

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-19-00017: LEXINGTON HABITAT FOR HUMANITY

DESCRIPTION OF ZONE CHANGE

Zone Change: From a Single Family Residential (R-1D) zone
To a Planned Neighborhood Residential (R-3)
zone

Acreage: 0.2290 net (0.3046 gross) acres

Location: 213, 215, 217, 219, 221, 223, 225, and 229 Perry
Street



EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Property	R-1D	Vacant
To North	B-1	Restaurant
	I-1	Junk Yard
To East	R-1D	Single Family Residential
To South	R-1D	Single Family Residential
To West	I-1	Junk Yard

URBAN SERVICE REPORT

Roads - Perry Street is a local roadway that extends southwest from Manchester Street (KY 1681). The small roadway and the associated neighborhood are representative of an early 1900s construction. As such, the cross-section for the local street does not meet current standards.

Curb/Gutter/Sidewalks - Perry Street has been constructed without curb, gutter and sidewalk facilities; however, such improvements are required for redevelopment in accord with the LFUCG Land Subdivision Regulations.

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

Storm Sewers - The subject property is located within the Town Branch watershed. Storm sewers do not exist in this portion of the Urban Service Area. Additional facilities may be required for the redevelopment in this general area to address water quality. Any such improvements shall be designed and constructed in accordance with the LFUCG Engineering Manuals. There are no FEMA Special Flood Hazard Areas or known flooding issues along these properties; however, there is a floodplain located less than 100 feet to the west and south of the subject properties associated with the headwaters of the Town Branch Creek.

Sanitary Sewers - The subject property is located within the Town Branch sewershed. The property is served by the Town Branch Waste Water Treatment Facility, located on Lisle Industrial Avenue, southeast of New Circle Road. Improvements to the sewer have been made in the vicinity by the LFUCG. No further improvements are necessary to accommodate the proposed use of the subject properties. Sanitary sewer capacity will need to be verified by the Capacity Assurance Program (CAP) prior to certification of the final development plan.

Refuse - The Urban County Government serves this area with refuse collection on Thursdays.

Police - The subject properties are located within the West Sector, although the nearest police station is the main headquarters, located on East Main Street, approximately 1 ¼ miles from the subject property to the southeast.

Fire/Ambulance - The subject properties are served by Fire Station #4, located approximately one mile to the northeast of the subject property on Jefferson Street, between West Second and West Third Streets. Fire Station #3 is also located in close proximity to the subject property, approximately one mile to the southeast, at the intersection of Merino Street and West Maxwell Street.

Transit - LexTran service is available along both High Street and Versailles Road. Routes that are supported along these roadways include the #8 and #21 along Versailles Road and the #12 and #22 along High Street.

Parks - Currently, the closest park to the subject properties is the Speigle Heights Park, approximately ¾ mile walking and 1 mile by car. Over the next three years the City will also be completing the Town Branch Commons Park less than ¼ mile west of the subject properties.

SUMMARY OF REQUEST

The petitioner has requested a zone change from a Single Family Residential (R-1D) zone to the Planned Neighborhood Residential (R-3) zone in order to construct a townhouse development for 0.229 net (0.3046 gross) acres of property, located at 213, 215, 217, 219, 221, 223, 225, and 229 Perry Street. The proposed development includes five (5) attached single-family homes. The proposed development represents a density of 21.83 dwelling units per acre. Two variances are also requested to reduce the rear yard setback and the minimum dimension of the private open space.

PLACE-TYPE

ENHANCED NEIGHBORHOOD
The Enhanced Neighborhood Place-Type is an existing residential area to be enhanced with additional amenities, housing types, and neighborhood-serving retail, services, and employment options. Development should be context-sensitive to surrounding areas and should add to the sense of place. Incorporating multi-modal connections is crucial to neighborhood success and viability.

DEVELOPMENT TYPE

LOW DENSITY RESIDENTIAL
Primary Land Use, Building Form, & Design
Primarily attached and detached single-family homes of varying formats, including accessory dwelling units. Homogeneous neighborhoods that do not include a mix of housing types should be avoided. Low density residential is only appropriate as a component of “Enhanced Neighborhoods” and “New Complete Neighborhoods”, and should be supplemented by a variety of uses and housing options to create sustainable places.
Transit Infrastructure & Connectivity
Multi-modal network connections, including connected streets, are required to keep an efficient transportation network that provides viable options for all users.
Quality of Life Components
These developments should include intentional open space designed to fit the needs of area residents, and be in walking distance of nearby neighborhood-serving commercial/employment uses.

