

ORDINANCE NO. 114 -2016

AN ORDINANCE CHANGING THE ZONE FROM A HIGH DENSITY APARTMENT (R-4) ZONE TO A HIGH RISE APARTMENT (R-5) ZONE, FOR 0.59 NET (0.69 GROSS) ACRE, FOR PROPERTY LOCATED AT 256 & 260 LEXINGTON AVENUE (BURLINGTON HEIGHTS CONDOMINIUMS, LLC AND WYNNDAL DEVELOPMENT, LLC; COUNCIL DISTRICT 3).

WHEREAS, at a Public Hearing held on April 28, 2016 a petition for a zoning ordinance map amendment for property located at 256 & 260 Lexington Avenue from a High Density Apartment (R-4) zone to a High Rise Apartment (R-5) zone for 0.59 net (0.69 gross) acre, including dimensional variances, was presented to the Urban County Planning Commission; said Commission recommending approval of the zone change by a vote of 9-0; and

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

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

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

Section 1 - That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 256 & 260 Lexington Avenue from a High Density Apartment (R-4) zone to a High Rise Apartment (R-5) zone for 0.59 net (0.69 gross) acre, being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the Lexington-Fayette Urban County Planning Commission is directed to show the amendment on the official zone map atlas and to make reference to the number of this Ordinance.

Section 3 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: June 16, 2016

MAYOR



ATTEST:



CLERK OF URBAN COUNTY COUNCIL

Published: June 23, 2016-1t

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Burlington Heights Condominium, LLC & Wynndale Development, LLC Property
Zone Change From R-4 to R-5
256 & 260 Lexington Avenue
Lexington, Fayette County, Kentucky

A TRACT OR PARCEL OF LAND SITUATED ADJACENT TO AND SOUTHEAST OF LEXINGTON AVENUE BETWEEN MAXWELL AVENUE AND HIGH STREET IN CENTRAL LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

BEGINNING at the point of intersection of the centerline of Lexington Avenue and the common line of 250 and 256 Lexington Avenue extended; thence S 37°54'03" E, 167.00 feet to a point; thence S 52°12'06" W, a distance of 41.50 feet to a point; thence S 52°14'33" W, a distance of 121.10 feet to a point; thence S 52°47'45" W, a distance of 20.01 feet to a point; thence N 36°58'20" W, a distance of 167.00 feet to a point being in the centerline of Lexington Avenue; thence with said centerline for the following two calls -- N 52°01'43" E, a distance of 138.80 feet to a point; thence N 52°12'06" E, a distance of 41.50 feet to the **POINT OF BEGINNING** containing 0.69 acres gross and 0.59 acres net.


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

IN RE: MARV 2016-9: BURLINGTON HEIGHTS CONDOMINIUMS, LLC, AND WYNNDALE DEVELOPMENT, LLC – petition for a zone map amendment from a High Density Apartment (R-4) zone to a High Rise Apartment (R-5) zone, for 0.59 net (0.69 gross) acre, for property located at 256 & 260 Lexington Avenue. Dimensional variances were also requested. (Council District 3)

Having considered the above matter on **April 28, 2016**, at a Public Hearing, and having voted **9-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter for the following reasons:

1. The proposed High Rise Apartment (R-5) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Comprehensive Plan Goals and Objectives recommend expanding housing choices to meet the needs for all of Fayette County's residents (Theme A, Goal #1b.); supporting infill and redevelopment that respects the area's context and design features (Theme A, Goal #2a.); providing well-designed neighborhoods and communities (Theme A, Goal #3); and utilizing vacant properties within the Urban Service Area to encourage compact, contiguous and/or mixed-use sustainable development to accommodate future growth needs (Theme E, Goal #1b).
 - b. These Goals and Objectives are furthered by the applicant's proposal to create affordable, safe and secure high density residential dwelling units within the College Town area, which will allow students and others to live near the University of Kentucky and downtown.
 - c. These Goals and Objectives are also furthered by the applicant's proposal to increase density to accommodate future growth needs of the community, thereby reducing pressure to expand the USA boundary.
 - d. The applicant's proposal is context sensitive and compatible with the surrounding area because proposed high density redevelopment is surrounded by high density zoning and land uses, and the three-story redevelopment will be consistent in scale with the surrounding neighborhood.
2. The applicant's proposal to rezone the subject properties for 24 dwelling units, a residential density of 40.68 dwelling units per acre, is also supported by the Downtown Master Plan, which recommends increasing residential density within the downtown area. The Plan also acknowledges the mix of opportunities and challenges within the College Town area, noting that increased density and retail development should respond to the surrounding architectural character of the area. The corollary development plan is in keeping with the character of the area – it proposes a three-story building with a setback similar to the existing front setbacks along Lexington Avenue, and off-street parking out of view of the street, at the rear of the properties.
3. This recommendation is made subject to approval and certification of **ZDP 2016-43: Kaluski Property (Lex Ave Apartments)**, 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 13th day of May, 2016.


Secretary, Jim Duncan

MIKE OWENS
CHAIR

Note: The corollary development plan, ZDP 2016-43: Kaluski Property (Lex Ave Apartments), was approved by the Planning Commission on April 28, 2016 and certified on May 11, 2016.

K.R.S. 100.211(7) requires that the Council take action on this request by July 27, 2016.

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

OBJECTORS

- Amy Clark, 628 Kastle Road
- Kathy Chatfield, owner of a nearby building

OBJECTIONS

- She does not believe that an R-5 zone is necessary for the subject property, and is concerned that the proposed development will not be in keeping with the character of the area.
- Her building has limited parking, and she is concerned that the parking for the proposed building will be insufficient.

VOTES WERE AS FOLLOWS:

AYES: (8) Berkley, Brewer, Cravens, Mundy, Owens, Penn, Plumlee, Richardson, Wilson

NAYS: (0)

ABSENT: (2) Drake, Smith

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for APPROVAL of MARV 2016-9 carried.

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

MAR 2016-9

Date Received 3/7/16

Pre-Application Date 2/29/16

Filing Fee \$500.00

GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

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

APPLICANT/ OWNER:	Burlington Heights Condominiums, LLC 101 Stable Way, Nicholasville, Kentucky 40356
APPLICANT/ OWNER:	Wynndale Development, LLC 859-523-8612 101 Stable Way, Nicholasville, Kentucky 40356
ATTORNEY:	Jacob Walbourn, MMLK 859-231-8780 201 East Main Street, Suite 1000, Lexington, Kentucky 40356

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

256 & 260 Lexington Avenue

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

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
R-4	Residential	R-5	Residential	0.59	0.69

4. SURROUNDING PROPERTY, ZONING & USE

Property	Use	Zoning
North	Residential	R-4
East	Residential	R-4
South	Residential	R-4
West	Residential	R-4

5. EXISTING CONDITIONS

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

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

Roads	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Storm Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Curb/Gutter/Sidewalks	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Refuse Collection	<input checked="" type="checkbox"/> LFUCG	<input type="checkbox"/> Other		
Utilities	<input checked="" type="checkbox"/> Electric	<input checked="" type="checkbox"/> Gas	<input checked="" type="checkbox"/> Water	<input checked="" type="checkbox"/> Phone <input checked="" type="checkbox"/> Cable

