

SUPPLEMENTAL STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-25-00005: SUBTEXT ACQUISITIONS, LLC



STAFF REVIEW

In the period following the April Subdivision and Zoning Committee meetings, the applicant met with staff to discuss the concerns described within the initial staff report and the comments received during the committee meetings. Since that time, the applicant has submitted updated application materials, including a revised development plan, revised supplemental renderings, a supplemental letter of justification, and an arborist's report on the health of the site's most significant tree.

The revisions to the proposed development plan include a shift in the building massing, where the structure shifts from eight stories along E. Maxwell Street to six stories along the middle of the structure, to four stories at the northernmost portion of the site along Lexington Avenue. This reduction in size will shift the building from a total of 900 proposed beds, to a total of 825 proposed beds, resulting in a total density of 159 units per acre. The plan also makes changes in the facade along the Lexington Avenue frontage, where individual units are proposed to be incorporated, along with landscape plantings, and a designated outdoor commercial patio. In order to accommodate the individual units with the change in grade present along Lexington Avenue, the applicant is proposing stairs within the Lexington Avenue setback. In order to accommodate the stairs as shown, future variances will be needed as the steps encroach into the side street side yard setback.

Additionally, the applicant provided updated renderings from the northern portion of the site to demonstrate the relationship between the structure and the adjoining buildings along Lexington Avenue and S. Martin Luther King Jr. Boulevard.

COMPREHENSIVE PLAN GOALS AND OBJECTIVES

In the initial staff report, staff requested that the applicant demonstrate how they were in agreement with the following Goals, Objectives, and Policies of the Comprehensive Plan:

Theme A, Objective #2.b- Respect the context and design features of areas surrounding development projects and develop design standards and guidelines to ensure compatibility with the existing urban form.

Under the initial proposal, staff voiced concerns regarding the relationship between the proposed eight-story structure and the two-story building located at 243 Lexington Avenue. The revised plan brings the building down to four stories in this area, which is in line with the existing heights of the condominiums at 250 S. Martin Luther King Jr. Boulevard, which adjoins the property to the west. The building then increases in size as the development approaches the Maxwell Street corridor, where higher intensity structures are present in the vicinity.

Based on the revised justification and development plan, staff finds that the request is in agreement with the Goals and Objectives of the Comprehensive Plan as the request will help meet an increase in the demand for housing, particularly for University of Kentucky students (Theme A, Goal #1.b and #1.d; Theme A, Goal #2.a), will provide walkable commercial space on the first floor of the structure (Theme A, Goal #3.a and #3.c), reduces dependence on single-occupancy vehicles by limiting parking on-site and providing for direct multi-modal connections to the University of Kentucky and the greater downtown area (Theme B, Goal #2.d), and incorporates changes in the massing and height of ability in order to transition into the scale of development currently present in the area (Theme A, Goal #2.b).



COMPREHENSIVE PLAN POLICIES

In addition, staff requested that the applicant respond to several Comprehensive Plan Policies.

Design Policy #5: Provide pedestrian-friendly street patterns & walkable blocks to create inviting streetscapes.

The initial staff report directed the applicant to explore opportunities to more significantly activate or orient the Lexington Avenue frontage to pedestrians. In response, the applicant expanded the proposed sidewalk width, added individual entries and stairways, provided outdoor seating areas for the commercial use, and provided street tree plantings.

Protection Policy #7: Protect the urban forest and significant tree canopies.

In response to staff's request to explore retaining existing significant trees, the applicant has provided a graphic that demonstrates the necessary tree protection areas for the significant trees on-site. The applicant opines that in order to effectively protect the trees, much of the site would be precluded from being redevelopment to meet the need for additional housing. While street trees are being proposed, the request does not appear to increase the canopy relative to the current condition.