PROPOSED ZONING



This zone is primarily for multi-family dwellings and other residential uses. This zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan, and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.

PROPOSED USE



This petitioner is proposing the Planned Neighborhood Residential (R-3) zone to construct a low density residential development containing five (5) attached single-family dwelling units. The developer is planning to subdivide the properties to allow for fee simple ownership of the dwelling units. The developer’s mission is to provide affordable housing for families in the Lexington area at a rate of 80% AMI or less.

APPLICANT & COMMUNITY ENGAGEMENT



On November 6th, the Lexington Habitat for Humanity hosted a meeting with neighbors at the Carver Center located at 522 Patterson Street. Various members of the applicant’s board and development team were present at the meeting to answer questions regarding both the development and the overall mission of the applicant’s organization. Six (6) members of the Irishtown neighborhood were in attendance. During the meeting, the applicant presented both their mission and the proposed development. Following the presentation, the applicant took questions and comments regarding the proposed townhomes. The applicant reported that the overall sentiment at the meeting was supportive of the potential change, but there were concerns regarding the parking at the site, gentrification of the area, and the size of the proposed development.

PROPERTY & ZONING HISTORY



The subject properties are located mid-block along Perry Street in the Irishtown Neighborhood. The Irishtown neighborhood includes the area between West High and West Main Streets, and Oliver Lewis Way and the Norfolk Southern Railroad. Over the course of the last 50 years, the Irishtown Neighborhood has been the subject of four separate studies: “Irishtown, Davistown, South Hill Neighborhood Study” (1971), “Irishtown-Davistown Neighborhood Redevelopment Plan” (1981), “Irishtown/Davistown Landscape Development Plan” (1983), and the “Newtown Pike Extension Corridor Plan” (2002). Each discussed the economic disregard that the neighborhood has experienced over time and the need for increased spending to support infrastructure and updated housing opportunities.

In 1968, residents of Irishtown and Davistown sought assistance from the Planning Commission to shift the land use in the area from an industrial zone to allow for greater residential development. Following a year of meetings, the Planning Commission rezoned much of Irishtown, but left Davistown as non-residential zoning, largely to allow for the construction of an expressway system that was proposed for the downtown area of Lexington. The properties along the edge of the neighborhood that front along Manchester Street have historically been characterized by industrial and warehousing land uses, whereas the properties within the heart of the neighborhood, including Perry Street, Willard Street, Driscoll Street, and Edmond Street, have been and currently are primarily single family residential land use.

Over the last 50 years, there have been a total of six (6) zone changes within the Irishtown Neighborhood, not including those properties that front along Manchester Street. All but one of these zone changes sought to vary the form of housing in the area by including townhouses. The area along Manchester Street and Oliver Lewis Way has been the subject of substantial redevelopment and adaptive reuse. The Distillery District East comprises the eastern most portion of Irishtown and includes residences, a music venue, catering services, banquet facilities, a coffee shop, and retail operations. While the non-residential land use has focused on the adaptive reuse of the area, all residential development has been the result of new construction.

COMPREHENSIVE PLAN COMPLIANCE



GOALS & OBJECTIVES

The 2018 Comprehensive Plan, *Imagine Lexington*, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community’s resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. This will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The applicant opines that they are in agreement with the adopted Goals and Objectives of the 2018 Comprehensive Plan. They state that the proposed rezoning accommodates the demand for housing in Lexington responsibly, prioritizing a mixture of housing types (Theme A, Goal #1), while also supporting infill and redevelopment with modern, safe, and dense housing (Theme A, Goal #2). The applicant also indicates that they are seeking to provide a well-designed neighborhood (Theme A, Goal #3) by adding pedestrian facilities and decreasing the potential for on-street conflicts between pedestrians and vehicular traffic. Finally, the petitioner opines that through the mission of Lexington Habitat for Humanity, the proposed housing will strengthen the opportunities for housing affordability within the Lexington-Fayette Urban County (Theme A, Goal #1.d).

The staff agrees with these aspects of the applicant’s proposal and that these goals and objectives can be met.



