final Development Plan. They also noted that they have found no evidence of an underground stream or spring on the subject property.

## COMPREHENSIVE PLAN COMPLIANCE



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 proposed rezoning for the subject property is in agreement with the 2018 Comprehensive Plan.

### GOALS & OBJECTIVES

The applicant opines that they are in agreement with the adopted Goals, Objectives, and Policies of the 2018 Comprehensive Plan. The applicant indicates that the proposed project will accommodate the demand for housing in Lexington responsibly, prioritizing a mixture of housing types (Theme A, Goal #1), while also supporting infill and redevelopment (Theme A, Goal #2) by constructing on two parcels of land that have no evidence of historic construction (Theme A, Goal #2.a). The applicant indicates that the proposed project will respect the context and design features of the surrounding development projects and adhere to standards and guidelines that allow for the compatibility with the existing urban form (Theme A, Goal #2.b). Additionally, the applicant indicates that the proposed project will add to a well-designed neighborhood and community (Theme A, Goal #3), enabling existing and new neighborhoods to flourish by expanding options for mixed type housing (Theme A, Goal #3.a), providing positive and safe social interactions for pedestrians and all modes of transportation (Theme A, Goal #3.b), and minimizing the disruption of natural features on site (Theme A, Goal #3.c). Finally, the applicant indicates that the proposed rezoning will allow for the maintenance of the urban service area concept (Theme E, Goal #1), by addressing the goal of absorbing vacant and underutilized land within the Urban Service Area (Theme E, Goal #1.a).

The staff agrees that the majority of the applicant's review of the Goals and Objectives is in agreement with the 2018 Comprehensive Plan. However, staff does have concerns as to how the applicant is meeting Theme A, Goal #2.b and maintaining or enhancing the existing urban form. The proposed application is suggesting



a variance reduction that differs from the established neighborhood form. The applicant should provide greater information regarding this element of their application.

### **PLACE-TYPE, DEVELOPMENT TYPE, AND ZONE**

In an effort to allow for the greatest contextual development of Lexington's Urban Service Area, applicants are asked to identify a Place-Type based on the location of the subject property. Within each Place-Type there are recommended Development Types based on the form and function of the proposed development. Based on the Place-Type and Development Type there are also several recommended zones that are most appropriate based on the Goals, Objectives, and Policies of the 2018 Comprehensive Plan. While these zones are the ideal zoning categories to develop within a specified area, other zones may be considered, provided there is an appropriate justification addressing the unique situation and provided the development is able to adequately meet the associated Development Criteria.

The applicant indicates that the project is located within the Corridor Place-Type and is a Medium Density Residential Development Type. The Corridor Place-Type is Lexington's major roadways focused on commerce and transportation and is the only Place-Type that is mapped within the Comprehensive Plan. The proposed development is located along North Broadway and is seeking to situate itself along that roadway rather than towards the established residential neighborhood to the west. Staff agrees with the applicant's assessment of the proposed Corridor Place-Type.

Additionally, the applicant is seeking to apply the Medium Density Residential Development Type, which is recommended within the Corridor Place-Type and is meant to be comprised of primarily attached and multi-family units, where the multi-family units complement and enhance existing development through quality design and connections. The applicant has proposed the development of three, three-storied multi-family residential structures facing North Broadway with shared access and parking along the rear of the property along Twelfth Street. A total of sixteen (16) dwelling units are proposed, with an overall density of approximately 31 dwelling units per net acre. Staff agrees that the proposed Development Type can be appropriate for the subject property.

Finally, the applicant has requested the rezoning of the property to the High Density Apartment (R-4) zone. This zone is a recommended zone associated the Corridor Place-Type and the Medium Density Residential Development Type.

### **DEVELOPMENT CRITERIA**

The development criteria for a zone change are the distillation of the adopted Goals and Objectives, as well as the policies put forth in the 2018 Comprehensive Plan. The development criteria 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 Corridor Place-Type and Medium Density Residential Development Type.

#### 1. Site Design, Building Form and Location

Despite compliance with several of the criteria for Site Design, Building Form and Location, there are three criteria that necessitated added discussion and warranted a staff response.

