

**AMENDED JUSTIFICATION FOR REQUESTED ZONE MAP AMENDMENT FOR
PROPERTY OWNED BY CAPKY BLUEGRASS PROPERTIES, LLC AT
353 WALLER AVENUE LEXINGTON, KENTUCKY 40504 AND RELATED
VARIANCE REQUESTS**

SUMMARY

The applicant CAPKY Bluegrass Properties, LLC (“Applicant”) hereby files this Amended Justification Statement to its initial Justification Statement filed herein. The purpose of this Amended Justification Statement is to 1) amend the request in the initial Justification Statement for a minimum front yard variance and 2) to add a request for a minimum off-street parking requirement variance. The Applicant incorporates by reference all of the initial Justification Statement filed in this application, except as amended herein. All undefined terms herein shall have the same meaning as given to them in the initial Justification Statement.

The existing paved parking area and some additional areas will be restriped to create 112 total parking spaces (reduced from the initial proposal of 137 parking spaces) of which 18 will be compact spaces and 5 will be handicapped spaces. Bicycle racks to accommodate at least 30 bicycles will be added as well. This reduction is attributable in large part from the removal of existing parking spaces within the required minimum 20’ front yard pursuant to §8-14(h) Urban County Zoning Ordinance (“Zoning Ordinance”).

§8-14(n) of the Zoning Ordinance, applying R-3 minimum parking requirements contained in §8-12(n) of the Zoning Ordinance, provides for a minimum parking requirement in an R-5 zone of 3 spaces per two dwelling units or .9 spaces per bedroom, whichever is greater. Since this project is proposed to contain 100 efficiency dwelling units, the required parking would be 150 spaces. That requirement can be reduced by 5% for bicycle racks as provided for in §16.10 (a) of the Zoning Ordinance. It was previously thought that a non-sheltered transit stop would be added within 300’ of the Property allowing the Applicant to further reduce the minimum parking space requirement as provided for in §16.10(b) of the Zoning Ordinance. The Applicant has now determined that LexTran will not add a transit stop in time for the opening of this development. This makes the minimum off-site parking requirement equal to 143 spaces which is more than the number of spaces that can physically be created on the Property.

§ 8-14 (h) of the Zoning Ordinance requires lots in an R-5 zone to have a minimum front yard of 20’. There is currently a 50’ building setback line as the result of a plat that was created over 50 years ago. There are a number of existing parking spaces located within this 50’ setback that have been there for many years. However, that was not an issue until now as there is no prohibition against parking in the front yard in a P-1 zone (the current zone classification for the Property) but parking in the front yard in an R-5 zone is prohibited. See §16-4(c)(1) of the Zoning Ordinance. Since the Applicant is requesting a zone map amendment from P-1 to R-5, the existing parking spaces within the 50’ setback line have to be moved. The Applicant will submitted a proposed development plan that shows a 20’ front yard and removal of the parking spaces that are currently within the requested 20’ front yard and location of new parking spaces outside the 20’ front yard. The Applicant will file an application with the Planning Commission for an Amended Final Record Plat that will reduce the platted 50’ setback line to show a 20’

front yard accommodate the proposed parking spaces. The previously requested front yard variance in the initial Justification Statement is hereby withdrawn.

VARIANCES

In addition to the zone change, the Applicant is requesting a dimensional variance of the useable open space minimum requirements and a reduction in the minimum off-site parking requirement. Minimum Useable Open Space.

a) Minimum Useable Open Space Variance.

§8-14 (k) of the Zoning Ordinance requires lots in an R-5 zone to have a minimum useable open area of 20%. The Applicant is requesting a variance of the useable open space from 20% (26,150 square feet) to 15% (20,000 square feet). The 15% useable open space that exists results from the existing building's location on the Property and the Applicant's desire to reuse the existing building.

The Applicant is requesting approval of the reduction in minimum useable open space for the following reasons:

1. Granting this variance will not adversely affect the public health, safety or welfare and will not alter the character of the general vicinity, and will not cause a hazard or nuisance to the public because there will be no increased change in the footprint of the existing building as it will remain an existing condition and the requested reduction in open space is a minimal reduction request (5% of the required useable open space area or 6,200 square foot). Furthermore, UK and two public parks (Elizabeth Street and Burley Avenue) are within walking distance of the Property.
2. Granting this variance will not allow an unreasonable circumvention of the requirements of the zoning ordinance because the reduction in the useable open space requirement is minimal and there is adequate open space within walking distance of the Property.
3. The special circumstances which apply to this property and which do not apply to land in the general vicinity is the existing building can be redeveloped for a multi-family use with adequate parking by only a minimal reduction in useable open space.
4. Strict application of the regulations of the zoning ordinance would deprive the Applicant of a reasonable use of the land or create an unnecessary hardship because an increase in useable open space would require the reduction of parking spaces or building footprint.
5. The circumstances surrounding the requested variance are not the result of the actions of this Applicant taken subsequent to the regulation from which relief is sought. This applicant has not started construction and is requesting the variance

prior to, not after the construction of improvements and re-zoning of the Property.

b) Parking Variance.