CRITERIA

The criteria for a zone change are the distillation of the adopted Goals and Objectives, as well as the policies put forth in the 2018 Comprehensive Plan. The criteria for development represent the needs and desires of the Lexington-Fayette Urban County community in hopes of developing a better built environment. The applicable criteria are defined based on the proposed place-type and development type. The applicant has indicated that the site is located within the Enhanced Neighborhood Place-Type and is seeking to create an attached single family residential development. Staff concurs with the applicant's assessment of the place-type and agrees that an attached single family residential development can be appropriate for the subject property within a Planned Neighborhood Residential (R-3) zone.

While staff agrees with much of the justification provided by the applicant, there are a few areas of concern as to how the applicant has applied the development criteria.

1. Site Design, Building Form and Location

Despite compliance with the majority of criteria for Site Design, Building Form and Location, there is one area of concern that the applicant should expand upon. In response to Development Criterion B-SU11-1: Green infrastructure should be implemented in new development, the applicant has referenced the buildings green construction as green infrastructure, which is not an identified green infrastructure type in the Comprehensive Plan. Due to the constricted site and the inclusion of new public infrastructure along the frontage of the site, the inclusion of green infrastructure may be difficult; however, staff would like the applicant to consider the inclusion of green infrastructure and provide details regarding options and potential location.

2. Transportation and Pedestrian

The proposed rezoning meets the criteria for Transportation and Pedestrian. Due to the small size of the subject properties many of the Transportation and Pedestrian criteria are not applicable. However, the applicant has made a concerted effort to include pedestrian facilities and increase the canopy coverage with street trees, that are not described in their letter of justification (A-DS1-1, A-DS5-2, D-CO1-1, and D-CO2-1). This is particularly important as this portion of the city has a very low walkability score of 53 and bikeability score of 47.

3. Greenspace and Environmental Health

The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works with the current landscape, limits the impacts on the surrounding environment, adds landscape buffers and tree canopy, and provides delineated access to the required open space.

STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASONS:



1. The requested Planned Neighborhood Residential (R-3) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed rezoning accommodates the demand for housing in Lexington responsibly, prioritizing a mixture of housing types (Theme A, Goal #1), while also supporting infill and redevelopment with modern, safe, and dense housing (Theme A, Goal #2).
 - b. The proposed rezoning provides a well-designed neighborhood (Theme A, Goal #3) by adding pedestrian facilities and decreasing the potential for on-street conflicts between pedestrians and vehicular traffic.
 - c. The proposed rezoning strengthens the opportunities for housing affordability within the Lexington-Fayette Urban County (Theme A, Goal #1, Objective d).
2. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location as the site creates a residential development that supports pedestrian mobility.
 - b. The proposed rezoning includes safe facilities for the potential users of the site by prioritizing the inclusion of safe pedestrian facilities. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
 - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works with the current landscape, limits the impacts on the surrounding environment, and adds tree canopy coverage in the form of street trees and landscape buffers.
3. This recommendation is made subject to approval and certification of PLN-MJDP-19-00076: Perry Street Townhomes, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

VARIANCE REQUEST



As part of their application, the petitioner is seeking two dimensional variances. First, the applicant is seeking a variance to reduce the required rear yard from ten (10) feet to seven (7) feet, a requirement of Article 8-10(o) (4)(g) of the LFUCG Zoning ordinance. Next the applicant is seeking a variance to reduce the least open space dimension from eight (8) feet to six (6) feet, a requirement of Article 8-10(o)(3) of the LFUCG Zoning Ordinance.

Before any variance is granted, the Planning Commission must find the following:

- a. The granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Planning Commission shall consider whether:
 1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone.
 2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
 3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
- b. The Planning Commission shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

ZONING ORDINANCE

Article 6-4(c) states that the Planning Commission may hear and act upon requested variances associated with a zone change. In such cases, they may assume all of the powers and responsibilities of the Board of Adjustment, as defined in Article 7-6(b) of the Zoning Ordinance.

Article 8-10(o)(3) states that “Not less than ten percent (10%) of the total lot area for any townhouse shall be devoted to private usable open space either on each lot or on land adjacent and directly accessible to each lot. Such open space shall be for the private use of the residents of each individual townhouse and shall be physically separated from other private open space or common open space by plantings, fences, or walls. The least dimension of the private open space shall be eight (8) feet.”

