

**BILLINGS LAW FIRM** <sup>PLLC</sup>  
COUNSELORS-AT-LAW

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November 28, 2022

LFUCG Planning Commission  
200 E. Main Street  
Lexington, KY 40507

**Re: Zone Change Application at 340 Legion Drive**

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Dear Planning Commission:

My firm is pleased to represent Cowgill Development, LLC (the “Applicant”)<sup>1</sup> in its application for a zone map amendment at 340 Legion Drive, Lexington, Kentucky (the “Property”) from its current Neighborhood Business (B-1) zone to a High Rise Apartment (R-5) zone. The Property is 2.29 acres on Legion Drive, just off South Broadway. The Property is bounded to the north and west by the B-1 zone, and on the east and south by the R-4 zone. The Property is located just outside the Infill and Redevelopment Zone, which stops at Legion Drive.

**GOALS AND OBJECTIVES**

The application agrees with the 2018 Comprehensive Plan. Specifically, the Goals that:

- encourage expanded housing choices (Theme A, Goal 1), by offering additional housing options in the South Broadway corridor that are convenient to downtown, UK, and other key activity centers;
- support infill and redevelopment throughout the Urban Service Area (Theme A, Goal 2) by redeveloping the Property to provide for a greater and higher use benefitting more stakeholders than it currently does;
- provide well-designed neighborhoods (Theme A, Goal 3) by designing the Property to fit in the existing neighborhood; and
- work to achieve an effective and comprehensive transportation system (Theme D, Goal 1) by making the Property accessible to pedestrians, public transit, and commuters.

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<sup>1</sup> The Property is owned by Cowgill Partners, L.P.

Further, the Applicant seeks to accommodate the growing demand for housing in Lexington by constructing a high-density residential building that is respectful of the existing neighborhood's character and intensity (Theme A, Goal 1, Objective b; Theme A, Goal 2, Objective b). The proposed development includes activated entrances that improve pedestrian accessibility and neighborhood interaction in a safe and attractive manner (Theme A, Goal 3, Objectives a-b). Lastly, due to its proximity to the South Broadway corridor and existing public transit routes, the proposed development supports a variety of transportation options for pedestrians, cyclists, public transit riders, and commuters by connecting to existing facilities and encouraging additional interconnectivity (Theme D, Goal 1, Objectives a-b).

### **ENGAGEMENT**

The Property is not located within or near a neighborhood association. The nearest single-family homes to the Property are located across Legion Drive behind the apartment building at 333 Legion Drive. In addition to the general notification requirements, the Applicant has posted flyers in its nearby apartment buildings (333 Legion Dr. and 1229 Man O War Pl.) regarding this development, and contacted an area stakeholder and Fayette County Neighborhood Council board member regarding the project. The Applicant also set up a website with project information.<sup>2</sup> This website contains information about the project, including application materials, and a form for visitors to leave questions and comments for the Applicant. To date, the Applicant has not received any objection to this project.

### **SITE DESCRIPTION**

The Property is located near the South Broadway corridor. See Comprehensive Plan p. 41. The vicinity is roughly half commercial and half residential, of which residential areas the majority are studio or one-bedroom apartments. The commercial uses include hospitals and medical offices, professional offices, restaurants, a car wash, and other retail and service businesses. The existing structure was built in 1976; it is currently used for professional offices and is approximately half vacant. The Property is not part of a historic district, H-1 overlay, or other place of historic significance.

### **PLACE-TYPE, DEVELOPMENT TYPE, & REQUESTED ZONE**

The most appropriate place-type is **Enhanced Neighborhood**, which the Comprehensive Plan defines as:

An existing residential area to be enhanced with additional amenities, housing types, and neighborhood-serving retail, services, and employment options. Development should be

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<sup>2</sup> <https://cowgill.com/legion>

context-sensitive to surrounding areas and should add to the sense of place. Incorporating multimodal connections is crucial to neighborhood success and viability.<sup>3</sup>

2018 Comprehensive Plan p. 265.

The Applicant believes this Property is best suited to a **medium density residential (MR)** development type. The expansion of housing options in this area will add much needed choice and availability to this area of Lexington without a drastic change in the Property or to the existing neighborhood. The Applicant seeks a zone change to the R-5 zone. R-5 is appropriate for this Property because of its proximity to the South Broadway corridor and the existing multifamily nature of Legion Drive. The R-5 zone permits the Applicant to put the Property to its highest and best use as much needed residential housing.