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

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

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

APPLICANT *Jacob Walbourn*, ATTORNEY DATE 3/7/16

OWNER *Jacob Walbourn*, ATTORNEY DATE 3/7/16

LFUCG EMPLOYEE/OFFICER, if applicable _____ DATE _____

March 7, 2016

Mr. Mike Owens, Chairman
Lexington-Fayette Urban County Planning Commission
200 East Main Street
Lexington, Kentucky 40507

RE: Zone Change Application from R-4 to R-5
256 and 260 Lexington Avenue

Dear Chairman Owens:

Please be advised that we represent Wynndale Development LLC and Burlington Heights Condominiums LLC, which are the owners of 256 and 260 Lexington Avenue. My client desires to rezone these parcels from their current High Density Apartment (R-4) zone to the High Rise Apartment (R-5) zone. We believe that such a rezoning request is in accord with the Goals and Objectives of the 2013 Comprehensive Plan, as further explained herein.

Property Information

The two parcels we propose to rezone are located on Lexington Avenue in downtown Lexington. The area is immediately adjacent to both the Lexington urban core and the University of Kentucky. The majority of parcels in this area are zoned for high-density residential development. The parcels are slightly smaller than 0.6 acres combined, and the present structures on the site house 31 separate tenants. Our proposal for this site would be to remove the antiquated structures currently on the site and replace them with a modern apartment building, with a total of 36 bedrooms. This is a very slight increase in the existing density, and should not result in a noticeable change to the character of the neighborhood. However, allowing the zone change will permit the modernization of this housing, which is primarily utilized by University of Kentucky students. Though the increase in density is small, the present zoning regulations necessitate a request for a zone change in order to accommodate our proposed development.

Proposal in Agreement with 2013 Comprehensive Plan

The proposal to rezone the subject parcel is also in accord with several of the goals and objectives of the 2013 Comprehensive Plan. Our conclusion that this rezoning request is in agreement with the 2013 Comprehensive Plan (hereinafter "Comp Plan") is based on the following:

Growing Successful Neighborhoods

Theme A of the Comp Plan embraces several goals regarding residential life in Fayette County. We believe this redevelopment proposal embraces Goals 1, 2 and 3 articulated in Theme A of the Comp Plan.

Expand Housing Choices. Lexington seeks to create and implement housing incentives that strengthen the opportunity for economic development, new business, and jobs, including, but not limited to higher density and housing. “At its core, the 2013 Comprehensive Plan promotes neighborhood prosperity and success” (Comp Plan, p. 38). In pursuit of that goal, the Comp Plan encourages varied housing choices featuring townhomes, apartments, and condominium and duplex housing adjacent and mixed with single-family homes.

This proposal is in accord with the comprehensive plan because it maintains the housing mix already present in the neighborhood. Further, it provides a more modern and safe alternative to some of the existing apartments in the area, many of which are antiquated and/or have evolved from their original uses and are now utilized as apartments. For instance, the structure that is proposed to be replaced on 260 Lexington Avenue has essentially kept the face of the building, but now has a large expansion placed on the back to accommodate greater density. The current building does not function as originally intended, and the extension on the back is unattractive. This rezoning request will permit these repurposed buildings to be replaced with modern, attractive buildings.

Support infill and redevelopment throughout the Urban Service Area as a strategic component of growth. This goal is accomplished by identifying areas of opportunity for infill, redevelopment and adaptive reuse that respect the area’s context and design features whenever possible. This project utilizes vacant land within the Urban Service Boundary, which is becoming increasingly rare in Lexington. As you are no doubt aware, 95% of Fayette County’s population resides within the Urban Services Area (“USA”), and this number is expected to rise by nearly 35,000 people by 2020 (Comp Plan, p. 13). It is anticipated that the USA will reach its capacity within the next 12 to 17 years. Thus, redevelopment is needed to provide housing choices to the ever increasing population within the USA. The Comp Plan calls for quality connections with parks, schools, and stores, and pedestrian friendly streets and amenities (Comp Plan, p. 39).

This project is a prime example of the type of urban infill that is required to maintain the USA at its present location. This is an area that already has reasonably dense residential development, so this modest increase in density and will not be substantially noticeable to the neighborhood. However, by increasing density, the site will be able to house more tenants. Additionally, density is important in this area because of its prime location. The site is within walking distance of both UK and downtown, and has easy access to the Transit Center so that tenants may utilize public transit.

Provide well designed neighborhoods and communities. The Comp Plan calls not only for well-designed new developments, but to provide enhancements to existing neighborhoods to increase their desirability (Comp Plan, p. 38). Our proposed development will provide a modest increase in density to an area that has already developed, but will minimally impact the existing neighborhood. Additionally, this development will enhance the neighborhood by providing safe and modern housing stock in place of repurposed, unattractive buildings.

Creating Jobs and Prosperity

Theme C of the Comp Plan embraces goals related to continued economic prosperity in Fayette County. We believe this redevelopment proposal embraces elements of Theme C of the Comp Plan.

Attract the world's finest jobs, encourage entrepreneurial spirit, and enhance our ability to recruit and retain a talented, creative workforce by establishing opportunities that embrace diversity with inclusion in our community. One way to attract new jobs and young professionals to Lexington is by providing entertainment and other quality of life opportunities that will bring a workforce of all ages and talents to the city. The proposed development will allow members of the working community to live in a desirable, walk-able neighborhood without having to commit to the substantial investment and maintenance required when purchasing a single-family home. These housing opportunities will be attractive not only to young-professionals, but also undergraduate and graduate students, young couples, and perhaps even older individuals wishing to downsize. The median age in Fayette County is 34 (Comp Plan, p. 17), and 34% of the population is between the ages of 20 and 39 (Comp Plan, p. 18). The opportunities for young professionals to live within the USA must be expanded to accommodate this growing demographic. This will in turn attract more young professional (and jobs) to Lexington. The Comp Plan also reflects commitment to allowing people to live where they work and creating opportunities to make this a reality (Comp Plan, p. 74). This property is centrally located, and is a short walk or bike ride from both the urban core and UK.

Maintaining a Balance Between Planning for Urban Uses and Safeguarding Rural Land

Theme E of the Comp Plan embraces goals related to preserving rural land while encouraging growth. We believe this redevelopment proposal embraces elements of Theme E of the Comp Plan.

Uphold the Urban Services Area concept. This goal requires the absorption of vacant or under-utilized land in the Urban Service Area as well as encouraging the compact, contiguous, and/or mixed-use sustainable development within the Urban Service Area to accommodate future growth needs. This project allows for a modest increase in density, and does not use any of Lexington's dwindling supply of "greenfield" development land.

