

Rec'd by _____

Date: _____

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

IN RE: **PLN-MAR-20-15: WALDEN LAND PROJECT, LLC** – a petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone to a High Density Apartment (R-4) zone, for 0.896 net (1.406 gross) acre, for property located at 3621 Walden Drive. (Council District 4)


Having considered the above matter on **December 17, 2020**, at a Public Hearing, and having voted **11-0** 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 requested High Density Apartment (R-4) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed development will accommodate the demand for housing in Lexington responsibly, prioritizing a mixture of housing types (Theme A, Goal #1), by providing a denser type development in an area that is primarily single family detached and duplex dwelling units.
 - b. The proposed rezoning will support infill (Theme A, Goal #2), and add to a well-designed neighborhood and community (Theme A, Goal #3), while upholding the urban service area concept (Theme E, Goal #1).
 - c. The proposed rezoning addresses the goal of absorbing vacant and underutilized land within the Urban Service Area (Theme E, Goal #1.a), and accommodating the demand for housing in Lexington responsibly, prioritizing higher-density and mixture of housing types.
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 allows increased residential options, provides for safe pedestrian mobility and provides amenities for both residents and the surrounding community. In addition, the development will meet the multi-family design guidelines.
 - b. The proposed rezoning includes safe facilities for the potential users of the site by updating the pedestrian facilities along both Walden Drive and Laredo drive, providing safe and clear access to the building, and providing covered and safe bike storage facilities. In addition, traffic calming along Walden Drive will decrease speeding and improve the Walden and Laredo Drive intersection. 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 adds green infrastructure through the creation of bioswales and will add viable native tree canopy coverage in the area, while also meeting the required canopy coverage on-site.
3. **Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restriction is recommended via conditional zoning:**
 - a. Surface parking shall be prohibited.

This restriction is appropriate and necessary to reduce the potential impact of stormwater runoff on the adjacent properties.

4. This recommendation is made subject to approval and certification of PLN-MJDP-20-00075: Atkins Property Lot 1 (AMD), 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 January, 2021.


Secretary, Jim Duncan

LARRY FORESTER
CHAIR

Note: The corollary development plan, PLN-MJDP-20-00075: Atkins Property Lot 1 (AMD) was approved by the Planning Commission on December 17, 2020 and certified on December 31, 2020.

Note: One dimensional variance was approved by the Planning Commission on December 17, 2020.

K.R.S. 100.211(7) requires that the Council take action on this request by March 17, 2021.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Brian Hill, landscape architect.**

OBJECTORS

- None

OBJECTIONS

- None

VOTES WERE AS FOLLOWS:

AYES: (11) Barksdale, Bell, Davis, de Movellan, Forester, Meyer, Nicol, Penn, Plumlee, Pohl, and Wilson

NAYS: (0)

ABSENT: (0)

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL** of **PLN-MAR-20-00015** carried.

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

MAP AMENDMENT REQUEST (MAR) APPLICATION

1. CONTACT INFORMATION (Name, Address, City/State/Zip & Phone No.)

Applicant: WALDEN LAND PROJECT LLC, 100 WINDRIDGE DR, NICHOLASVILLE, KY 40356
Owner(s): WALDEN LAND PROJECT LLC 100 WINDRIDGE DR NICHOLASVILLE KY 40356
Attorney:

2. ADDRESS OF APPLICANT'S PROPERTY

3621 WALDEN DR LEXINGTON KY 40517

3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY

Zoning	Existing	Zoning	Requested	Acreage	
	Use		Use	Net	Gross
R-3	VACANT / TREE PRESERVATION AREA	R-4	RESIDENTIAL	0.8964	1.4068

4. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
b. Have any such dwelling units been present on the subject property in the past 12 months?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
c. Are these units currently occupied by households earning under 40% 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 type="checkbox"/> NO

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

Roads:	LFUCG
Storm Sewers:	LFUCG
Sanity Sewers:	LFUCG
Refuse Collection:	Private
Utilities:	<input type="checkbox"/> Electric <input type="checkbox"/> Gas <input type="checkbox"/> Water <input type="checkbox"/> Phone <input type="checkbox"/> Cable