The minimum parking space requirement for an R-5 zone classification is the greater of a) 3 parking spaces per two dwelling units or b) .9 parking spaces per bedroom pursuant to §8-14(n) of the Zoning Ordinance – applying parking requirements set for in an R-3 zone per §18-12(n) of the Zoning Ordinance. Based on the Applicant's conversion of the existing nursing home building to 100 efficiency dwelling units, there would be a minimum off-street parking space requirement of 150 parking spaces (i.e. $100/2$ units x 3 parking spaces = 150 parking spaces). This required 150 parking space minimum would be reduced to 143 parking spaces based on a 5 percent reduction in parking spaces for bicycle racks pursuant to §16.10 (a) of the Zoning Ordinance. Because the Applicant desires to use the existing building and parking pavement area to complete the Applicant's Infill and Redevelopment conversion of the existing nursing home to a multi-family use, the maximum number of off-street parking spaces that can be constructed is 112. Therefore, the Applicant is requesting a variance to reduce the minimum parking space requirement to 112 spaces. The Planning Commission is authorized to approve a reduction in the minimum parking space requirement pursuant to §16-10 (1) of the Zoning Ordinance as permitted by §7-6(b) of the Zoning Ordinance.

The Applicant's goal is to re-develop the site (parking lot and existing building) for multi-family apartments using the existing building and parking lot with the fewest changes as are practical to the exterior of the building and pavement areas. In order to do so, the maximum number of parking spaces that could be created on the property is 112 (including 5 handicap and 18 compact spaces).

The interior re-design of the building has not been finalized as that effort will involve substantial architectural cost and time, which is not feasible until parking and other site requirements are approved. However, the goal of the Applicant is for the multi-family development to consist of as many efficiency units as practical.

The practical effect of this current minimum parking requirement would mean that the Applicant would have to provide 1.43 parking spaces per efficiency dwelling unit assuming one automobile per efficiency unit. As noted by the Applicant in the Subdivision and Zoning Subcommittee meetings held on October 6, 2016, a primary focus of this multi-family development is international students attending the University of Kentucky, many of whom will not own automobiles.

The Planning Commission has the authority, pursuant to §7-6 (b) of the Zoning Ordinance, to reduce the minimum parking space requirement by up to 50% for multi-family developments located in the Infill and Redevelopment Area.

Accordingly, the Applicant requests a variance reducing the minimum off-street parking requirement of 150 off-street parking spaces (reduced to 143 for bike racks) to 112 off-street parking spaces, based on the project containing no more than 100 efficiency dwelling

units. The Applicant also requests that it be permitted to add two bedroom dwelling units by reducing the number of efficiency dwelling units provided that a parking ratio of at least 1.12 parking spaces per bedroom is maintained i.e. if 10 two bedroom dwelling units were added then the total number of efficiency dwelling units would need to be reduced to 80.

1. Granting this variance will not adversely affect the public health, safety or welfare and will not alter the character of the general vicinity, and will not cause a hazard or nuisance to the public because as noted above the parking spaces provided will be more than adequate for the use being proposed by the Applicant in that not all residents will have automobiles and the parking layout is consistent with the parking layout of the surrounding area.
2. Granting this variance will not allow an unreasonable circumvention of the requirements of the zoning ordinance as it, along with the Comprehensive Plan, encourages this type of infill redevelopment and contemplates that certain provisions of the Zoning Ordinance may need to be varied to achieved those goals. This variance request results in a 21% reduction in required parking and the Planning Commission is empowered to reduce minimum parking requirements by up to 50% of the required minimum parking pursuant to §7-6 (b) of the Zoning Ordinance.
3. The special circumstances which apply to this property and which do not apply to land in the general vicinity is that the existing building can only be fully redeveloped for a multi-family use with adequate parking with the requested reduction in required parking spaces.
4. Strict application of the regulations of the zoning ordinance would deprive the Applicant of a reasonable use of the land or create an unnecessary hardship because it would require that the Applicant reduce the number of efficiency dwelling units by almost 25% (100 to 74) leaving a substantial portion of the existing building unused, which would defeat the Infill and Redevelopment goal of maximizing the use of Infill and Redevelopment Area.
5. The circumstances surrounding the requested variance are not the result of the actions of this Applicant taken subsequent to the regulation from which relief is sought. This applicant has not started construction and is requesting the variance prior to, not after the construction of improvements and re-zoning of the Property.

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October 10, 2016

HAND DELIVERY

Traci L. Wade
Senior Planner, Division of Planning
LFUCG - Division of Planning
101 East Vine Street, Suite 700
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Re: CAPKY Bluegrass Properties, LLC
353 Waller Avenue
PLN-MAR-16-00002

Dear Traci:

Attached is an Amended Justification Statement for the captioned matter where I have amended the front yard variance request previously filed and added a parking variance request. The open space variance remains the same.

Please let me know if you have any questions.

Very truly yours,

WYATT, TARRANT & COMBS, LLP


Richard M. Hopgood

RMH/akf
Enclosures
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