

1. CAPKY BLUEGRASS PROPERTIES, LLC, ZONING MAP AMENDMENT & STOREY BUSINESS SUBDIVISION, LOT 6

- a. PLN-MAR-16-00002: CAPKY BLUEGRASS PROPERTIES, LLC (11/17/16)* – a petition for a zone map amendment from a Professional Office (P-1) zone to a High Rise Apartment (R-5) zone for 3.05 net (3.29 gross) acres, for property located at 353 Waller 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 petitioner proposes to re-use the existing structure (former nursing home facility) for a multi-family residential development. The petitioner proposes to renovate the structure to accommodate 100 dwelling units, with the intention of marketing such units to students and faculty at the University of Kentucky. Dimensional variances are also requested with the zone change application.

The Zoning Committee Recommended: **Approval**.

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 residential zoning and proposed efficiency apartment units will expand housing choices by providing an uncommon dwelling unit type within the immediate area (Theme A, Goal #1). Although dwelling units exist to the north and west, most are single family homes or two bedroom apartment units.
 - b. The renovation of an underutilized structure on the subject property will support infill and redevelopment that is respectful of the area's context and design features (Theme A, Goal #2.a.) since little will be altered on the property, and since this will also support adaptive re-use in the community (Theme D - Improving a Desirable Community).
 - c. The additional dwelling units within the Waller Avenue corridor will allow for employees and students of the University of Kentucky, as well as two nearby hospitals, to live near their jobs, thereby encouraging infill and redevelopment that creates jobs where people live (Theme C).
 - d. The petitioner will provide new sidewalks along a portion of their property frontage and work to create a transit line along Waller Avenue in order to help a viable network and effective transportation system for residents (Theme D) and improve accessibility between neighborhoods and shopping (Accessibility - page 15).
 - e. The proposed R-5 zone is compatible with the adjoining High Density Apartment (R-4) zone to the west and will serve as a transition between the commercial uses along Waller Avenue and the single family residential areas to the north of this location, due to the existing building's low height and profile.
2. This recommendation is made subject to the approval and certification of PLN-MJDP-16-00009: Storey Business Subdivision, Lot 6, 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 required open space from 20% to 15%.
2. Reduce the required front yard from 20 feet to 8 feet.
3. Reduce the minimum required parking from 150 spaces to either 123 or 112 spaces (depending upon #2).

The Zoning Committee Recommended: **Approval**.

The Staff Recommends: **Approval of the requested variances, and a reduction in off-street parking to 123 spaces**, for the following reasons:

- a. Granting these 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 variance will help to maintain the existing character of the entire subject property, as only limited physical improvements or changes are contemplated or required, other than possibly some additional vehicular use area landscaping and a small number of parking spaces.
- b. Granting these requested variances will not result in an unreasonable circumvention of the Zoning Ordinance, because the existing setbacks and off-street parking areas for the building are to be maintained, generally "as is," which should serve to maintain the existing character of the property, and fit into the existing neighborhood.
- c. The existing parking arrangement along the frontage of the subject site, and the close proximity of its pavement to the

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- right-of-way of Waller Avenue, are special circumstance that applies to this site that do not generally apply to other land in the R-5 zone. These conditions are more common to P-1 and B-1 properties along this corridor.
- d. In this instance, a strict application of the requirements of the Zoning Ordinance would pose a hardship to the applicant, because it would either require the removal of existing off-street parking on the site, require a reduction in residential density, or require the need for building demolitions in order to meet the more routine off-street parking or open space requirements for this proposed site redevelopment.
 - e. The circumstances surrounding the requested variance are not the result of actions taken by this applicant. The applicant has not started construction on the project, and is requesting these variances prior to any construction activities commencing on the subject site.
- c. PLN-MJDP-16-00009: STOREY BUSINESS SUBDIVISION, LOT 6 (11/17/16)* - located at 353 Waller Avenue.
(EA Partners)

The Subdivision Committee Recommended: Postponement. There were some questions regarding the transit stop parking reduction, the required open space, parking in the front yard and lack of tree canopy information.

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. Dimension compact parking spaces.
6. Dimension building.
7. Dimension court yards.
8. Dimension all walkways.
9. Document compliance with interior landscape and tree canopy requirements.
10. Delete the transit stop parking reduction and revise parking.
11. Discuss emergency access at rear of property.
12. Discuss water quality requirements, per the Engineering Manuals.
13. Discuss the open space provided versus what is required.
14. Discuss parking proposed in the required front yard, and overall compliance with off-street parking requirements.
15. Discuss plan status.

Staff Zoning Presentation – Ms. Wade presented the staff report on this zone change. She displayed aerial photographs of the subject property. She summarized the staff recommendations of the proposed zone change and stated that the Zoning Committee recommended Approval.

Development Plan Presentation – Mr. Martin presented the updated staff report on this development plan, which was handed out to the Commission with 12 total conditions, as follows:

The Staff Recommends: Approval, subject to the following revised conditions:

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. Dimension compact parking spaces if proposed.
6. Dimension building.
7. Dimension court yards.
8. Dimension all walkways.
9. Document compliance with interior landscape and tree canopy requirements of the Zoning Ordinance, prior to certification.
10. Delete note #13.
11. Provided the Planning Commission grants the requested variance for the open space.
12. Provided the Planning Commission grants the requested variance for the off-street parking.

Dimensional Variance – Mr. Sallee presented the staff report on the variances for this development and discussed the three requested variances.

Petitioner Presentation – Richard Hoppood, Wyatt Tarrant & Combs, LLP, was present representing the petitioner and said that they agree with the staff's recommendations. He stated that they had several discussions with Mr. Walbourn who represents the neighbor to the west and also the property owner across the street from the subject property. Mr.

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Hopgood submitted an agreement stating three conditional uses that the petitioner agreed to not pursue, should the property be rezoned to R-5.

Citizen Comment - Mr. Walbourn, attorney representing some area property owners, said in regard to the agreement submitted, that his clients do agree to the zone change and the conditional approval of the variances.

Commission Comments – There was concern expressed in regard to the legal terms of the conditions submitted by Mr. Hopgood; should these conditions be specified as prohibited uses. Ms. Jones replied that the language may need to be changed to read “prohibited uses” in a conditional zoning context.

Ms. Wade said that there is a finding proposed with the conditional zoning restriction, and this finding shall read:

3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be prohibited on the subject property:
 - a. Community centers;
 - b. Boarding or lodging houses, assisted living facility, hospitality house, or rehabilitation homes;
 - c. Day shelters.

These restrictions are necessary and appropriate in order to ensure compatibility of the property with the adjoining residential land use to the west and north of this location.

Zoning Action – A motion was made by Mr. Berkley, seconded by Mr. Owens, and carried 9-0 (Brewer and Penn absent) to approve PLN-MAR-16-00002: CAPKY BLUEGRASS PROPERTIES, LLC, for the reasons provided by the staff, including the additional conditional zoning restrictions and its findings.

Development Plan Action – A motion was made by Mr. Berkley, seconded by Mr. Smith, carried 9-0 (Brewer and Penn absent) to approve PLN-MJDP-16-00009: STOREY BUSINESS SUBDIVISION, LOT 6, for the reasons provided by the staff.

Requested Variance Action – A motion was made by Mr. Berkley, seconded by Mr. Smith, carried 9-0 (Brewer and Penn absent) to approve the requested variances, for the reasons provided by the staff, and noting the reduction of required parking spaces to 123.