Overall, staff finds that the request is in agreement with the majority of the Policies of the Comprehensive Plan, as the request meets the Multi-Family Design Standards (Theme A, Design Policy #3), creates a structure that is sensitive to the surrounding context (Theme A, Design Policy #4), provides neighborhood level commercial uses (Theme A, Design Policy #12), provides for additional residential density along a downtown corridor (Theme A, Density Policy #1 and #2).

DEVELOPMENT CRITERIA

The revised plan also addresses several of the Development Criteria previously identified by staff as requiring further clarification.

1. Land Use

D-PL7-1: Stakeholders should be consulted to discuss site opportunities and constraints prior to submitting an application.

The applicant has provided information relating to the virtual neighborhood meeting they conducted with surrounding residents on February 26, 2025, prior to the submission of the application. The applicant states that the primary concerns raised by the attendees of the meeting was the lack of on-site parking, as well as the potential impact of on-street parking. The information provided by the applicant also states they met in-person with the Maxwell Presbyterian Church, Bluegrass Trust, as well as with members of the adjoining City Court Condominium Association. The letter also details efforts made to reach out during the zone change process for the Aylesford Neighborhood Association; however the neighborhood association opted not to meet.

With the revised justification and Development Plan, staff now finds the request is in agreement for the criteria for Land Use, as the request provides neighborhood level commercial areas (A-DS12-1), and significantly increases residential density along a downtown corridor (A-DN2-1; E-TS8-2)

2. Transportation Connectivity and Walkability

A-DS4-1: A plan for a multi-modal network to adjacent neighborhoods, greenspaces, developments, and complementary uses should be provided.

In response to staff comments, the applicant has shown a widening of the sidewalk to eight (8) feet along both road frontages to accommodate the large amount of pedestrians anticipated with the use.



A-DS5-2: Developments should incorporate vertical elements, such as street trees and buildings, to create a walkable streetscape.

The applicant has revised their plan to indicate that street trees and other plantings will be provided along both road frontages.

With the proposed changes, staff now finds the proposed rezoning meets the criteria for Transportation Connectivity, and Walkability, as the request provides accessible links to transit (A-DS1-1), widens the sidewalks present on the site (ADS4-1 and ADS5-1), and creates a walkable streetscape (A-DS5-2).

3. Environmental Sustainability and Resiliency

B-PR7-1: Developments should be designed to minimize tree removal and to protect and preserve existing significant trees; B-RE1-1: Developments should improve the tree canopy.

In the initial staff report, Planning Staff highlighted a significant Pin Oak present along the Lexington Avenue frontage, and requested further information on the condition of the tree, and suggested the applicant explore opportunities to retain the tree, if healthy. In response, the applicant provided a Tree Risk Assessment report by a certified arborist within their supplemental justification. The report concludes that the tree in question is currently distressed, and that it was the arborist's recommendation that the tree needs to be removed. In addition to the report, the applicant provided a graphic of the significant trees on site, and the necessary tree protection areas that would be needed in order for the trees to remain and thrive. The applicant opines that retaining these trees would effectively preclude any real redevelopment of the site, and is seeking to have the trees removed, and new street trees installed along the road frontage.

Otherwise, the request meets other applicable Environmental Sustainability and Resiliency, as the request does not impact any environmentally sensitive areas (B-PR-2-1), and incorporates an integrated parking structure to reduce surface parking and impervious surface present with the development (B-SU4-1).

4. Site Design

A-DS5-4 Development should provide a pedestrian-oriented and activated streetscapes.

Within the revised development plan, the applicant details several improvements that are designed to improve the pedestrian experience relative to the first iteration of the plan. The first version of the plan lacked pedestrian entrances along much of the Lexington Avenue frontage. Now, units are interspersed along the Lexington Avenue frontage, and are accessed via stairs along the frontage. Additionally, the applicant has indicated that they will provide widened sidewalks, street trees, and outdoor patio area to help activate these areas.

With the proposed changes, the request now meets the criteria for Site Design, as the request activates the streetscapes along both E. Maxwell Street and Lexington Avenue (A-DS5-4), improves pedestrian connectivity in the area (C-LI8-1), limits on-site parking (C-PS10-2), and provides for programmed open space (D-PL4-1).