The Comp Plan also encourages maintenance of this balance by encouraging infill, redevelopment, and adaptive reuse. As noted, this project replaces existing, outdated

apartments. The Comp Plan provides guidelines in what it calls “context-sensitive design.” This allows for a project to approach the development with an eye towards the exterior and architectural features that reflect, relate to, or are in proportion to the surrounding neighborhood (Comp Plan, p. 98). Context-sensitive design can quell many of the fears expressed by neighborhood residence when presented with an infill project (Comp Plan, p. 101). Infill and redevelopment are geared towards improvement, reinvigoration, and development of the quality neighborhoods that create compact development, livable neighborhoods, and viable neighborhood commercial centers (Comp Plan, p. 98). The Comp Plan admits that to successfully achieve infill and redevelopment, regulatory change to the Zoning Ordinance must be reviewed on a regular basis (Comp Plan, p. 99). Though this project admittedly is removing existing buildings, these buildings are not being utilized as originally designed, and are not particularly attractive or highly functional buildings.

Variations Requested

There are several variations necessary for this project due to its status as an urban infill project. The following variations are requested.

Parking

Due to the physical constraints of the site, as well as the need for the parking lot to function and allow traffic to circulate, the project will require a variance to the parking requirements. The applicant will have thirty-four (34) parking spaces when thirty-six (36) are required by the Zoning Ordinance. However, this will minimally impact the neighborhood, if at all. This property is very near in proximity to the Transit Center, the hub of Lextran’s operations. Furthermore, it is within walking distance of both the University of Kentucky and the downtown core, thus reducing the necessity for residents to have personal automobiles. This is not an unreasonable circumvention of the Zoning Ordinance, but rather, is a result of the urban infill nature of the property and the necessity to allow the parking lot to have sufficient handicapped parking and to function and circulate traffic appropriately.

Interior VUA Landscape Area

As above with parking, the site has limited space available for parking, and thus is requesting a variance from 5% to 0%. The applicant feels that maximizing the available spacing while maintaining safe drive aisles is important to the success of this development. Because the parking lot is largely screened from the public way by the mass of the building, the public will be unable to see the parking lot. This is not an unreasonable circumvention of the Zoning Ordinance, but rather, again reflects the project’s status as an urban infill project and is necessary so that the parking lot may function safely and effectively. There will be a positive impact on public and resident safety by allowing this variance.

Open Space

A variance to the open space requirement from 20% to 15% will also be necessary for this project to be successful. The development will provide private balcony space, so there will be open area for resident use. Furthermore, development in the University of Kentucky area is typically very dense; however, there is community open space available for residential use. The site is in near proximity to Phoenix, Thoroughbred, and Woodland Parks, and very near the University of Kentucky, which has abundant open space for public use. Additionally, it is anticipated that many residents will be University of Kentucky employees or students. We do not believe this is an unreasonable circumvention of the Zoning Ordinance, but rather reflects the dense character of development in the area. This should not impact the public in any way, and we believe there is more than sufficient recreational open space in the area that it will not be a detriment to the residents of the development.

Front Yard

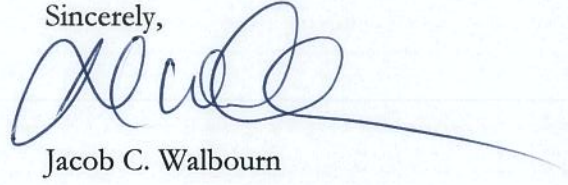
A variance to the required front yard setback is also necessary from 20' to 8'. This is needed in order to maximize the available parking area, and is generally in line with the standard setbacks on Lexington Avenue. This will not impact the health, safety, or welfare of the public, and will actually have a positive impact on maximizing the size of the parking area and will be more respectful of the neighborhood's as-built context. It is not an unreasonable circumvention of the Zoning Ordinance, but instead reflects the urban environment and promotes efficient and compact urban development.

Conclusion

As you can see, this proposal comports with many of the applicable goals and objectives of the Comp Plan. We believe this project is precisely the type of project the Comp Plan encourages – it provides for appropriate density in underutilized land, and encourages urban infill projects that recognize and protect the character of the existing neighborhood. Such a project is important to limiting expansion into Lexington's agricultural areas, and is the type of project needed to make Lexington a desirable community. This type of project is vitally important to preserving the USA boundary at its current location. In short, this project complies with the goals and objectives of the 2013 Comprehensive Plan.

Based on the foregoing, we respectfully request approval of our application as submitted.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Walbourn', with a long horizontal flourish extending to the right.