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

The applicant has indicated that they will comply with the standards at the time of the Final Development Plan Review. However, with this application they are presenting an elevation rendering and are promoting many of the criteria within their development plan. The applicant should highlight the work that they have already done, while also showing greater agreement with the Comprehensive 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.*

*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)*



Staff has concerns with the variance request and the transition from the proposed development to the older residential development along Twelfth Street. The typical setback along that roadway is approximately thirty (30) feet, whereas the applicant is proposing five (5) feet. The proposed variance request and the current development plan, as shown, indicates a new context that is not in line with the established character.

### 2. Transportation and Pedestrian

Despite compliance with several of the criteria for Transportation and Pedestrian, there are two criteria that necessitated added discussion and warranted a staff response.

*A-DS1-1 Mass transit infrastructure such as seating and shelters should be provided/enhanced along transit routes, (A-E07).*

As indicated by the applicant the subject property is adjacent to a major Lextran route. As this area does experience high ridership and the project seeks to increase density along the roadway, the applicant should consult with LexTran to determine whether the current location is preferred or if relocating the stop to the area in front of the subject property would be better. Furthermore, the applicant should work with LexTran to determine whether a shelter or seating is warranted with any relocation.

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

As the proposed project is adding residential density along the corridor the applicant should upgrade the pedestrian facilities along Twelfth Street and North Broadway.

### 3. Greenspace and Environmental Health

The proposed rezoning meets the criteria for Greenspace and Environmental Health as it will maintains the natural features of the site, while adding tree canopy coverage along the eastern property boundary.

## **STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASONS:**



1. The requested Neighborhood Business (B-1) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
  - b. The proposed rezoning will accommodate the demand for housing in Lexington responsibly, prioritizing a mixture of housing types (Theme A, Goal #1), while also supporting infill and redevelopment (Theme A, Goal #2) by constructing on two parcels of land that have no evidence of historic construction (Theme A, Goal #2.a).
  - c. The proposed project will add to a well-designed neighborhood and community (Theme A, Goal #3), enabling existing and new neighborhoods to flourish by expanding options for mixed type housing (Theme A, Goal #3.a), providing positive and safe social interactions for pedestrians and all modes of transportation (Theme A, Goal #3.b), and minimizing the disruption of natural features on site (Theme A, Goal #3.c).
  - d. The proposed rezoning will allow for the maintenance of the urban service area concept (Theme E, Goal #1), by addressing the goal of absorbing vacant and underutilized land within the Urban Service Area (Theme E, Goal #1.a).
2. 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 safer development that supports pedestrian mobility, while also including well designed, higher density residential development along the Corridor.
  - b. The proposed rezoning is situated within an area that allows for safe and positive interactions for all forms of Mobility. The area meets the goals of 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 will maintains the natural features of the site and tree canopy, while adding tree canopy coverage along the eastern property boundary.
3. This recommendation is made subject to approval and certification of PLN-MJDP-21-00047: Twelfth Street Addition, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

## STAFF REPORT ON VARIANCE REQUEST



As part of their application, the petitioner is also seeking a dimensional variance, requesting relief from the required side street side yard setback for the proposed structure in a High Density Apartment (R-4) zone. The applicant is seeking to reduce the minimum required side street side yard setback from twenty (20) feet to five (5) feet, a requirement of Article 15-2(b)(4) and Article 8-13(h) of the LFUCG Zoning Ordinance.

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 15-2(b)(4) states that for any side street side yard on a corner lot in any zone, the required least width of the side street side yard shall equal either the minimum front yard required for that zone or the existing alignment on the lot immediately adjoining, whichever is less. Notwithstanding the above, no such yard shall be required to exceed thirty (30) feet in a residential, business, or industrial zone.

Article 8-13(h) states that the minimum front yard for any building within the R-4 zone shall be twenty (20) feet.

### CASE REVIEW

The applicant is requesting a dimensional variance to reduce the minimum requirement for the side street side yard setback for the proposed structure from twenty (20) feet to five (5) feet for the portion of the properties that abuts Twelfth Street. At this time, the applicant has not provided an adequate justification as to how the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone, how 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; or how the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

## STAFF RECOMMENDS: **DISAPPROVAL** OF THE VARIANCE TO THE PROPERTY SIDE STREET SIDE YARD, FOR THE FOLLOWING REASONS:



- a. The applicant has not provided an application that indicates a reason for the proposed reduction in the side street side yard. No evidence has been provided regarding:
  1. Special circumstances which do not generally apply to land in the general vicinity or in the same zone.
  2. What provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; or
  3. The circumstances that are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.