November 2, 2020

Mr. Larry Forester, Chairman
Lexington-Fayette Urban Co Planning Commission
200 E. Main Street
Lexington, KY 40507

Dear Chairman Forester:

Goals and Objectives

We feel this development complies with the 2018 Comprehensive Plan by expanding housing choices (Theme A, Goal #1), supporting infill and redevelopment (Theme A, Goal #2), providing well-designed neighborhoods and communities (Theme A, Goal #3), and upholding the urban service area concept (Theme E, Goal #1). More specifically, the project addresses the goal of absorbing vacant and underutilized land within the Urban Service Area (Theme E, Goal #1, Objective a.), and accommodating the demand for housing in Lexington responsibly, prioritizing higher-density and mixture of housing types.

Engagement

We met with LFUCG Planning staff on three (3) occasions to share our vision for the proposed development and solicit input. Upon reviewing and discussing the “zoning restriction note” on the current 13th Amendment; Amended Final Development Plan and Preliminary Subdivision Plan dated June, 2007, it was determined only the Urban County Council has the authority to amend this note. It was also determined that because this process essentially requires the same time and effort as a zone change, that perhaps R-4 would be a more appropriate zone than the current R-3 designation for the proposed development.

We have not as yet met with the adjoining neighborhood but plan on doing so prior to the Planning Commission Hearing.

Site Description

The 0.8964 acre property is located on the corner of Walden Drive and Laredo Drive. It is currently zoned R-3 and is the only R-3 lot along Walden Drive. When the P-1 development was approved for Walden Drive consisting of office buildings, banks, restaurants, drug store, and public library, the property was envisioned to be a buffer transition lot from the P-1 envisioned uses to the adjoining R-3 uses. Because the lot has had an abundance of trees and steep topography, it was initially designated as a non-buildable, preservation lot. At some point from the inception of the initial development plan twenty plus years ago until now, approximately half of the lot was approved for development. We propose to displace but match the tree preservation area. The existing trees are in decline. We propose to provide a variety of young healthy trees throughout the site and exceed the current quantity to provide a new canopy coverage for the foreseeable future.

The property has a challenging slop from Walden Drive to the rear property line. The required earthwork mitigation requires a creative solution and ample units to off-set this cost. We are proposing two (2) mirror image condominium buildings, each containing eight (8) units for a total of sixteen (16). To accommodate the buildings locations, a sanitary sewer pipe on the south side of the property is required to be relocated. A storm system pipe on the north side of the property will be relocated. We have studied the alignment routes, elevation drop, and required respective easement widths, and feel confident both pipes can adequately be relocated.

The partial underground garage rear walls will serve to retain the western rear slope and support the condominium floors above. In addition, retaining walls adjacent to the driveways that transition the grade will provide grade access to the parking garage.

Storm run-off from the top of the rear western property line will be diverted in channels around the rear of the buildings to respective inlets at the north and south Walden Drive corners. This surface run-off will be captured before entering the oversized underground detention system.

Roof run-off for both buildings will be internally captured in the buildings before released into this underground detention system. The collective run-off will then be released into an existing curb inlet located at northern and lowest elevation of the property. The amount of storm water placed into this pipe system which is where is currently is intercepted, will not exceed the existing capacity.

Place-Type, Development Type & Requested Zone

After review of the seven place-types defined within the Urban Service Area boundary, it was determined Enhanced Neighborhood; Medium Density Residential is the place-type to best accommodate the proposed multi-family, two (2) building, sixteen (16) unit condominium development.

This particular place-type places a strong emphasis on Appendix A: Multi-Family Design Standards. One of the categories referenced under size and scale are small sites up to 2 acres that have a surrounding neighborhood and to serve as an "infill site" to increase density. The adjoining residential development to the south and west of this property are R-3 duplex residences. Although the property is currently zoned R-3 and would accommodate the proposed 16 units, the size and shape of the lot limit and numerous easements restrict the respective units size and character. As opposed to the units size averaging 1,200 per square feet, an R-4 zone would provide the opportunity for the units to range in size from 1,500 – 1,600 square feet. Because of the infrastructure cost associated with this challenging lot and the niche this unique project would provide, larger units will most certainly ensure the viability and success of the development.