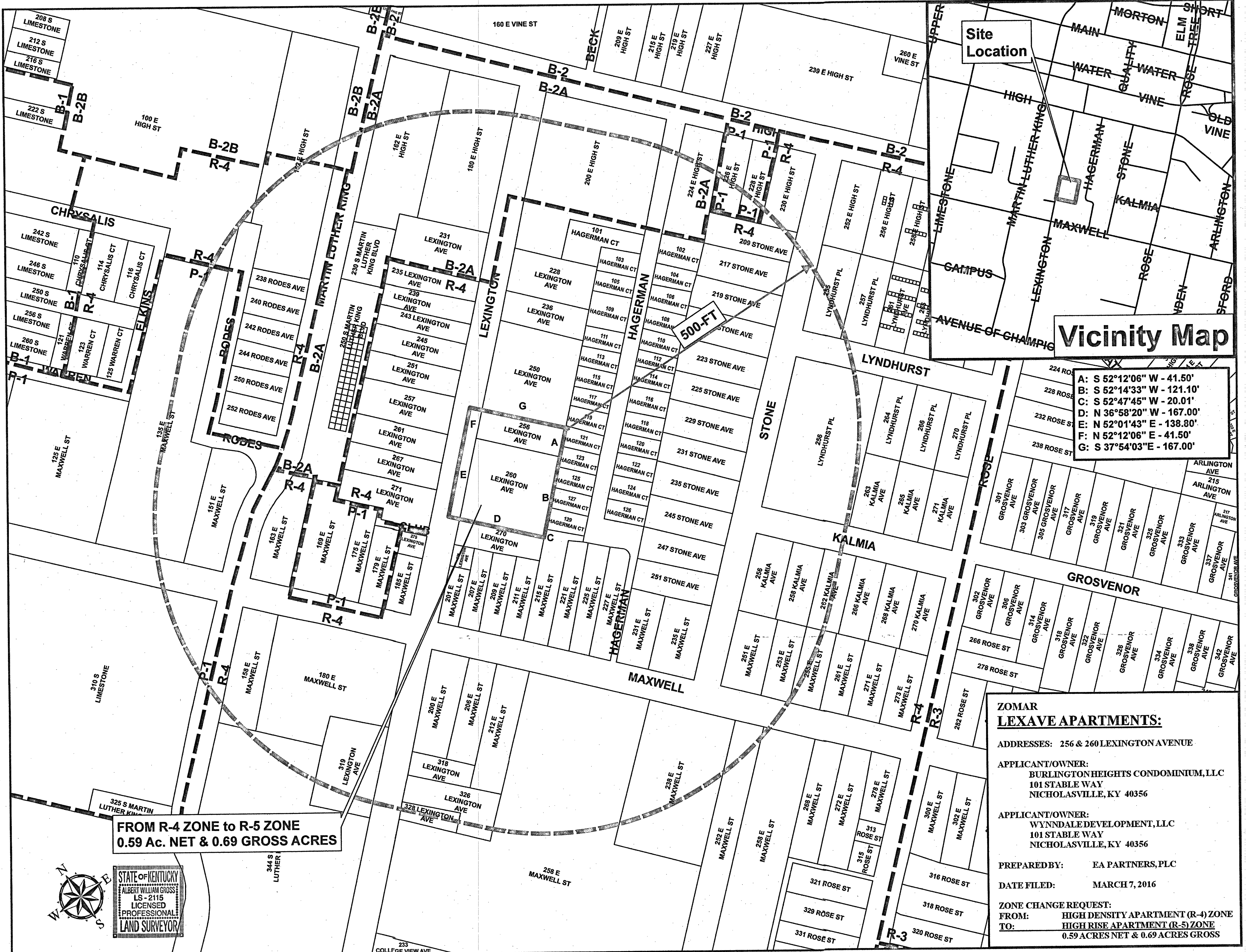
Jacob C. Walbourn

JCW/klm
Enclosures

Burlington Heights Condominium, LLC & Wynndale Development, LLC Property
Zone Change From R-4 to R-5
256 & 260 Lexington Avenue
Lexington, Fayette County, Kentucky

A TRACT OR PARCEL OF LAND SITUATED ADJACENT TO AND SOUTHEAST OF LEXINGTON AVENUE BETWEEN MAXWELL AVENUE AND HIGH STREET IN CENTRAL LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

BEGINNING at the point of intersection of the centerline of Lexington Avenue and the common line of 250 and 256 Lexington Avenue extended; thence S 37°54'03" E, 167.00 feet to a point; thence S 52°12'06" W, a distance of 41.50 feet to a point; thence S 52°14'33" W, a distance of 121.10 feet to a point; thence S 52°47'45" W, a distance of 20.01 feet to a point; thence N 36°58'20" W, a distance of 167.00 feet to a point being in the centerline of Lexington Avenue; thence with said centerline for the following two calls -- N 52°01'43" E, a distance of 138.80 feet to a point; thence N 52°12'06" E, a distance of 41.50 feet to the **POINT OF BEGINNING** containing 0.69 acres gross and 0.59 acres net.



Site Location

Vicinity Map

A:	S 52°12'06" W - 41.50'
B:	S 52°14'33" W - 121.10'
C:	S 52°47'45" W - 20.01'
D:	N 36°58'20" W - 167.00'
E:	N 52°01'43" E - 138.80'
F:	N 52°12'06" E - 41.50'
G:	S 37°54'03" E - 167.00'

FROM R-4 ZONE to R-5 ZONE
0.59 Ac. NET & 0.69 GROSS ACRES

**ZOMAR
LEXAVE APARTMENTS:**

ADDRESSES: 256 & 260 LEXINGTON AVENUE

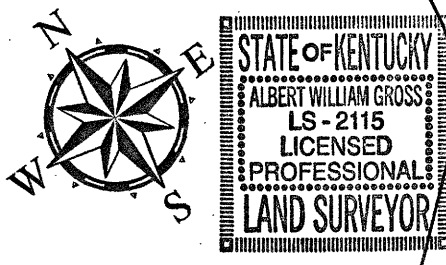
APPLICANT/OWNER:
BURLINGTON HEIGHTS CONDOMINIUM, LLC
101 STABLE WAY
NICHOLASVILLE, KY 40356

APPLICANT/OWNER:
WYNNDALE DEVELOPMENT, LLC
101 STABLE WAY
NICHOLASVILLE, KY 40356

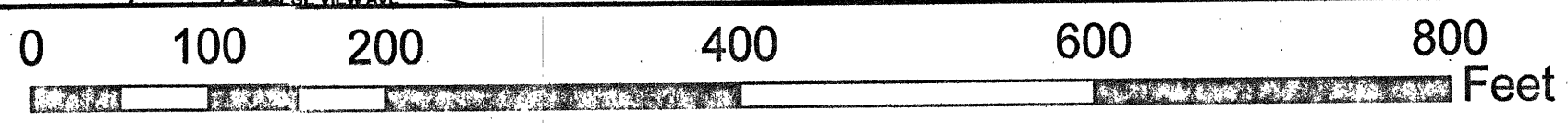
PREPARED BY: EA PARTNERS, PLC

DATE FILED: MARCH 7, 2016

ZONE CHANGE REQUEST:
FROM: HIGH DENSITY APARTMENT (R-4) ZONE
TO: HIGH RISE APARTMENT (R-5) ZONE
0.59 ACRES NET & 0.69 ACRES GROSS



Notification Map



STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

**MARV 2016-9: BURLINGTON HEIGHTS CONDOMINIUMS, LLC and
WYNNDALE DEVELOPMENT, LLC**

DESCRIPTION

Zone Change: From a High Density Apartment (R-4) zone
To a High Rise Apartment (R-5) zone

Acreage: 0.59 net (0.69 gross) acre

Location: 256 & 260 Lexington Avenue

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Properties	R-4	Residential (Duplex & Apartments)
To North	R-4	Residential
To East	R-4	Residential
To South	R-4	Residential
To West	R-4	Residential

URBAN SERVICES REPORT

Roads – Lexington Avenue, which provides frontage for the two properties, is classified as an urban local street. It provides a north/south connection between Avenue of Champions (on the University of Kentucky campus) and East High Street (on the edge of downtown). It is generally residential in nature, providing mainly rental housing for university students and others.

Curb/Gutter/Sidewalks – Lexington Avenue has curbs, gutters and sidewalks; however, being an older neighborhood, some improvements to the sidewalks may be necessary.

Storm Sewers – The subject properties are located within the Town Branch watershed. Storm sewers are existing in this area and serve the properties, with no known stormwater or flooding issues in the immediate vicinity. The current use of the properties is residential with associated parking, and the site is already mainly impervious. It is not large enough to require stormwater detention or other forms of stormwater management besides the existing storm sewers, according to the Engineering Manuals.

Sanitary Sewers – The subject properties and the immediate area are served by sanitary sewers. The site is located in the Town Branch sewershed, and is served by the Town Branch Wastewater Treatment Plant on Old Frankfort Pike. There are no known problems related to the existing sanitary sewers in this area, although the Capacity Assurance Program, which was established by the EPA Consent Decree, for this immediate area currently has a small available capacity balance and a waitlist for a large project on the University of Kentucky campus.

Refuse – The Urban County Government provides daily collection in this portion of the Urban Service Area. Commercial developments, including multi-family developments, sometimes contract with private waste haulers for more frequent service.

Police – The nearest police station to the property is the Division of Police Headquarters, located about ¼ mile to the north on East Main Street. The properties are located within the Central Sector, which has its Roll Call Center off of Winchester Road, near its intersection with East New Circle Road.

Fire/Ambulance – The nearest fire station (#1) is located less than one mile from the subject property to the north, on East Third Street.