## SUPPLEMENTAL STAFF REPORT ON VARIANCE REQUEST



As part of their application, the petitioner is also seeking a dimensional variance, requesting relief from the required side street side yard setback for the proposed structure in a High Density Apartment (R-4) zone. The applicant is seeking to reduce the minimum required side street side yard setback from twenty (20) feet to five (5) feet, a requirement of Article 15-2(b)(4) and Article 8-13(h) of the LFUCG Zoning Ordinance.

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 15-2(b)(4) states that for any side street side yard on a corner lot in any zone, the required least width of the side street side yard shall equal either the minimum front yard required for that zone or the existing alignment on the lot immediately adjoining, whichever is less. Notwithstanding the above, no such yard shall be required to exceed thirty (30) feet in a residential, business, or industrial zone.

Article 8-13(h) states that the minimum front yard for any building within the R-4 zone shall be twenty (20) feet.

### CASE REVIEW

The applicant is requesting a dimensional variance to reduce the minimum requirement for the side street side yard setback for the proposed structure from twenty (20) feet to five (5) feet for the portion of the properties that abuts Twelfth Street. Following the November Zoning Committee meeting, the applicant provided a justification letter that addresses their request. Within their letter of justification, the applicant identified the subject properties within the defined Infill and Redevelopment Area, and cites the need for flexibility to provide greater density. The subject properties are adjacent to the defined Infill and Redevelopment Area, but not within the area. However, the Comprehensive Plan does promote many of the recommendations made for that area.

The applicant goes on to describe the proposed development, indicating that they are seeking to construct three equally sized apartment buildings with a total of sixteen (16) apartment units. They indicate that without the variance the amount of density that would be available would be diminished and the type of housing would not be in line with the established character of the area. The applicant indicates that they are seeking to match the context of the area citing several structures in the area and their current setbacks. The applicant opines that they are also seeking to match the built form of the existing structures located along Twelfth Street. They state that the current context is primarily single family land use and the proposed development, while an increase in height and a shift in the density of housing, is meant to preserve the feel of a single family residential structure.

Furthermore, the applicant states that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning



regulations. They state that the requested variance arises from special circumstances, which do not generally apply to land in the general vicinity, or in the same zone. Likewise, 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. Additionally, the circumstances applicable to the need for this variance are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

Finally, the applicant states that the vacant subject properties are ideally suited for higher density residential use along this segment of North Broadway, which is heavily commercialized. The applicant indicates that granting this variance to maintain a consistent single-family home design look at the entrance to the Twelfth Street homes is appropriate. They state that the requested side yard variance will likely not be noticeable along the North Broadway corridor where many properties are fully developed businesses.

While staff agrees that there is a need for density along corridors, there is still a concern of proper transition from the higher intensity roadway and proposed development to the primarily single family neighborhood along Twelfth Street. While the applicant indicates that the reduction of the side street side yard will allow for the property to be more contextually sensitive, the majority of the front yards along Twelfth Street range between thirty (30) and thirty-five (35) feet. The establishment of the High Density Apartment (R-4) zone would set a new context along this street both in zoning and in setback, as the minimum setback would be twenty (20) feet.

While staff believes that the reduction of the side street side yard to five (5) feet would not be in character or context with the area, the granting of a lesser variance would not represent an attempt to circumvent the provisions of the Zoning Ordinance and would represent a transition from the arterial roadway to the neighborhood. A lesser variance will result in construction that will be more compatible with the existing development pattern in the neighborhood. There are a number of other corner properties in the general vicinity with side street side yard setbacks that are shallower than the front yard setback because many older neighborhoods in Lexington were platted with thirty (30) to forty (40) foot front yards and fifteen (15) foot side street side yards. A lesser variance of ten (10) feet will facilitate appropriate development without creating an unusual hardship or development that is incompatible with the existing pattern of the neighborhood.

Furthermore, staff is concerned with the establishment of a six-foot tall fence along the sidewalk. This proposed fence would be required to be located three feet from the edge of the property line and would reduce the available open space for the property. Staff recommends that any perimeter screening of the property along the Twelfth Street frontage be limited to a four-foot tall hedge. This will allow for a softened edge between the properties and the public right-of-way.