5. Building form

A-DS3-1: Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.



- i. SP.2: Provide as many private, ground level entries to individual units as possible.
- ii. AD.2: Relate the overall height, size, and character of the development to that of adjacent structures and those of the immediate neighborhood. Sensitively scaled development reinforces pedestrian-oriented character and neighborhood appeal.
- iii. AD.3: Break up building mass with facade articulation on all sides by using varying roof shapes, exterior wall setback, material, color, building height, and landscaping.

In response to staff's request for more information regarding the Multi-Family Design Standards, the applicant provided a more in-depth explanation of the building design. Additionally, the applicant addressed specific concerns relating to the provision of direct ground entries along Lexington Avenue, two additional step-downs in building scale and massing along Lexington Avenue, as well as an increase in pedestrian level articulation and landscaping.

A-DS4-2: 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.

The revised plan details a structure that relates to the existing height of the adjoining condo structure along S. Martin Luther King Jr. Boulevard, and gradually increases in height as the building moves closer to the corridor, where it is tallest and most intense.

A-DS5-3: Building orientation should maximize connections with the surrounding area and create a pedestrian-friendly atmosphere.

The revised development plan increases the size of the sidewalk along both street frontages from five feet to eight feet. This change provides continuity with the recent development plan approved for the multi-family residential development approved on the opposite side of Lexington Ave.

E-GR5-1: Structures with demonstrated historic significance should be preserved or adapted.

In response to the applicant's proposal, the Historic Preservation Staff have provided a report on the historicity of the parcels included with this request. For the properties with historically significant structures, the Historic Preservation Staff provided their historical background, if known, and the state of the structures. The report identifies five of the houses (179 and 185 E Maxwell; 245, 251, and 261 Lexington Avenue). All five structures identified within the report were constructed around 1880, and feature structures that generally have influences from the Italianate style. The report further states that four of the structures are located within the area designated by the Register of Historic Places as part of the Southeast Lexington Residential and Commercial National Register; however, none of the structures are individually listed.

The applicant's revised justification includes a discussion regarding the structures at 179 and 185 E Maxwell Street. There, the applicant notes the current condition of both buildings, and notes that the buildings have been altered over time to accommodate additional residential space, and to convert the buildings for office use. The applicant then provides several examples of other structures within Lexington's protected H-1 overlay zones that they opine exemplify the Italianate style of the buildings that they propose to remove. Finally, they state that their structures are not currently protected by any local historical restrictions, and that they do not have any desire to have the structures placed on the National Register.

Staff finds that overall, the plan meets the majority of the criteria for Building Form, as the request meets the Multi-Family Design Standards (A-DS3-1), incorporates height transitions to better relate to the existing context of development further along Lexington Avenue (A-DS4-2), and provides for active first-floor uses that improve the pedestrian experience on the site (A-DS5-3; D-PL2-1).



CONDITIONAL ZONING

Given the subject property's location to residential development and the applicant's stated goals of utilizing this property for higher density residential development, staff recommends the following restrictions be implemented via conditional zoning:

Conditional Zoning

1. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be prohibited:
 - i. Establishments for the display, rental, or sale of automobiles, motorcycles, trucks and boats.
 - ii. Hotels and motels.
 - iii. Wholesale establishments.
 - iv. Minor automobile and truck repair.
 - v. Establishments primarily engaged in the sale of supplies and parts for vehicles and farm equipment.
 - vi. Drive-through facilities for sale of goods or products or provision of services otherwise permitted herein.
 - vii. Automobile and vehicle refueling stations and service stations
 - viii. Adult entertainment establishments
 - ix. Stadium and exhibition halls
2. The property shall be developed with a minimum of 103 dwelling units per acre, or 200 total dwelling units at this location.