Utilities – All utilities, including street lights, natural gas, telephone service, electric, water, and cable television are available to and serve the subject property.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that 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 2013 Plan's Goals and Objectives emphasize the importance of growing successful neighborhoods (Theme A), protecting the environment (Theme B), creating jobs and prosperity (Theme C), improving a desirable community (Theme D) and maintaining a balance between planning for urban uses and safeguarding rural land (Theme E). The subject properties are also located within the Downtown Master Plan (2005) and the College Town Study (2002), both of which are plans prepared by the Lexington Downtown Development Authority.

The petitioner proposes a High Rise Apartment (R-5) zone for the two parcels in order to construct a new, more modern apartment building with a total of 24 dwelling units (36 bedrooms) and associated off-street parking. The petitioner is also requesting several dimensional variances for the subject properties.

CASE REVIEW

The petitioner has requested a zone change from a High Density Apartment (R-4) zone to a High Rise Apartment (R-5) zone for less than one acre on Lexington Avenue, between E. High and E. Maxwell Streets.

The subject properties, comprised of two lots, are located on the southeast side of Lexington Avenue, which is situated between the downtown core and the University of Kentucky campus. The site is within the Southeast Lexington Residential and Commercial District, a district listed on the National Register of Historic Places, and lies between two local historic districts – the Historic South Hill Neighborhood (H-1) District and the Historic Aylesford Neighborhood (H-1) District. The area is characterized by multi-family residential land use in the R-4 zone, primarily utilized by University of Kentucky students and/or faculty due to its close proximity to campus. Currently, two historic structures are located on the site, one a former single-family residence and the other originally a four-plex that has been significantly modified by means of a large rear addition.

The applicant proposes to rezone the subject property in order to redevelop the site with one multi-family residential structure, with 24 dwelling units for a proposed density of 40.68 dwelling units per acre. The applicant proposes off-street parking to the rear of the building, and connecting the parking area to the adjacent property's parking, to the northeast of the site. Several dimensional variances have been requested by the applicant to reduce parking requirements, reduce open space, reduce the front yard setback and eliminate interior parking lot (VUA) landscaping for the site. These variances are covered by a separate staff report.

The 2013 Comprehensive Plan establishes Themes, Goals and Objectives to further the vision for the community. The applicant contends that their request to rezone the subject properties is in agreement with the Comprehensive Plan, specifically the Goals and Objectives related to expanding housing choices to meet the needs for all of Fayette County's residents (Theme A, Goal #1b.); supporting infill and redevelopment that respects the area's context and design features (Theme A, Goal #2a.); providing well-designed neighborhoods and communities (Theme A, Goal #3); and utilizing vacant properties within the Urban Service Area to encourage compact, contiguous and/or mixed-use sustainable development to accommodate future growth needs (Theme E, Goal #1b).

The applicant proposes redevelopment of the site to meet the current demands of the market for more modern and safe housing options, to slightly increase the density of the site in an area already established as a high density area (resulting in little impact to the surrounding properties), and to do so in a manner which they believe to be compatible with the design features of the area. The Plan also supports the "live where you work" concept to reduce vehicle miles traveled and to improve quality of life. In support of this concept, this site is ideally located between two jobs centers – downtown and the University of Kentucky campus.

The subject properties are located within the 2002 College Town Plan and the Downtown Master Plan *College Town* precinct. The Downtown Master Plan recommends increasing residential density in general and acknowledges the mix of opportunities and challenges within the College Town area, noting that increased density and retail development should respond to the surrounding architectural character of the area. The applicant contends that their planned development is in keeping with the character of the area – the proposed building is three stories tall, with a setback similar to the existing front setbacks along Lexington Avenue. In addition, the off-street parking has been situated out of view of the street.

The staff agrees with the applicant that the requested rezoning is in agreement with the 2013 Comprehensive Plan, and is in keeping with the general recommendations of the Downtown Development Authority's plans, which have been considered in past zone change requests for near downtown locations.

The Staff Recommends: Approval, for the following reasons:

1. The proposed High Rise Apartment (R-5) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Comprehensive Plan Goals and Objectives recommend expanding housing choices to meet the needs for all of Fayette County's residents (Theme A, Goal #1b.); supporting infill and redevelopment that respects the area's context and design features (Theme A, Goal #2a.); providing well-designed neighborhoods and communities (Theme A, Goal #3); and utilizing vacant properties within the Urban Service Area to encourage compact, contiguous and/or mixed-use sustainable development to accommodate future growth needs (Theme E, Goal #1b).
 - b. These Goals and Objectives are furthered by the applicant's proposal to create affordable, safe and secure high density residential dwelling units within the College Town area, which will allow students and others to live near the University of Kentucky and downtown.
 - c. These Goals and Objectives are also furthered by the applicant's proposal to increase density to accommodate future growth needs of the community, thereby reducing pressure to expand the USA boundary.
 - d. The applicant's proposal is context sensitive and compatible with the surrounding area because proposed high density redevelopment is surrounded by high density zoning and land uses, and the three-story redevelopment will be consistent in scale with the surrounding neighborhood.
2. The applicant's proposal to rezone the subject properties for 24 dwelling units, a residential density of 40.68 dwelling units per acre, is also supported by the Downtown Master Plan, which recommends increasing residential density within the downtown area. The Plan also acknowledges the mix of opportunities and challenges within the College Town area, noting that increased density and retail development should respond to the surrounding architectural character of the area. The corollary development plan is in keeping with the character of the area – it proposes a three-story building with a setback similar to the existing front setbacks along Lexington Avenue, and off-street parking out of view of the street, at the rear of the properties.
3. This recommendation is made subject to approval and certification of ZDP 2016-43: Kaluski Property (Lex Ave Apartments), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

TLW/BJR/WLS

4/6/2016

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4. BURLINGTON HEIGHTS CONDOMINIUMS, LLC, AND WYNNDALE DEVELOPMENT, LLC, ZONING MAP AMENDMENT & KALUSKI PROPERTY (LEX AVE APARTMENTS) ZONING DEVELOPMENT PLAN

- a. MARV 2016-9: BURLINGTON HEIGHTS CONDOMINIUMS, LLC, AND WYNNDALE DEVELOPMENT, LLC (6/5/16)* – petition for a zone map amendment from a High Density Apartment (R-4) zone to a High Rise Apartment (R-5) zone, for 0.59 net (0.69 gross) acre, for property located at 256 & 260 Lexington Avenue. Dimensional variances are also requested.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that 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 2013 Plan's Goals and Objectives emphasize the importance of growing successful neighborhoods (Theme A), protecting the environment (Theme B), creating jobs and prosperity (Theme C), improving a desirable community (Theme D) and maintaining a balance between planning for urban uses and safeguarding rural land (Theme E). The subject properties are also located within the areas of the Downtown Master Plan (2005) and the College Town Study (2002), both of which are plans prepared by the Lexington Downtown Development Authority.

The petitioner proposes a High Rise Apartment (R-5) zone for the two parcels in order to construct a new, more modern apartment building with a total of 24 dwelling units (36 bedrooms) and associated off-street parking. The petitioner is also requesting several dimensional variances for the subject properties.