**DEVELOPMENT CRITERIA**

The Applicant prepared an annotated proposed development plan. The design standards being met are denoted on the annotated plan are as follows:

<b><u>Site Design, Building Form &amp; Location</u></b>	<b><u>Transportation &amp; Pedestrian Connectivity</u></b>	<b><u>Greenspace &amp; Environmental Health</u></b>
A-DS3-1	A-DS1-2	A-EQ7-3
A-DS5-4	A-DS5-1	B-RE1-1
A-DS7-1	A-DS5-2	
A-DS7-2	B-SU4-1	
B-SU11-1	D-CO1-1	
C-PS10-3	D-CO2-1	
	D-CO2-2	

Other development criteria require further explanation to demonstrate this application’s compliance with the Comprehensive Plan, and that the current B-1 zoning is inappropriate for an Enhanced Neighborhood place-type but the proposed R-5 zone would be appropriate. A summary is attached as **Exhibit A**.

**MULTI-FAMILY DESIGN STANDARDS**

The Applicant has reviewed the guidelines known as Multi-Family Design Standards (MFDS) and incorporated them to the greatest degree practicable on the Property. The MFDS, like the rest of the Comprehensive Plan, are “policies that guide how development should occur throughout the city, and all of them are important.” Comprehensive Plan at p. 212. In other

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<sup>3</sup> 2018 Comprehensive Plan p. 265.

words, the Comprehensive Plan, as distilled into Placebuilder and the MFDS, is not a “checklist”: “every site is different, each with their own opportunities, constraints, and challenges” and the criteria “is not a mandatory list to be met on all developments.” Comprehensive Plan at p. 261-62.

This Property presents several unique constraints. First, there is a significant grade change along Legion Drive, with the northwest side of the Property (nearest South Broadway) being at least ten (10) feet lower elevation than the southeast side (furthest from South Broadway). That grade change presents difficulties in both construction techniques and visual appearance. For example, the existing structure on the Property appears off-balance because the northwest side of the building is “built-up” to match the elevation on the southeast side. Second, the lot is a small site with limited configurations available. Third, the lot is L-shaped, wrapping around a carwash adjacent to the Property. The Applicant desires to locate the apartment building as far away from the carwash (and attendant noise from compressors and vacuums) as possible for the peaceful enjoyment of residents.

Notwithstanding these constraints, the Applicant took extensive steps to implement the Goals and Objectives of the Comprehensive Plan (including the stated desire for increased infill residential density to meet a growing population), Placebuilder, and the MFDS. The resulting application meets numerous stated objectives and design standards while adding needed residential units to the neighborhood. Some of the critical MFDS-compliant features of the application are:

- Improved and enhanced pedestrian access on Legion Drive (SP.5; SP.11; OS.9);
- Activated Legion Drive frontage with pedestrian connectivity, open space, placemaking design features including a small courtyard, seating, and greenspace (SP.3; SP.5; OS.1; OS.3);
- Greenspace and outdoor amenity spaces accessible by residents which connect to centrally-located ground floor indoor amenities and communal spaces (SP.6; SP.9; SP.16; OS.1; OS.4);
- Split parking lots and flow improvements to enhance safety and aesthetics (SP.8; OS.5);
- Increased landscaping and tree planting which helps delineate public versus private areas (OS.4; OS.5; OS.11);
- Parking lot crosswalks and pedestrian access (SP.8);
- Enhanced building materials and design to create an attractive focal point on Legion Drive that still fits the size and scale of the existing neighborhood (AD.2; AD.3; AD.5; AD.7);
- Building setback and scale matches other buildings on Legion Drive and reinforces street frontages (SP.1; SP.4; AD.2); and
- L-shaped building enhances “eyes and windows” on green space and open spaces for communal feel and added safety (SP.9; OS.1; AD.4).

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**CONCLUSION**

The Applicant respectfully requests that the Commission recommend approval of the proposed zone change as it satisfies the Goals and Objectives of the Comprehensive Plan and the Placebuilder criteria. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Zach Cato", written in a cursive style.

ZACHARY G. CATO

ENCL.