These restrictions are necessary and appropriate in order to maintain the character of the E. Maxwell Street corridor, protect the adjoining residential uses, as well as meet the Comprehensive Plan's goal of increasing the density of residential development in and near downtown, and along arterial corridors.

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



1. The proposed Downtown Business Frame (B-2A) zone is in agreement with the Imagine Lexington 2045 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The request will help meet an increase in the demand for housing, particularly for University of Kentucky students (Theme A, Goal #1.b and #1.d; Theme A, Goal #2.a).
 - b. The request will provide pedestrian-oriented commercial space on the first floor of the structure (Theme A, Goal #3.a and #3.c).
 - c. The request incorporates changes in the massing and height of the structure in order to transition into the scale of development currently present in the area (Theme A, Goal #2.b).
 - d. The request de-emphasizes single-occupancy vehicles by limiting parking on-site and providing for direct multi-modal connections to the University of Kentucky and the greater downtown area (Theme B, Goal #2.d).
2. The proposal is in agreement with the Policies of the 2045 Comprehensive Plan for the following reasons:
 - a. The request meets the Multi-Family Design Standards (Theme A, Design Policy #3).
 - b. By creating a step down in height, the proposed structure is sensitive to the surrounding context (Theme A, Design Policy #4).
 - c. The request provides neighborhood level commercial uses (Theme A, Design Policy #12).
 - d. The proposal provides for additional residential density along a downtown corridor (Theme A, Density Policy #1 and #2).
3. The justification and corollary development plan are in agreement with the Development Criteria of the 2045 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Land Use, as the request provides neighborhood level commercial areas (A-DS12-1), and significantly increases residential density along a downtown corridor (A-DN2-1; E-TS8-2).
 - b. The proposed rezoning meets the criteria for Transportation, Connectivity, and Walkability, as the request provides accessible links to transit (A-DS1-1), widens the sidewalks present on the site

- (ADS4-1 and ADS5-1), creates a walkable streetscape (A-DS5-2).
- c. The request meets the criteria for Environmental Sustainability and Resiliency, as the request does not impact any environmentally sensitive areas (B-PR-2-1), and incorporates an integrated parking structure to reduce surface parking and impervious surface present with the development (B-SU4-1).
 - d. The proposal meets the criteria for Site Design, as the development activates the streetscapes along both E. Maxwell Street as well as Lexington Avenue (A-DS5-4), improves pedestrian connectivity in the area (C-LI8-1), limits on-site parking (C-PS10-2), and provides for programmed open space (D-PL4-1).
 - e. The plan meets the majority of the criteria for Building Form, as the request meets the Multi-Family Design Standards (A-DS3-1), incorporates height transitions to better relate to the existing context of development further along Lexington Avenue (A-DS4-2), and provides for active first-floor uses that improve the pedestrian experience on the site (A-DS5-3; D-PL2-1).
4. This recommendation of approval is subject to the following conditional zoning restrictions:
1. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be prohibited:
 - i. Establishments for the display, rental, or sale of automobiles, motorcycles, trucks and boats.
 - ii. Hotels and motels.
 - iii. Wholesale establishments.
 - iv. Minor automobile and truck repair.
 - v. Establishments primarily engaged in the sale of supplies and parts for vehicles and farm equipment.
 - vi. Drive-through facilities for sale of goods or products or provision of services otherwise permitted herein.
 - vii. Automobile and vehicle refueling stations and service stations
 - viii. Adult entertainment establishments
 - ix. Stadium and exhibition halls
 2. The property shall be developed with a minimum of 103 dwelling units per acre, or 200 total dwelling units at this location.
- These restrictions are necessary and appropriate in order to maintain the character of the E. Maxwell Street corridor, protect the adjoining residential use, as well as meet the Comprehensive Plan's goal of increasing the density of residential development in and near downtown, and along arterial corridors.
5. This recommendation is made subject to approval and certification of PLN-MJDP-25-00014: SUBTEXT DEVELOPMENT II) prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.