**STAFF RECOMMENDS: APPROVAL OF A LESSER VARIANCE TO THE PROPERTY SIDE STREET SIDE YARD, FROM TWENTY (20) FEET TO TEN (10) FEET, FOR THE FOLLOWING REASONS:**



1. Granting a lesser variance of ten (10) feet should not adversely affect the public health, safety, or welfare; nor should it affect the character of the general vicinity, as the proposed project will transition from the higher intensity roadway to the established character of the residential neighborhood located to the east.
2. The request is 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 and Urban County Council approve the requested zone change to the R-4 zone, otherwise the requested variances shall be null and void.
- b. Along the side street side yard there shall be a planted continuous hedge no taller than four feet.
- c. The development shall be constructed in accordance with the approved Final Development Plan, or as amended by the Planning Commission.
- d. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
- e. Action of the Planning Commission shall be noted on the Development Plan for the subject property.

1. **BROADWAY TWELFTH LLC ZONING MAP AMENDMENT & TWELFTH STREET ADDITION ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-21-00014: BROADWAY TWELFTH LLC (12/06/21)\*- a petition for a zone map amendment from a Single Family Residential (R-1C) zone to a High Density Apartment (R-4) zone, for 0.517 net (0.742 gross) acres, for properties located at 1114 N. Broadway and 1118 N. Broadway. A dimensional variance to reduce the side street yard from twenty (20) feet to five (5) feet was also requested with this application.

**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 to rezone the subject properties from a Single Family Residential (R-1C) zone to the High Density Apartment (R-4) zone in an effort to construct three (3) multi-family residential structures with a total of sixteen dwelling units.

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

The Staff Recommends: **Approval**, for the following reasons:

1. The requested Neighborhood Business (B-1) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
    - a. The proposed rezoning will accommodate the demand for housing in Lexington responsibly, prioritizing a mixture of housing types (Theme A, Goal #1), while also supporting infill and redevelopment (Theme A, Goal #2) by constructing on two parcels of land that have no evidence of historic construction (Theme A, Goal #2.a).
    - b. The proposed project will add to a well-designed neighborhood and community (Theme A, Goal #3), enabling existing and new neighborhoods to flourish by expanding options for mixed type housing (Theme A, Goal #3.a), providing positive and safe social interactions for pedestrians and all modes of transportation (Theme A, Goal #3.b), and minimizing the disruption of natural features on site (Theme A, Goal #3.c).
    - c. The proposed rezoning will allow for the maintenance of the urban service area concept (Theme E, Goal #1), by addressing the goal of absorbing vacant and underutilized land within the Urban Service Area (Theme E, Goal #1.a).
  2. 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 safer development that supports pedestrian mobility, while also including well designed, higher density residential development along the Corridor.
    - b. The proposed rezoning is situated within an area that allows for safe and positive interactions for all forms of Mobility. The area meets the goals of 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 will maintains the natural features of the site and tree canopy, while adding tree canopy coverage along the eastern property boundary.
  3. This recommendation is made subject to approval and certification of PLN-MJDP-21-00047: Twelfth Street Addition, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. VARIANCE REQUEST – One dimensional variance to reduce the side street side yard from twenty (20) feet to five (5) feet was also requested with this application.

The Zoning Committee recommended: **Disapproval**, for the reasons provided by staff.

The Staff Recommends: **Disapproval**, for the following reasons:

- a. The applicant has not provided an application that indicates a reason for the proposed reduction in the side street side yard. No evidence has been provided regarding: Special circumstances which do not generally apply to land in the general vicinity or in the same zone.
- b. What provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; or
- c. The circumstances that are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

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

- c. PLN-MJDP-21-00047: TWELFTH STREET ADDITION (12/06/21)\* - located at 1114 & 1118 NORTH BROADWAY, LEXINGTON, KY.  
Project Contact: CMW, Inc.

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Provided the Urban County Council rezones the property R-4; 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.
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. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
8. United States Postal Service's approval of kiosk locations or easement.
9. Revise Tree Protection Plan to the required Tree Inventory Map.
10. Dimension proposed walkways, sidewalks and balconies.
11. Provided the Planning Commission approved the requested side street side yard variance.
12. Discuss Placebuilder criteria and lack of sufficient information for evaluation.