**Exhibit A  
Design Criteria**

<b>Site Design, Building Form, &amp; Location</b>	
A-DS3-1	The Multi-Family Design Standards (MFDS) are addressed in the justification letter.
A-DS4-2	The proposed structure is contextually appropriate for the existing multifamily residential structures on Legion Drive and the vicinity.
A-DS5-3	The building is oriented to the sightlines of Legion Drive, so that it is a visible “place” from the South Broadway corridor from which most vehicular and pedestrian traffic will approach the Property. The plan activates the street and incorporates design features and open space at the street.
A-DS5-4	The plan shows improved pedestrian connectivity with existing streets and newly proposed interior accessible connectivity, including in the parking areas. The ground level is activated with resident amenities, including laundry, mailroom, conference room, club, kitchen, fitness room, and open space/patio, all in centrally located and accessible areas.
A-DS7-1 A-DS7-2	Due to grade changes on the lot, the small size of the lot, the L-shape of the lot, and the noise attendant to the adjacent carwash, the Applicant has limited options for interior or rear parking. However, the proposed side parking is consistent with other apartments on Legion Drive, and the Applicant proposes a combination of trees, landscaping, and screening to help soften the visual impact of the proposed parking.
A-DS10-1	The proposed residential units are within reasonable walking distance to Picadome Golf Course, Burley Park, and the South Broadway corridor (including transit routes).
A-DN2-1	The proposal will increase density on property that is currently underutilized.
A-DN2-2	The proposed structure is contextually appropriate for the existing multifamily residential structures on Legion Drive and the vicinity.
A-DN3-2	The proposed structure is contextually appropriate for the existing multifamily residential structures on Legion Drive and the vicinity and is located within walking distance to commercial uses in the South Broadway corridor.
A-DN6-1	The proposal seeks to add new compact multifamily housing.
B-PR9-1	The Applicant seeks to work with the existing topography as much as is feasible.
B-SU11-1	The Applicant proposes significant additional trees, landscaping, and greenspace compared to the current state of the Property. Additionally, the Applicant intends to implement the use of some permeable pavement and planter boxes in open spaces.
C-LI6-1	The proposal will add multifamily housing which is within walking distance to commercial and recreational centers in the South Broadway corridor.
C-LI7-1	The Applicant will create much needed multifamily housing in an existing activity center.
C-PS10-3	An appropriate level of parking is provided pursuant to the recent ZOTA.
D-PL7-1	The Applicant is in the process of communicating with area stakeholders to discuss site opportunities and concerns.
D-SP3-1	The development allows for adequate right-of-way with existing streets and sidewalks.
E-GR9-1	The proposed units are intended to support nearby school and employment sites.

**Exhibit A  
Design Criteria**

E-GR9-4	The Property is currently underutilized as office space. The proposed development will add infill intensity and density to meeting Lexington’s housing needs in an area of town with existing commercial and employment opportunities.
<b>Transportation &amp; Pedestrian Connectivity</b>	
A-DS1-2 A-DS4-1 A-DS5-1	The development is designed with access to the nearby transit stop, pedestrian networks, and a controlled private parking area to serve the development on-site.
A-DS5-2	The area along Legion Drive will be defined by greenspace, trees, and a street-oriented primary building.
A-DS10-2	The entrance to the Property is designed to channel pedestrian, rideshare, and vehicular traffic.
B-SU4-1	Although there are nearby parks and recreational centers, the Applicant is creating additional greenspace and open spaces on site.
D-CO1-1	The plan is intended to support and preserve the existing residential aspects of Legion Drive.
D-CO2-1 D-CO2-2	Clearly delineated pedestrian and vehicular areas are provided.
D-CO4-1	No dead-end streets or cul-de-sacs are proposed.
D-CO4-3	The proposed plan seeks to preserve the existing topography where feasible.
<b>Greenspace &amp; Environmental Health</b>	
A-DS4-3	The defining physical feature of the site is its sloped grade change. By orienting the building in an L-shape to Legion Drive, the Applicant is preserving the existing lay of the land. Orienting the building entirely parallel to Legion Drive would require moving significant amounts of earth, not only changing the existing landscape but increasing the project’s carbon footprint significantly.
A-EQ7-3	Private open spaces will be clearly delineated.
B-PR7-2 B-PR7-3 B-RE1-1	The plan proposes an increase in street trees and tree canopy from existing conditions.

There are a number of Placebuilder development criteria which are not applicable to the Applicant’s proposed zone change. The inapplicable criteria are listed below, with a brief explanation of why they are inapplicable to this application.

<b>Site Design, Building Form &amp; Location</b>	
A-DS7-3	No parking structures are proposed.
A-DS8-1	No single-family detached units are proposed, and none currently exist in the vicinity on Legion Drive.
A-DS11-1	This development does not propose any new or altered common public uses or neighborhood focal points.
A-EQ7-1	No school site is proposed or nearby.
C-LI6-2	No single-family detached units are proposed, and none currently exist in the vicinity on Legion Drive.
C-PS10-2	There are no underutilized parking lots in the vicinity. No shared parking is necessary.