Furthermore, this lot is uniquely located at the terminus of the current P-1 development on Walden Drive consisting of office buildings, banks, restaurants, a drug store, and a large branch of the Lexington Public Library. The proposed condominium development complies with almost all of the criteria defined in Appendix A with respect to multi-family housing being incorporated with office/commercial development. In addition, the condominiums would serve as an envisioned transitional development between the existing P-1 office/commercial center on Walden Drive directly north and south of the property and the existing R-3 duplex residential neighborhood directly south and west of the property.

The property has been vacant for over twenty (20) years and there is a reason why. It is a challenging site with respect to size and shape, contains over twenty feet of topography relief, has an imposed tree preservation area, and is encumbered with sanitary sewer and storm drainage encumbered easements. We have thoroughly evaluated the property and feel there is a creative solution to mitigate and displace "all" of these opportunities. The buildings will contain internal garages in which the rear walls will also serve as retaining walls to off-set much of the site's grade relief. We propose to relocate the tree preservation area currently indicated on the northern side of the site throughout the entire site completely surrounding the buildings. The storm drainage and sanitary sewer system pipes can be relocated incorporating their required newly established easement. Both buildings will have a front door and vestibule and handicap walk access to the existing sidewalks on Walden Drive. The two driveway entrances are proposed to align with the two existing driveways across Walden Drive, providing safe access. The buildings will contain bicycle parking stands to facilitate bicycle transportation to nearby Tates Creek Road bicycle lanes.

We believe this proposed 16 unit multi-family condominium development for this specific vacant property checks the boxes for the intended "infill site" development as outlined in Imagine Lexington; the 2018 Comprehensive Plan. We believe Enhanced Neighborhood; Medium Density Residential in a R-4 zone is the highest and best use for this property.

Development Criteria

The following design standards are being met, and are annotated on the development plan:

SITE DESIGN, BUILDING FORM, & LOCATION	TRANSPORTATION & PEDESTRIAN CONNECTIVITY	GREENSPACE & ENVIRONMENTAL HEALTH
A-DS5-3	None	B-PR7-2
A-DS5-4		B-PR7-3
A-DS7-1		B-RE1-1
A-DS7-3		
B-SU11-1		
D-SP3-1		

In agreement...

SITE DESIGN, BUILDING FORM, & LOCATION	
A-DS3-1	<p><i>Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.</i></p> <p>The planned two (2) building multi-family condominium development intends to meet the multi-family design standards. The property is less than 1 acre and considered an “infill site”.</p> <ul style="list-style-type: none"> • Both buildings will front on Walden Drive and be located along the 20’ building setback line. SP.1; SP.4 • Both buildings will have a prominent front door entry accessible from Walden Drive. The vestibules can be entered from the street or interior parking garage. An elevator and stair well will have direct access to interior hallway corridors to serve the units on all three floors above the garage. SP.2; SP.4 • The front walk will lead directly to the sidewalk along Walden Drive. This walk serves as a link to the pond/greenspace on Walden Drive just north of the property, restaurants and banks as well as the Lexington Public Library across the street, and bus stop on Tates Creek Road. The sidewalk system also serves to link the residential housing on Laredo Drive and the subdivision behind and west of the planned development. SP.5; SP.11 • Parking will be located in the partial underground parking garages. The structure conceals the parking and allows the residential units to be located as close as possible to Walden Drive. SP.7; SP.8 • Each building is planned to contain eight (8) units. Three (3) Units on the 1st floor, three (3) units on the 2nd floor, and 2 units on the 3rd floor. All units will contain a minimum of 2 exterior sides, thus providing open space views of the immediate surroundings and distant features. SP.9