Staff Zoning Presentation – Mr. Baillie presented the staff report and recommendations for the zone change application. He displayed photographs of the subject property and aerial photographs of the general area. He said the applicant is seeking to construct three separate apartment structures and associated parking. He said that the primary zoning in the area is Neighborhood Business (B-1) zone, Single Family Residential (R-1C) zone, with a lesser amount of Professional Office (P-1) zone. He said that in the area there are some non-conformity uses that have been grandfathered in, such as tri-plex within the R-1C zone. He said that the subject properties are currently vacant, and there hasn't been any historical development, according to the Sanborn Fire Insurance Maps. He said that the petitioner submitted their application under the Corridor Place-Type and a Medium Density Residential Development Type of the 2018 Comprehensive Plan. He added that North Broadway is an identified corridor within the Comprehensive Plan, and the proposed development will face that corridor.

Mr. Baillie said that the applicant is seeking to construct three separate, 3-story buildings and will have sixteen (16) dwelling units, which is a total density of 31 units per net acres. They are seeking a total of 26 bedrooms on the entire site. He added that the applicant stated in their letter of justification that this development is intended to match some of the context of the surrounding area by not having one monolithic building, and by tying into the historic development that has occurred in this area, specifically along N. Broadway. The development meets the intensity and density requirements of the corridor, while also meeting the descriptive nature of the Medium Density Residential Development Type. He said that the applicant is seeking to rezone the property to the High Density Apartment (R-4) zone, which is a recommended within the Corridor Place-Type and Medium Density Residential Development Type. He said that the applicant has supplied renderings of the proposed development, which displays the front, rear and side views of the three buildings. He added that initially there were concerns regarding the open space of this development, but the applicant included balconies, which meet those requirements. He then displayed the development plan and said that during the November 4, 2021, Zoning Committee meeting, there was discussion regarding the location of parking near the neighboring single family residential zone, which has been resolved since that meeting. He also identified the location of a six-foot fence proposed to be placed along the property line.

Mr. Baillie said that the staff is recommending approval for this zone change for the following reasons:

1. The requested High Density Apartment (R-4) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
  - a. The proposed rezoning will accommodate the demand for housing in Lexington responsibly, prioritizing a mixture of housing types (Theme A, Goal #1), while also supporting infill and redevelopment (Theme A, Goal #2) by constructing on two parcels of land that have no evidence of historic construction (Theme A, Goal #2.a).
  - b. The proposed project will add to a well-designed neighborhood and community (Theme A, Goal #3), enabling existing and new neighborhoods to flourish by expanding options for mixed type housing (Theme A, Goal #3.a), providing positive and safe social interactions for pedestrians and all modes of transportation (Theme A, Goal #3.b), and minimizing the disruption of natural features on site (Theme A, Goal #3.c).
  - c. The proposed rezoning will allow for the maintenance of the urban service area concept (Theme E, Goal #1), by addressing the goal of absorbing vacant and underutilized land within the Urban Service Area (Theme E, Goal #1.a).
2. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.

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- a. The proposed rezoning meets the criteria for Site Design, Building Form and Location as the site creates a safer development that supports pedestrian mobility, while also including well designed, higher density residential development along the Corridor.
  - b. The proposed rezoning is situated within an area that allows for safe and positive interactions for all forms of Mobility. The area meets the goals of 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 will maintains the natural features of the site and tree canopy, while adding tree canopy coverage along the eastern property boundary.
3. This recommendation is made subject to approval and certification of PLN-MJDP-21-00047: Twelfth Street Addition, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

Development Plan Presentation – Mr. Martin presented a revised rendering of the preliminary development plan associated with this zone change. He said that there are revised conditions, which were distributed to the Planning Commission, as follows:

1. Provided the Urban County Council rezones the property R-4; 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.
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. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
8. United States Postal Service's approval of kiosk locations or easement.
9. Revise Tree Protection Plan to the required Tree Inventory Map.
10. Dimension proposed ~~walkways, sidewalks and balconies~~.
11. Provided the Planning Commission approved the requested side street side yard variance.
12. ~~Discuss Placebuilder criteria and lack of sufficient information for evaluation. Delete Note #18.~~

He then reviewed the color rendering and identified the three independent, three-story buildings located with a setback 20 feet off North Broadway. He also identified the location of the balconies and said that they meet the open space requirement. He said that setbacks serve a different function and can't be utilized as open space. Setbacks are for air, light, and relationship to the road, whereas the required open space is for private activities. He then said that the parking will be accessed off of Twelfth Street, in the rear of the property, and the applicant is meeting the parking requirement. He identified the area of discussion for the variance that Mr. Baillie will address. He said that the side-street side yard requirement is 20 feet, but the applicant is requesting a 5-foot side-street side yard. He said that the applicant submitted an exhibit that demonstrates the square footage of the open space. He said that the Subdivision Committee had recommended approval of this development plan with the revised conditions.