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

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

1. The proposed High Rise Apartment (R-5) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Comprehensive Plan Goals and Objectives recommend expanding housing choices to meet the needs for all of Fayette County's residents (Theme A, Goal #1b.); supporting infill and redevelopment that respects the area's context and design features (Theme A, Goal #2a.); providing well-designed neighborhoods and communities (Theme A, Goal #3); and utilizing vacant properties within the Urban Service Area to encourage compact, contiguous and/or mixed-use sustainable development to accommodate future growth needs (Theme E, Goal #1b).
 - b. These Goals and Objectives are furthered by the applicant's proposal to create affordable, safe and secure high density residential dwelling units within the College Town area, which will allow students and others to live near the University of Kentucky and downtown.
 - c. These Goals and Objectives are also furthered by the applicant's proposal to increase density to accommodate future growth needs of the community, thereby reducing pressure to expand the USA boundary.
 - d. The applicant's proposal is context sensitive and compatible with the surrounding area because proposed high density redevelopment is surrounded by high density zoning and land uses, and the three-story redevelopment will be consistent in scale with the surrounding neighborhood.
 2. The applicant's proposal to rezone the subject properties for 24 dwelling units, a residential density of 40.68 dwelling units per acre, is also supported by the Downtown Master Plan, which recommends increasing residential density within the downtown area. The Plan also acknowledges the mix of opportunities and challenges within the College Town area, noting that increased density and retail development should respond to the surrounding architectural character of the area. The corollary development plan is in keeping with the character of the area – it proposes a three-story building with a setback similar to the existing front setbacks along Lexington Avenue, and off-street parking out of view of the street, at the rear of the properties.
 3. This recommendation is made subject to approval and certification of ZDP 2016-43: Kaluski Property (Lex Ave Apartments), 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. REQUESTED VARIANCES
1. Reduce the number of required parking spaces from 36 to 34.
 2. Eliminate the required interior Vehicular Use Area (VUA) landscape area(s).
 3. Reduce the required open space from 20% to 15%.
 4. Reduce the required front yard from 20 feet to 8 feet.

The Staff Recommends: **Approval of the requested variances**, for the following reasons:

- a. Granting the requested variances will not adversely affect the public health, safety or welfare; will not alter the character of the general vicinity; and will not cause a hazard or nuisance to the public. In fact, granting the variances will help to maintain the existing character of the street, which is residential in nature, with setbacks closer to the street than even the current R-4 zone requires; and will provide a more modern residential building

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- that will, ideally, blend in with the overall character of the street. At the same time, it will allow the parking area at the rear of the property to be maximized, creating a safe and efficient layout for parking and circulation.
- b. Granting the requested variances will not result in an unreasonable circumvention of the Zoning Ordinance. Lexington Avenue is a residential street that provides a connection from the University of Kentucky to Downtown; and the building and parking, as proposed, are designed to maximize the site, replacing two older residential structures with a safer, more modern living space for students or others who might wish to take advantage of live-where-you-work opportunities, which is endorsed by the Comprehensive Plan. All of the variances work together to provide as efficient and safe of a parking layout as possible. Landscaping (including a 6-foot privacy fence) will be provided by the developer along the rear property line to take the place of what would otherwise be required by Article 18 for interior landscaping.
 - c. One special circumstance that applies to this site that does not generally apply to land in the general vicinity is its size, which will allow the redevelopment as proposed. There is only one other residential property in the immediate vicinity that is of a comparable size, which is the property adjoining 256 Lexington Avenue to the north, already developed with an apartment building. Any other property of that size in the area is commercial in nature (e.g., Maxwell Presbyterian Church and the US Post Office building). Another circumstance is that this is an urban infill project located between the University of Kentucky campus and Downtown that will continue to provide rental housing, which is always in demand. The new building proposed will replace two older structures with a new, safe structure that will contain only a few more dwelling units than the two existing buildings do currently.
 - d. Strict application of the requirements of the Zoning Ordinance would prevent the most efficient layout of the parking area that is currently proposed, or would require an off-setting decrease in the number of dwelling units for this redevelopment project.
 - e. Although the circumstances surrounding the requested variance are associated with the proposed zone change, the variances are requested in an effort to accomplish an efficient design of the off-street parking area. Landscaping will be placed in a more appropriate location on the property, and the apartment building will be at a setback more in line with what is existing on the remainder of the east side of Lexington Avenue.

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

1. Provided the Urban County Council rezones the property R-5; otherwise, any Commission action of approval of this variance is null and void.
2. Should the property be rezoned, it shall be developed in accordance with the approved Development Plan, as amended by a future Development Plan approved by the Commission, or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.
3. A note shall be placed on the Zoning Development Plan indicating the variances that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].
4. Prior to obtaining an Occupancy Permit, the applicant shall obtain a Zoning Compliance Permit from the Division of Planning.
5. The final Landscaping Plan, submitted to the Division of Building Inspection for review, shall also be submitted to the Division of Planning, for placement in the appropriate file(s).

The Zoning Committee Recommended: Approval of the requested variances, for the reasons provided by staff.

- c. ZDP 2016-43: KALUSKI PROPERTY (LEX AVE APARTMENTS) (6/5/16)* - located at 256 and 260 Lexington Avenue. **(EA Partners)**

The Subdivision Committee Recommended: Postponement. There are questions about compliance with the required open space and parking.

Should this plan be approved, the following requirements should be considered:

1. Provided the Urban County Council rezones the property R-5; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
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. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
6. Correct plan title (to include Kaluski Property).
7. Denote: Recordation of a consolidation plat will be required prior to certification of a final development plan.
8. Addition of record plat designation on plan or in title block.
9. Dimension breezeway and sidewalks.
10. Revise cross-section to depict no parking on one side of street.
11. Discuss reciprocal access and maintenance with adjacent property to the southeast.
12. Discuss compliance with the required parking and open space requirements.
13. Discuss compliance with Article 15-7 of the Zoning Ordinance.

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Zoning Presentation – Ms. Wade presented the staff report and oriented the Commission to the location of the subject properties. She said that this request is for a change from an R-4 (High Density Apartment) zone to an R-5 (High Rise Apartment) zone for two properties, located at 256 and 260 Lexington Avenue. The site is between E. High and E. Maxwell Streets, near the High Street branch post office, which is just to the north at the intersection of E. High Street and Lexington Avenue. She said that all properties that border the site are zoned R-4, although there is B-2A zoning along E. High Street and S. Martin Luther King Boulevard. The properties are located between the University of Kentucky campus and Downtown Lexington, in the area that is considered College Town, and were included in the College Town and Downtown Master Plan studies in 2002. The Downtown Master Plan indicated that redevelopment opportunities exist in this area, but any redevelopment should be context sensitive to what is in the area. Although not within a local historic district, the two properties are within a residential district listed in the National Register of Historic Places and are between the Aylesford and the South Hill local historic districts.