**Exhibit A  
Design Criteria**

D-PL9-1	There are no historically significant structures on the Property.
D-PL10-1	There are no public art easements proposed at this time.
D-SP3-2	No cellular tower is proposed in the development.
D-SP9-1	The Applicant is not proposing a single-family detached development nor a planned senior living community.
E-GR4-1	There are no viable existing structures on the Property for residential use.
E-GR5-1	There are no historically significant structures on the Property.
E-GR9-3	The proposed structures are appropriate for and consistent with the existing residential uses on Legion Drive.
<b>Transportation &amp; Pedestrian Connectivity</b>	
A-DS1-1	Legion Drive is not a transit route, and the Property has no direct access to South Broadway.
A-DS13-1	No stub streets are proposed or adjacent to the Property.
D-CO4-2	No new roads or streets are proposed.
D-CO5-1	No new streets are proposed.
D-SP1-3	No new schools or access to schools are proposed.
D-SP6-1	No new social services or community facilities are proposed; however, the proposed housing is accessible via mass transit, bicycle, and pedestrian-connected modes.
<b>Greenspace &amp; Environmental Health</b>	
B-PR2-1	There are no known environmentally sensitive areas within or adjacent to the Property.
B-PR2-2 B-PR2-3	There are no floodplains on or near the Property.
B-PR7-1	There are no nearby greenways, tree stands, or stream corridors for the Property to connect to.
B-RE2-1	There is no greenspace network adjacent to the Property.
D-SP2-1 D-SP2-2	No school site is proposed.
E-GR3-1	There is no greenway network adjacent to the Property.
E-GR3-2	No new focal points are proposed.

A color-coded copy of the development criteria is enclosed herewith for your convenience and review.



## MEDIUM DENSITY RESIDENTIAL

### SITE DESIGN, BUILDING FORM, & LOCATION

<b>A-DS3-1</b>	Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.
<b>A-DS4-2</b>	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.
<b>A-DS5-3</b>	Building orientation should maximize connections with the surrounding area and create a pedestrian-friendly atmosphere.
<b>A-DS5-4</b>	Development should provide a pedestrian-oriented and activated ground level.
<b>A-DS7-1</b>	Parking should be oriented to the interior or rear of the property for non-residential or multi-family developments.
<b>A-DS7-2</b>	Any non-residential or multi-family parking not buffered by a building should be screened from the streetscape view and adjacent properties.
<b>A-DS7-3</b>	Parking structures should activate the ground level.
<b>A-DS8-1</b>	At the individual street level, medium density housing types should be interspersed with single-family detached units and should be context sensitive.
<b>A-DS10-1</b>	Residential units should be within reasonable walking distance to a focal point.
<b>A-DS11-1</b>	Common public uses that serve as neighborhood focal points, such as parks and schools, should be on single loaded streets.
<b>A-DN2-1</b>	Infill residential should aim to increase density.
<b>A-DN2-2</b>	Development should minimize significant contrasts in scale, massing and design, particularly along the edges of historic areas and neighborhoods. (D-PL9, E-GR6)
<b>A-DN3-2</b>	Development should incorporate residential units in commercial centers with context sensitive design.
<b>A-DN6-1</b>	Allow and encourage new compact single-family housing types.
<b>A-EQ7-1</b>	School sites should be appropriately sized.
<b>B-PR9-1</b>	Minimize disturbances to environmentally sensitive areas by utilizing the existing topography to the greatest extent possible.
<b>B-SU11-1</b>	Green infrastructure should be implemented in new development. (E-GR3)
<b>C-LI6-1</b>	Developments should incorporate multi-family housing and walkable commercial uses into development along arterials/corridors.
<b>C-LI6-2</b>	ADUs and/or affordable housing options should be incorporated into existing and new single-family residential development. (A-DN5)