	<ul style="list-style-type: none"> • This property will require displacement trees. There will be an abundance of trees throughout the property, thus creating a unique green canopy open space. In addition, each condominium unit will have a minimum of one large outdoor terrace/balcony. A large green open space will be located between the buildings. OS.2; OS.3; OS.5; OS.6 • This property will contain a rain garden on the north end of the property. An asphalt path from the Walden Drive sidewalk containing a bench seat for residents and visitors will be provided to view the rain garden. OS.8; OS.9 • Each condominium building will have a private entrance drive from Walden Drive to the underground parking garage. The drives will be handsomely landscaped to provide a sense of entry. In addition, attractive signage will be located on the terminus of the retaining walls to identify the building's name and address. OS.11 • Low profile accent lighting will be placed along the entry drives and building front entrance walks to provide visual appeal and illuminate way finding routes. OS.12; OS.13 • The buildings are intended to be in a mirror image of each other. The property has a distinct bow-tie shape and the setbacks and easements provide this unique opportunity. As opposed to sloped roofs, they will have a low profile parapet. The buildings will have continuous undulation with strategic placement of terrace/balconies on each floor. In addition, the unique shape of the buildings will provide interest. The Walden Drive side will serve as the buildings front entry, while the Laredo Drive and north facing façade for the northern building will also contain street presence façades. The rear façades will contain a façade feature at the external stairwell location in keeping with the other sides for a consistent, uniform appearance. AD.1; AD.3; AD.5; AD.6; AD.7; AD.8; AD.9 • Both 3 story buildings contain a partial underground parking garage will be in keeping with the scale of the surrounding buildings on Walden Drive. The buildings will be tucked into the hillside slope, thus reducing their height in the rear. The garages will be totally underground in the rear. The total rear height from grade to the parapet top will not exceed 40' AD.2 • All units will contain at least 2 exterior sides and have an abundance of windows. The units will be rather large and contain higher than normal ceilings. Each unit will have the opportunity for an abundance of sunlight and exterior views. AD.4
<p>A-DS4-2</p>	<p><i>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.</i></p> <p>The 3 story buildings will not exceed 45' in height in the front along Walden Drive and 40' in height in the rear where they adjoin the R-3 duplex 2 multi-story buildings. The front façade heights are compatible with the library across Walden Drive, the sloped roof 2 story bank/office building across Walden Drive, and the 3 story Ball Homes office building north of property on Walden Drive. Both buildings will be tucked into the existing hillside that abutts the adjoining 2 story above garage duplex buildings to the rear. Because the basement in the rear will be underground, the grade differential from the 1st floor units to the top of slope is approximately 8', and the buildings will have a 2' parapet above a flat roof as opposed to a sloped roof. The buildings roof heights will be comparable to the adjoining rear duplex buildings.</p>
<p>A-DS8-1</p>	<p><i>At the individual street level, medium density housing types should be interspersed with single-family detached units and should be context sensitive.</i></p>