She said that the petitioner is proposing to increase the density on the property by building 24 apartment units, which will result in a density of 40.68 dwelling units per acre. Ms. Wade presented several aerial photos of the property and surrounding area, noting that there are two structures on the site today, one of which is an historic single family residence that was converted to a duplex, and the other a building that had been converted to a 16-unit apartment building. She said that the petitioner contends that the proposed zoning is in agreement with the following Goals & Objectives of the 2013 Comprehensive Plan: Theme A, Goal 1, Objective b, which relates to expanding housing choices for Fayette County residents; Theme A, Goal 2, Objective a, which supports infill and redevelopment that respects an area's context and design features; Theme A, Goal 3, which is to provide for well-designed neighborhoods and communities; and Theme E, Goal 1, Objective b, which has to do with utilizing vacant or underutilized properties within the Urban Service Area in a compact, contiguous and sustainable manner in order to address future growth needs within Fayette County.

Ms. Wade said that the staff does not believe that changing from one high density zone to another will have much impact in an already densely populated area, adding that the petitioner is proposing to modernize the housing and make it safer for residents (presumably students and faculty or staff of the University of Kentucky) in a manner compatible with existing residences in the area (i.e., a 3-story building, which is typical of other structures on this street and at a similar setback). She said that the staff believes this zone change to be in agreement with the Comprehensive Plan and is supported by the Downtown Master Plan. She concluded by saying that the staff was recommending approval for the reasons as stated in the staff report and on the agenda, and that the Zoning Committee had recommended approval as well.

Commission Question - Ms. Mundy asked if there was any requirement that would make the petitioner use the same footprint, to which Ms. Wade responded that it was in a National Historic District, but not a local district; therefore, there is no such requirement, although it is standard procedure that the Division of Historic Preservation would review the proposal as it relates to demolition of the buildings.

Development Plan Presentation – Ms. Gallt presented the corollary development plan, noting that the petitioner is proposing a 3-story apartment building with parking to the rear and driveway access to Lexington Avenue, both from the subject property and the adjoining property by connecting the parking areas. After explaining the required conditions for approval, one of which was to delineate who would be the party responsible for maintaining the reciprocal access easement, she said that the staff's recommendation of the revised development plan was for approval.

Variance Presentation – Mr. Emmons said that the petitioner was requesting a total of four variances, all of which were fairly minor in scope and all of which would work together to help facilitate a cohesive development: 1) a reduction in the number of required parking spaces from 36 to 34; 2) elimination of the required vehicular use area interior landscaping; 3) reduction of the open space requirement from 20% to 15%; and 4) a reduction of the front yard requirement from 20 feet to 8 feet. Mr. Emmons explained that a reduction of the front setback would put the new building more in line with properties on the street in the direction of the University of Kentucky, as opposed to the larger setbacks on the street nearer downtown. He said that the staff was recommending approval of that variance.

The second variance, elimination of the required vehicular use area screening (landscape islands within the parking lot) was requested to allow a connected parking area across the rear of the two properties area; if the interior landscaping were required, it would reduce the amount of parking the petitioner could provide, which would result in the need for a greater parking variance. He said that the Landscape Review Committee had reviewed this portion of the request and had recommended approval. Their recommendation included providing additional trees along the rear property boundary for better perimeter screening between the parking area and the residential properties on Hagerman Court, to the rear.

With regard to the open space reduction from 20% to 15%, Mr. Emmons said that, although the proposed development is infill, the requirements for new development would apply since a new lot is being created by consolidating the two existing lots. He explained that there is generally a 20% open space requirement in the R-5 zone and that the proposed reduction of open space was minimal. He said the staff found it to be a justifiable and reasonable request because balconies will be provided for the individual apartments.

The last variance discussed was the parking variance. Mr. Emmons said that 36 spaces are required, based on the number of bedrooms being proposed for the development. The petitioner was requesting a variance to 34 spaces, which is equal to a 6% reduction in parking. He explained that properties within 300' of a bus stop can have a 5% reduction in parking by right; and if within 300 feet of a sheltered bus stop, there is a 10% reduction allowed by right. The staff believes this

variance to be minor and justifiable as well, particularly due to the walkability of the area and the proximity of the Transit Center (only 600 feet from the site).

He said that the staff was recommending approval of all the requested variances, for the reasons as listed in the staff report and on the agenda, and subject to the five conditions listed. Mr. Emmons said that because there is a landscape variance involved, the staff was requesting a copy of the final landscape plan to be submitted to Planning to be included as part of the record of this case.

Petitioner Presentation - Jacob Walbourn, attorney, was present on behalf of the petitioner. He said they were in agreement with the staff's recommendations and that he would reserve his comments for rebuttal in order to respond to the opposition's concerns.

Opposition - Amy Clark, 628 Kastle Road, said that the primary speaker in opposition to this case (Ms. McAlister) had to leave the meeting and asked that she (Ms. Clark) be allowed to use her allotted time in addition to what would be needed for her own PowerPoint presentation. She said that she had Ms. McAlister's prepared remarks, which would be provided to the Commission. Ms. Clark also said that there was a resident of the Aylesford neighborhood who was present and who had signed up to speak, but had yielded his time to her. She asked to be allowed extra time for both Ms. McAlister and the Aylesford resident's remarks. In response, the Chair said that it was unfortunate that Ms. McAlister had to leave the meeting, but extra time would not be given to Ms. Clark for someone who was not present at the hearing. He added that it was up to the Chair's discretion as to how much additional time a speaker was allowed. He noted that the staff had provided an excellent, detailed presentation with regard to all aspects of the request and that the petitioner's representative had been very brief in his remarks. He said that the Commission was interested in hearing Ms. Clark's presentation, asked her to keep her comments brief and to the point, and said that only Ms. McAlister's written comments would be made part of the record.

Ms. Clark said that their contention was that the proposed zone change was not in agreement with the Comprehensive Plan, was not appropriate zoning for the property or the area, and that there has not been a major change in the area that would justify the requested change to R-5. One concern was that a much larger building for not many more units than were already existing on the two properties was proposed, and that the building does not fit the context of the area in either size or design. She said that the Downtown Master Plan described the need for higher density; but that was for the wider streets, rather than streets the size of Lexington Avenue, which should be developed in a more conservative manner in order to preserve neighborhood character. She said that the applicant's contention was that the reduced front yard was appropriate; however, the platted setback is 20 feet, which is observed by the large apartment building on the adjoining property. The buildings that are closer to the street are, in fact, much older buildings.

Ms. Clark said that, if the intent is to preserve the character of the neighborhood, it would not be accomplished by tearing down the two buildings and replacing them with a larger one that would loom over the others on the street. Referencing the buildings on the opposite side of Lexington Avenue, she said that they are all set back further than what is being requested with this zone change. Ms. Clark said that, according to PVA records, the properties that abut the subject properties to the rear (on Hagerman Court) are all single family residential structures. They have almost no rear yards, so the proposed building and its associated parking will have a great impact on those properties. For these reasons, and because the apartment building is designed in a similar manner to those in suburban settings, she believed that the proposed zone change does not comply with either the Comprehensive Plan or the Downtown Master Plan. She compared the proposed building and its site statistics to the adjoining apartment building, noting that it will be much larger in size and scope than the existing building, which was built in the 1990s without the need for variances.