Commission Questions – Mr. Pohl asked if the balconies will be constructed from pressure-treated lumber and why that is eligible to meet the open space requirements. Mr. Martin said that the Zoning Ordinance requirements recognize balconies as meeting the open space requirements regardless of the materials being utilized. There have been many discussions, regarding the open space requirements and that any amendments to those requirements would require a Zoning Ordinance text amendment. Mr. Pohl said that off-setting the balconies could make them more pleasant to use. Mr. Martin said that there will be a Final Development Plan and the applicant could make that change, if they chose to.

Variance Presentation – Mr. Baillie presented the supplemental staff report for the variance request associated with this application. He said this variance request is to reduce the side street, side yard setback from 20 feet to 5 feet, for the portion of the properties that are along the Twelfth Street frontage, which he indicated on the development plan. He said that the variance request is specifically for the building and the parking area, which there is not meant to be parking, except for behind the building line. He said that the staff reviewed some of the building character that has been established along North Broadway. He said that within the applicant's supplemental justification for the variance, they stated they intended to match the character of an infill and redevelopment area, which they described their intention to meet or transition from different areas into an established residential character. The staff had found that many of the buildings within this area have a front yard or side yard setbacks of 10 feet to 30 feet, unless they border another driveway. He added that the proposed development will meet the front yard setback of the requested zone along N. Broadway. He said that the Board of Adjustment (BOA) has made allowance for the transition from a higher intensity corridor into a lower intensity single family neighborhood and recommended various setbacks that work in this type of area. He said that the staff is recommending a lesser variance for the reduction of the side street side yard from 20 feet to 10 feet, which would be in line with the 50% extension rule within the side yard setback associated with projections for structures. He added that the staff was also concerned with the proposed 5-foot setback, because any 6-foot fence line would need to be placed 3 feet away from the public right-of-way, and with the 5-foot setback, there would be only 2-feet of side yard for open space. He said with a 10-foot setback, there would be greater distance from the building and more open space in that

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location. However, the staff is recommending that the applicant install a 4-foot fence or hedge along the side of the building rather than 6-foot tall, to avoid the feeling of being pushed to the right-of-way area. He said that the staff recommends approval of the lesser variance to the property side street side yard, from twenty (20) feet to ten (10) feet, for the following reasons:

1. Granting a lesser variance of ten (10) feet should not adversely affect the public health, safety, or welfare; nor should it affect the character of the general vicinity, as the proposed project will transition from the higher intensity roadway to the established character of the residential neighborhood located to the east.
2. The request is 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 and Urban County Council approve the requested zone change to the R-4 zone, otherwise the requested variances shall be null and void.
- b. Along the side street side yard there shall be a planted continuous hedge no taller than four feet.
- c. The development shall be constructed in accordance with the approved Final Development Plan, or as amended by the Planning Commission.
- d. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
- e. Action of the Planning Commission shall be noted on the Development Plan for the subject property.

**Commission Questions** – Mr. Nicol asked if the applicant could work with the staff to come to an agreement on the open space requirements or a parking variance, in order to keep the same number of units. Mr. Baillie said that the open space requirement could be brought to the Board of Adjustment (BOA) at a later date. However, since the subject property is located outside of the Infill and Redevelopment area, the request for a parking reduction is not available. Mr. Nicol then stated that if the development was affordable housing, they would qualify for a parking reduction. Mr. Baillie said that the applicant could have a parking reduction if they chose to utilize that option. Mr. Nicol said that he believes that a parking variance would better meet the applicant's marketing plan. Mr. Baillie said that the applicant has the option to change their variance request and/or to go to the BOA to request other variances.