	<p>Although the Lexington Public Library and bank/office building are directly across the street, there are duplex residences along Laredo Drive in viewing sight of proposed condominium development and duplex residences that adjoin the rear property line.</p>
A-DS10-1	<p><i>Residential units should be within reasonable walking distance to a focal point.</i></p> <p>Residential duplex homes located on Laredo Drive and the neighboring subdivision immediately west of the development are within a short walking distance.</p>
A-DN2-1	<p><i>Infill residential should aim to increase density.</i></p> <p>The subject infill property proposes to place 16 units on a 0.8964 acre lot, thus increasing density and providing a mix of housing types for the area.</p>
A-DN2-2	<p><i>Development should minimize significant contrasts in scale, massing and design, particularly along the edges of historic areas and neighborhoods. (D-PL9, E-GR6)</i></p> <p>Only two buildings are proposed and serve as a transition from the R-3 duplex buildings to the south and west of the property and the P-1 buildings across Walden Drive. The heights and scale of the buildings are compatible with the surrounding buildings.</p>
A-DN3-2	<p><i>Development should incorporate residential units in commercial centers with context sensitive design.</i></p> <p>Walden Drive from Redding Road to Laredo Drive is primarily a commercial center containing a mix of office buildings, banks, restaurants, a drug store and library. This proposed multi-family development consisting of 16 units will serve as a transition development from P-1 uses to the adjoining and adjacent R-3 residential duplex uses.</p>
B-PR9-1	<p><i>Minimize disturbances to environmentally sensitive areas by utilizing the existing topography to the greatest extent possible.</i></p> <p>The buildings will be built into the hillside. Although the topography will be manipulated during construction to accommodate the development, the 20' plus grade differential between Walden Drive and the rear property line will be maintained.</p>
C-LI6-1	<p><i>Developments should incorporate multi-family housing and walkable commercial uses into development along arterials/corridors.</i></p> <p>Walden Drive parallels Tates Creek Road and is only one block removed. Walden Drive is primarily a P-1 office and commercial center with continuous walkable access. The addition of the proposed multi-family development provides an opportunity for residents to walk to the existing establishments.</p>
C-LI7-1	<p><i>Developments should create mixed-use neighborhoods with safe access to community facilities, greenspace, employment, businesses, shopping, and entertainment.</i></p> <p>The subject property is located between the Walden Drive established P-1 office/commercial uses and the adjoining and adjacent R-3 residential areas. The R-3 areas contain duplex residential homes. The addition of the planned condominium development provides an enhanced neighborhood development opportunity.</p>
C-PS10-3	<p><i>Over-parking of new developments should be avoided. (B-SU5)</i></p> <p>Parking is limited to 2 parking spaces per unit, 1 handicap space and 1 delivery space per building.</p>

<p>D-SP9-1</p>	<p><i>Encourage co-housing, shared housing environments, planned communities and accessory dwelling units for flexibility and affordability for senior adults and people with disabilities.</i></p> <p>All 16 units will have handicap accessibility from the parking garage to the units and from the parking garage to Walden Drive. Families of all ages will be encouraged to live in the development.</p>
<p>E-GR9-1</p>	<p><i>Live/work units should be incorporated into residential developments.</i></p> <p>All 16 units will be large enough to accommodate a home office if desired. Because office buildings are located along Walden Drive, working from home would be compatible.</p>
<p>E-GR9-3</p>	<p><i>Less intense multi-family residence types (duplexes, four-plexes, courtyard apartments, etc.) should be incorporated into primarily single-family areas.</i></p> <p>The adjoining R-3 residential areas contain duplex residential homes. They are a less intense residential use than the proposed condominium development.</p>
<p>E-GR9-4</p>	<p><i>Development should intensify underutilized properties and develop vacant and underutilized gaps within neighborhoods. (E-GR6)</i></p> <p>The property is vacant. Because of the challenging topography, only a multi-family development is economically viable for this residential property to off-set the infrastructure cost.</p>
<p>TRANSPORTATION & PEDESTRIAN CONNECTIVITY</p>	
<p>A-DS5-1</p>	<p><i>Adequate multi-modal infrastructure should be provided to ensure vehicular separation from other modes of transport.</i></p> <p>Both buildings will contain a dedicated and defined vehicular driveway from Walden Drive to the underground parking garage. The driveways which will also accommodate a delivery parking space will be independent from the building’s pedestrian walkways to Walden Drive.</p>
<p>A-DS5-2</p>	<p><i>Roadways should provide a vertical edge, such as trees and buildings.</i></p> <p>An abundance of trees will be planted along Walden Drive and Laredo Drive providing a vegetative buffer separation from the street to the building façade.</p>
<p>B-SU4-1</p>	<p><i>Where greenspace/community centers are not located within walking distance of a new development, applicants should attempt to incorporate those amenities. (A-DS9)</i></p> <p>A large pond surrounded by vegetation is located on Walden Drive a short walk from the proposed condominium development. A large branch of the Lexington Public Library is located directly across the street.</p>
<p>D-CO2-2</p>	<p><i>Development should create and/or expand a safe, connected multimodal transportation network that satisfies all users’ needs, including those with disabilities.</i></p> <p>The buildings will contain a secure partially underground parking garage that will be handicap accessible to all units via an elevator. The building’s garage level will contain an entrance vestibule which can be accessed from the garage for residents or from the front entrance for residents and visitors. An accessible walk will be provided from the front door to the sidewalk on Walden Drive.</p>