Ms. Clark said that the need for variances for this project is a sign that the development "doesn't fit the zone," noting that R-5 is very rare around UK's campus. It was her belief that a "student housing monoculture" is developing around UK due to the number of new dorms and student apartments and provided several statistics to support her statements. She said the affordable housing study from a couple of years ago indicated that an increase in student housing results in a loss of affordable rental apartment units. She said that the petitioner indicated at the Zoning Committee meeting that the proposed development would not displace any low income tenants (in response to a question on the development plan application form). It was her contention that many students are low income, including a former student who resides on the subject property with whom she had spoken.

Ms. Clark said that the area around UK's campus is a "volatile environment," noting that several units near the Maxwell Street/Stone Avenue intersection sold in the fall of 2015, and there was another large purchase in 2014 in the Euclid/Aylesford area. In her opinion, this was an indication that the area around the University is not only volatile, but is vulnerable. She said that she was concerned that the proposed zone change would set a precedent that could drive up the price of land near UK beyond sustainable prices. She noted that the role of the Planning Commission, using the Comprehensive Plan as a guide, is to carefully judge "what to grant incentive to in land use and development;" this zone change provides an incentive to R-5 style development which is out of character with the neighborhood. The R-5 zone allows extended-stay hotels, offices on the first two floors, and incidental retail and restaurant uses, none of which belong in a residential neighborhood. It was her belief that the proposed variances are designed to "put parking on every available inch," noting that area homeowners are concerned about the lack of parking in the neighborhood. She said that the parking re-

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quirement is not sufficient for the number of units or the number of bedrooms proposed. Additionally, the development does not seem to provide a sufficient level of housing choices in the area.

Kathy Chatfield, 2309 Old Keene Place, was present. She said she own a building at the corner of E. Maxwell and Lexington Avenue. Her building has parking only for residents. She was concerned that parking would not be sufficient for the proposed development; and if that is the case, parking on the street will become an even greater problem than it already is. She asked that the Planning Commission carefully consider this possibility in their deliberation of the proposed zone change.

Petitioner Rebuttal – Mr. Walbourn made several points in rebuttal. He said that the development will likely be occupied by students, with one student per apartment, and only one car will be permitted per dwelling unit. The petitioner is providing parking for every unit, with a couple of visitor spaces, as well as handicap accessible parking. He said that this is a student housing neighborhood with a variety of housing types and setbacks; and many of the single family houses in the area have large additions to accommodate more student density. The small units that remain in the area are typically duplexes and multi-family residential structures, many of which are located on Hagerman Court and are no longer used as single family residences. He said that the 200 block of Lexington Avenue has 18 parcels, only two of which receive tax bills at their Lexington Avenue address. Both are used as office, one of which is for the apartment building. This site is 700' from Memorial Coliseum and 1,200 feet from the Avenue of Champions and is an area typically inhabited by students.

With regard to parking, Mr. Walbourn said that there are two different parking generators listed in the Zoning Ordinance that apply to multi-family development – 0.9 per bedroom or 1.5 spaces per dwelling unit, whichever is greater. This development requires the higher of the two generators, which is more than one space per bedroom, and which they are providing. He said that one way to avoid the proposed variance to the number of parking spaces might be to eliminate the handicap accessible space, which they did not consider an option; however, that would only give the development one extra space and would effectively make little to no difference.

Mr. Walbourn said that the variance to the vehicular use area landscaping was requested in order to provide more on-site parking, and the parking was placed in the rear to avoid a front yard parking situation. With regard to the open space variance, he said that student populations typically congregate in parks or other areas, many of which are available in the area, rather than the open space that might be provided in apartment complexes. They therefore considered it justifiable. Lastly, the front yard variance will allow a setback similar to other structures on this side of the street.

Describing the existing buildings, Mr. Walbourn said that one has a large addition; the structures are old and unsafe; the foundations have been eroded; they have termite infestations; and the sprinkler system in one building no longer functions. He said that one structure is no longer able to have gas service; so the residents use electric heaters, which regularly overloads the electrical circuits. There is a need for safe, affordable off-campus student housing. He said that while they are sympathetic to the neighbors' concerns, the petitioner contends that this development is in scale and compatible with the existing streetscape. He noted that the staff was recommending approval of all aspects of the request and asked that the Commission act accordingly.

Citizen Rebuttal - Ms. Clark suggested that the Planning Commission consider a variance that would preserve the historic character of the neighborhood. She said that the petitioner seemed to suggest that the buildings are not up to code, which is troubling; but they are currently rented. She admitted that the larger of the two buildings has an inappropriate addition on the rear of the structure; however, the building's front façade was preserved. She also suggested that the Planning Commission consider the cross-access to the other parking area referenced in the development plan presentation, noting that it could be a problem if there are no parking spaces to share. She said she did not believe it would be appropriate to pinch what little green space there is in favor of providing more parking spaces, when considering "how far out of whack" the existing parking situation in the neighborhood is already. The only remedy apparent to her was for the Planning Commission to deny the zone change and postpone the development plan in order to consider some of the issues she had raised. It would also be appropriate to prohibit, via conditional zoning restrictions, the uses not suitable for a neighborhood street, and would be helpful to have increased buffering along the rear of the property. She asked that the Planning Commission not grant the variances due to adverse impacts on the neighborhood.

Staff Rebuttal – Ms. Wade said that the staff could suggest conditional zoning to restrict some allowable uses, such as extended-stay hotels; restaurants; and incidental retail uses, which are all permitted as conditional uses in the R-5 zone but would be problematic mid-block on a residential street. She also said that the Downtown Master Plan was never completely adopted by the Planning Commission; and that, rather than a preservation plan, it showed opportunities for infill.

Mr. Walbourn said that his client was in agreement with the conditional zoning restrictions, although there is no intent for any use other than residential on the property. If they ever did consider those uses, they would have to obtain Board of Adjustment approval as a conditional use if those zoning restrictions were not in place. He said that, should the Planning Commission wish to impose the conditional zoning restrictions, it would not impact the development in any way.

Chair Comments – The Chair asked if the Commission had any discussion on the zone change request, variance or development plan. There were no comments or questions on the part of the Commission.

Zoning Action – A motion was made by Mr. Brewer, seconded by Mr. Wilson and carried 9-0 (Drake and Smith absent) to approve MARV 2016-9: BURLINGTON HEIGHTS CONDOMINIUMS, LLC, AND WYNNDALE DEVELOPMENT, LLC, to include the conditional zoning restrictions proposed by the staff.

Variance Action – A motion was made by Mr. Brewer, seconded by Ms. Richardson and carried 9-0 (Drake and Smith absent) to approve the requested variances as recommended by the staff, subject to the conditions listed in their report.

Development Plan Action – A motion was made by Mr. Brewer, seconded by Ms. Richardson and carried 9-0 (Drake and Smith absent) to approve ZDP 2016-43: KALUSKI PROPERTY (LEX AVE APARTMENTS), subject to the conditions as noted in the revised report.