<b>C-LI7-1</b>	Developments should create mixed-use neighborhoods with safe access to community facilities, greenspace, employment, businesses, shopping, and entertainment.
<b>C-PS10-2</b>	Developments should explore options for shared and flexible parking arrangements for currently underutilized parking lots.
<b>C-PS10-3</b>	Over-parking of new developments should be avoided. (B-SU5)
<b>D-PL7-1</b>	Stakeholders should be consulted to discuss site opportunities and constraints prior to submitting an application.
<b>D-PL9-1</b>	Historically significant structures should be preserved.
<b>D-PL10-1</b>	Activate the streetscape by designating public art easements in prominent locations.
<b>D-SP3-1</b>	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.
<b>D-SP3-2</b>	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.
<b>D-SP9-1</b>	Encourage co-housing, shared housing environments, planned communities and accessory dwelling units for flexibility and affordability for senior adults and people with disabilities.
<b>E-GR4-1</b>	Developments should incorporate reuse of viable existing structures.
<b>E-GR5-1</b>	Structures with demonstrated historic significance should be preserved or adapted.
<b>E-GR9-1</b>	Live/work units should be incorporated into residential developments.
<b>E-GR9-3</b>	Less intense multi-family residence types (duplexes, four-plexes, courtyard apartments, etc.) should be incorporated into primarily single-family areas.
<b>E-GR9-4</b>	Development should intensify underutilized properties and develop vacant and underutilized gaps within neighborhoods. (E-GR6)
<b>TRANSPORTATION &amp; PEDESTRIAN CONNECTIVITY</b>	
<b>A-DS1-1</b>	Mass transit infrastructure such as seating and shelters should be provided/enhanced along transit routes. (A-EQ7)
<b>A-DS1-2</b>	Direct pedestrian linkages to transit should be provided.
<b>A-DS4-1</b>	A plan for a connected multimodal network to adjacent neighborhoods, greenspaces, developments and complementary uses should be provided. (A-DS2, A-DN1, B-SU1, B-SU2, C-LI7, E-AC5)
<b>A-DS5-1</b>	Adequate multimodal infrastructure should be provided to ensure vehicular separation from other modes of transport.

Theme Letter - Pillar Abbreviation & Policy Number – Criteria Number  
 Ex: from Theme A - Design Pillar & Policy #1 - Criteria #1 = A-DS1-1. Full decoder on page ##

Criteria that include additional policy items in parentheses refer to companion policies that will provide additional context to the related criteria.

## MEDIUM DENSITY RESIDENTIAL

### TRANSPORTATION & PEDESTRIAN CONNECTIVITY (CONT.)

- A-DS5-2** Roadways should provide a vertical edge, such as trees and buildings.
- A-DS10-2** New focal points should be designed with multimodal connections to the neighborhood.
- A-DS13-1** Stub streets should be connected. (D-CO4)
- B-SU4-1** Where greenspace/community centers are not located within walking distance of a new development, applicants should attempt to incorporate those amenities. (A-DS9)
- D-CO1-1** Rights-of-way and multimodal facilities should be designed to reflect and promote the desired place-type.
- D-CO2-1** Safe facilities for all users and modes of transportation should be provided.
- D-CO2-2** Development should create and/or expand a safe, connected multimodal transportation network that satisfies all users' needs, including those with disabilities.
- D-CO4-1** Dead-end streets and Cul-de-sacs should be discouraged except where connections are not topographically or environmentally feasible.
- 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.
- D-CO4-3** Street pattern and design should consider site topography and minimize grading where possible.
- D-CO5-1** Streets should be designed with shorter block lengths, narrower widths, and traffic calming features.
- D-SP1-3** Developments should provide multimodal transportation infrastructure to school sites, including sidewalks, shared-use paths, and roadways that can accommodate the bus and vehicle traffic associated with the site.
- D-SP6-1** Social services and community facilities should be accessible via mass transit, bicycle and pedestrian transportation modes. (A-EQ7)

### GREENSPACE & ENVIRONMENTAL HEALTH

- A-DS4-3** Development should work with the existing landscape to the greatest extent possible, preserving key natural features.
- A-EQ7-3** Community open spaces should be easily accessible and clearly delineated from private open spaces.
- B-PR2-1** Impact on environmentally sensitive areas should be minimized within and adjacent to the proposed development site.

- B-PR2-2** Dividing floodplains into privately owned parcels with flood insurance should be avoided.
- B-PR2-3** Floodplains should be incorporated into accessible greenspace, and additional protection should be provided to areas around them.
- B-PR7-1** Connections to greenways, tree stands, and stream corridors should be provided.
- B-PR7-2** Trees should be incorporated into development plans, prioritize grouping of trees to increase survivability.
- B-PR7-3** Developments should improve the tree canopy.
- B-RE1-1** Developments should incorporate street trees to create a walkable streetscape.
- B-RE2-1** Green infrastructure should be used to connect the greenspace network.
- D-SP2-1** Visible, usable greenspace and other natural components should be incorporated into school sites.
- D-SP2-2** Active and passive recreation opportunities should be provided on school sites.
- E-GR3-1** Physical and visual connections should be provided to existing greenway networks.
- E-GR3-2** New focal points should emphasize geographic features unique to the site.

\*Theme Letter - Pillar Abbreviation & Policy Number – Criteria Number  
Ex: from Theme A, Design Pillar, Policy #1, Criteria #1: A-DS1-1, Full decoder on page ##

\*\*Criteria that include additional policy items in parentheses refer to companion policies that will provide additional context to the related criteria.