Article 8-10(o)(4)(g) states that “In addition to the special provisions listed above, the lot, yard and height requirements for attached single family dwellings that are approved by the Planning Commission on a final development plan, in defined Infill and Redevelopment areas, shall be as follows: Minimum rear yard - 20% of the lot depth.”

Article 15-7(d) states that there should be special considerations for Infill & Redevelopment areas. “The intent of the Infill and Redevelopment regulations is to allow new construction that is compatible with existing development patterns in older, established neighborhoods. Unique circumstances may require appropriate Board of Adjustment action to allow some relief of yard requirements where strict application of the regulations would cause unusual hardship or a development incompatible with the existing pattern of the neighborhood.”

CASE REVIEW

The applicant states that the need for the variances arise from the special circumstances that do not generally apply to land in the vicinity, or in the same zone. The applicant is seeking to solve a concern that was brought up during the community engagement piece of the Placebuilder process and was reiterated during the Technical Review Committee meeting. Surrounding neighbors expressed concerns regarding the potential parking options, or lack thereof, for the proposed development. The current cross-section for the Perry Street does not meet current standards. The total width of the right-of-way is 33 feet with a total of 21.5 feet of pavement. There are no curbs, gutter, or sidewalk facilities along Perry Street.

The applicant’s initial proposed design called for a 15-foot driveway which led to a single car garage. This allowed for the proper setback along the rear of the buildings and the necessary minimum dimension for the delineated open space. In an effort to comply with the neighborhood concerns, as well as the concerns of Traffic Engineering and the Fire Department, the applicant pushed back the structures to allow for a driveway length of 18 feet. While this allowed for the inclusion of space in front of the garage, reducing the potential for on-street conflicts, it also reduced the available space along the rear yard due to the limited lot depth. The variance would allow for



the increase of the driveway to 18 feet, while also allowing for the size of the structure and number of bedrooms desired by the applicant.

Article 15-7(d) of the LFUCG Zoning Ordinance states that the intent of the Infill and Redevelopment regulation is to allow new construction and provide relief of yard requirements, which would cause unusual hardship. This stipulation was meant to encourage development in areas and on lots that are abnormal or are remnants of larger developments. In this case, these lots are smaller in both length and width than most throughout the area. The requests from the neighbors and the members of the Technical Review Committee indicate a need to provide safe facilities for both the current residents and potential residents in the area. By allowing a greater amount of off-street parking, the applicant is reducing potential conflicts.

The staff agrees with these aspects of the applicant's proposed variance.

With the review of any reduction of open space or setbacks, it is important to understand the available public open space within the area of the proposed development and the potential impacts of moving structures closer to lot boundaries. In this case, the proposed development is within proximity (less than ¼ of a mile) of the planned Town Branch Commons Park. This will provide adequate ancillary open space for the potential residents of the proposed development. The applicant will also be providing a six (6) foot tall fence that will buffer against the I-1 land uses located along the rear of the subject properties.

Finally, the granting of this variance will neither adversely impact the public health, safety, or welfare nor will it alter the essential character of the general area. The reduction in open space will not cause a hazard or nuisance, as shared public open space is planned in the immediate area. Further, the granting of this request is not an unreasonable circumvention of the ordinance, but rather, provides parking in accord with what is necessary at the site.

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



1. Granting the requested variance should not adversely affect the public health, safety, or welfare; nor should it affect the character of the general vicinity. The property is located within the defined Infill & Redevelopment Area, which emphasizes the need to allow for dimensional variances to allow for new development.
2. The need for the variance arises from the special circumstances of the proposed development, including the small width and depth of the subject properties and the substandard nature of Perry Street.
3. The strict application of the rear yard setbacks and minimum open space requirements would create an unnecessary hardship on the proposed development as it reduces the ability to develop the land while also increasing the potential for on-street conflicts.
4. The request is not a result of a willful violation of the Zoning Ordinance. The applicant has taken care to go through the necessary process for this project and has requested the variance prior to commencing construction.

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

- a. Provided the Planning Commission approves the requested zone change to the R-3 zone, otherwise the requested variance shall be null and void.
- b. The development shall be constructed in accordance with the approved Final Development Plan, or as that plan is amended to address design requirements of the Divisions of Engineering, Traffic Engineering, or Building Inspection.
- c. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
- d. Action of the Planning Commission shall be noted on the Development Plan for the subject property.