**Applicant Presentation** – Mr. Bruce Simpson, attorney, and Mike Tuttle, Broadway Twelfth LLC, were present representing the petitioner. Mr. Simpson said that they are in agreement with the staff's recommendations, with the exception of the variance. He said that their request for the 5-foot side yard setback is needed, as opposed to staff's recommended 10-foot setback. He said that they would have to construct a smaller building and would lose 3 bedrooms, which would make it less marketable. He added that with the 5-foot variance, the buildings would all be equal in size and oriented towards North Broadway.

Mr. Simpson said that they met with the neighborhood in July, and their main concerns were that an apartment development would lessen the values of their homes, increase traffic, and add additional parking on Twelfth Street. He said that he informed the neighborhood that they would have all of the required parking for an apartment community on the site. He said that there was concern regarding stormwater and he said that there is underground storage for stormwater. He said the neighborhood was concerned for and against two existing trees currently located on the property. He said that one neighbor stated that the trees are in the line of sight of turning vehicles, and another neighbor would like those trees to remain. Mr. Simpson said that they will be supplementing the trees on North Broadway and on Twelfth Street. He said that they disclosed all of the trees on the property when they submitted their application and that there is a large Sycamore tree currently located on the property. He said that the Urban Forester has been to the site. He said that they would like to preserve that tree, if possible, but the development may be encroaching within the dripline of that tree. He said that this will be in more detail at the time of the Final Development Plan. The neighborhood also had concern about underground streams. He said that this area is located within the Royal Springs Aquifer, which requires the applicant to have this project reviewed by the Royal Springs Aquifer Committee, prior to the Final Development Plan. They have not found any underground streams at this location. He said that they believe that they meet all of the criteria of the Comprehensive Plan and that this proposal does fit within the Comprehensive Plan's goals to increase residential density along the corridors.

Mr. Simpson said in regards to the variance that this neighborhood has a number of non-residential buildings along North Broadway and Twelfth Street, which he then displayed photos of examples. In the context of the whole neighborhood, they believe that the variance request of the 5-foot side yard setback is reasonable, since it won't have any adverse effect on residential properties. In regards to Mr. Pohl's comment about offsetting the balconies, he said that could be addressed at the time of the Final Development Plan. He also said in regards to the staff's concern about the 6-foot fence, that it can be removed and replaced with a 4-foot hedge.

**Commission Question** – Ms. Worth asked if there was any discussion of the variance with the neighborhood. Mr. Simpson said that they didn't discuss the variance at the neighborhood meeting because it wasn't requested at that time.

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Mr. de Movellan asked if the variance is approved with the 10-foot side yard setback, will the applicant proceed with this development if they will be losing 3 bedrooms. Mr. Tuttle said that losing 3 bedrooms will make a significant difference. He also said in regard to Mr. Pohl's comment about the balconies that they could be reconfigured, as well as a potential change to the roofline.

Mr. Nicol asked why three separate buildings were proposed for this site. Mr. Tuttle said that he believes it will be more marketable to multi-generational families that prefer to be in one building. Mr. Nicol then said that if it were one building, a variance would not be needed. Mr. Tuttle affirmed.

Mr. Pohl asked if there are windows on the sidewalls of the proposed buildings. Mr. Tuttle said that there are windows. Mr. Pohl then asked if those windows are critical to egress requirements. Mr. Tuttle said that they are not. Mr. Pohl said that having the separation between the buildings would allow for light and air to be accessed. Mr. Tuttle said that he envisions the facades changing before the Final Development Plan.

Mr. Nicol said that he believes that there can be greater density with the recommended 10-foot setback than with a 20-foot setback. Mr. Tuttle said that his goal is higher density. Mr. Nicol then said that there are other things that can be relocated to help the site geometry, such as the parking requirements and the open space requirements. He said that a 10-foot side yard setback would provide more walkability and continuity along Twelfth Street.

Mr. Simpson said that most of the discussion is with the design of the structure in terms of increasing the density or eliminating the setback. He reiterated that this is a preliminary development plan and it will be reviewed again as a final development plan. At that time, they will deal more with the Multi-Family Design Guidelines. He believes that the higher priority of this project is in granting this zone change and variance to be able to move along with higher density. He said that in terms of financing, it is important to keep the 3 bedrooms. He added that the project will contribute to this area and asked for approval of this zone change and variance.

Citizen Comments – Jim McKeegan, said that he supports this zone change and that he represented Cora Kerrick when these lots sold and that this lot is the remaining land from their family horse farm. He said that one of the reasons that the Kerrick family sold this land to Mr. Tuttle was that he was a graduate from the University of Kentucky, School of Architecture. They were concerned with the Urban Service Boundary being protected and wanted to see more density along North Broadway, in order to protect other farm land. They were fond of other projects in the area, such as Hampton Court, and wanted to beautify the North Broadway corridor.

Jenifer Bentley, 146 Twelfth Street, said that she didn't receive notification of the neighborhood meeting that Mr. Simpson mentioned. She is concerned with the traffic and believes that there should be a traffic signal at that intersection. She is also concerned that this development may lower her property value.

Applicant Rebuttal – Mr. Simpson said that the notice for the neighborhood meeting was sent to the neighbors within 500 feet of the subject property. He added that he states in these letters to invite anyone else that may be interested in this proposal. He said that much of today's discussion is about the design of the buildings, which is still conceptual and can be changed. This proposal is to increase density on a piece of vacant land and how much more density could be achieved by constructing one building that would be less attractive and more out of context with the neighborhood. He asked if it will really be noticed traveling along Twelfth Street, the 5 feet of difference in the side yard. He said that this is a balance of the Comprehensive Plan, the Zoning Ordinance, and the Land Subdivision Regulations, to see what works and what the applicant wants to achieve. Also, the applicant is being flexible to the staff's and the Planning Commission's recommendations, in terms of the design. He reiterated that the 5-foot side-street side yard setback is necessary to not compromise what has been planned as a major asset on this corridor.

Staff Rebuttal – Mr. Baillie said in regards to the variance, the staff is recommending flexibility, which is allowing a 10-foot setback, when the requirement is 20 feet. He said that the 10-foot setback is associated with the transition to the adjoining residential and the context of North Broadway and Twelfth Street. He said that the focus of the 2018 Comprehensive Plan is that when reviewing projects to increase density in areas, that there must also be proper transitions between different contexts or places. He said that there was a statement regarding relocating an entrance to the side of the property, which will force the applicant to meet the front yard setback, because it would now become a frontage for the property. This would then require another variance that would go before the BOA.

Commission Questions – Mr. Pohl asked if the Planning Commission could approve the variance with the staff's recommendations and not the applicant's request. Mr. Baillie said that because it is a lesser variance, there is the ability for the Planning Commission to approve it, which is part of the recommendation that is associated with the supplemental variance report. He said that the Planning Commission would not be able to grant a variance for more than advertised, but this is still within the range of their request.

Commission Discussion – Mr. Nicol believes that more than 16 units could be built without the 5-foot setback. With the staff's recommendation of the 10-foot setback, there will be relief, but if more is needed the applicant could apply for parking or open

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

space variances. He said that he would like to protect the neighbors along Twelfth Street, which could impede the future development of more dense units on other vacant sites.

Mr. Pohl said that he agrees with Mr. Nicol's comments. He said that the staff's recommendation of the 10-foot setback shows context sensitivity to the area. He said that the design and the layout of the development could be questionable.

Zoning Action – A motion was made by Mr. Pohl, seconded by Mr. de Movellan, and carried 8-0 (Bell, Michler, and Penn absent) to approve PLN-MAR-21-00014: BROADWAY TWELFTH LLC, for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Pohl, seconded by Mr. de Movellan, and carried 8-0 (Bell, Michler, and Penn absent) to approve PLN-MJDP-21-00047: TWELFTH STREET ADDITION, as presented by the staff, as follows:

Variance Request Action – A motion was made by Mr. Pohl, seconded by Mr. de Movellan, and carried 8-0 (Bell, Michler, and Penn absent) to approve of a lesser variance to the property side street side yard, from twenty (20) feet to ten (10) feet, for the reasons provided by the staff with the recommended conditions, as follows:

- a. Provided the Planning Commission and Urban County Council approve the requested zone change to the R-4 zone, otherwise the requested variances shall be null and void.
- b. Along the side street side yard there shall be a planted continuous hedge no taller than four feet.
- c. The development shall be constructed in accordance with the approved Final Development Plan, or as amended by the Planning Commission.
- d. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
- e. Action of the Planning Commission shall be noted on the Development Plan for the subject property.