GREENSPACE & ENVIRONMENTAL HEALTH	
A-DS4-3	<p><i>Development should work with the existing landscape to the greatest extent possible, preserving key natural features.</i></p> <p>The buildings will be tucked into the existing hillside. Although the topography will require manipulation to construct the project, the integrity of maintaining the grade transition from Walden Drive to the rear property line will be aesthetically maintained. The rear wall of the underground parking garage as well as a partial retaining wall on the upper side of the driveway entrances will serve to take up grade. The middle portion of the site will maintain a consistent grade slope from Walden Drive to the rear property line. Abundant tree plantings throughout the property will serve to re-establish the tree preservation area.</p>
B-PR2-1	<p><i>Impact on environmentally sensitive areas should be minimized within and adjacent to the proposed development site.</i></p> <p>All construction activities will be accommodated within the parameters of the property. No off-site construction easements are contemplated. Storm water run-off will be mitigated on-site and connect to an existing curb inlet located along Walden Drive at the northern corner of the property. A small on-site rain water garden is planned at the north corner of the property to provide water quality mitigation prior to entering the existing storm water system.</p>
B-PR7-1	<p><i>Connections to greenways, tree stands, and stream corridors should be provided.</i></p> <p>There is a pond surrounded by vegetation just north of the proposed condominium development on Walden Drive. It is a short walk from both buildings.</p>
B-RE2-1	<p><i>Green infrastructure should be used to connect the greenspace network.</i></p> <p>A small rain garden is planned in the northern corner of the property. In addition to the aesthetic and educational benefit it will provide, the storm water run-off along the northern boundary will be somewhat purified prior to entering the underground storm system.</p>
E-GR3-1	<p><i>Physical and visual connections should be provided to existing greenway networks.</i></p> <p>The sidewalk along Walden Drive provides an easy and quick walkable link to the pond surrounded by vegetation just north of the condominium development. The pond can be seen from Walden Drive so the residents will be aware of it's presence.</p>
E-GR3-2	<p><i>New focal points should emphasize geographic features unique to the site.</i></p> <p>Both Buildings are planned to have attractive signage mounted to the entrance retaining walls that flank the driveways. These signs will serve to define the development name, location, and unique identity.</p>

Not applicable...

SITE DESIGN, BUILDING FORM, & LOCATION	
A-DS7-2	<p><i>Any non-residential or multi-family parking not buffered by a building should be screened from the streetscape view and adjacent properties.</i></p> <p>With the exception of one delivery parking space for each building which will be screened with a low hedge and trees, all parking will be located in a partial underground parking garage. The vehicles will be totally screened from public view as result of them being partially underground and the slope incline from Walden Drive to the garage ventilation façade openings. The portion of the exposed garage from Walden Drive will be aesthetically designed in keeping with the building's façade and serve to be the building's base foundation motif.</p>

<p>A-DS11-1</p>	<p><i>Common public uses that serve as neighborhood focal points, such as parks and schools, should be on single loaded streets.</i></p> <p>Although the public will be encouraged to visit the rain garden, there are no common public uses planned for this development.</p>
<p>A-DN6-1</p>	<p><i>Allow and encourage new compact single-family housing types.</i></p> <p>The project consist of two (2), three (3) story, 8 unit multi-family condominium buildings. No single family housing units are planned.</p>
<p>A-EQ7-1</p>	<p><i>School sites should be appropriately sized.</i></p> <p>This property will not contain a school.</p>
<p>C-LI6-2</p>	<p><i>ADUs and/or affordable housing options should be incorporated into existing and new single-family residential development. (A-DN5)</i></p> <p>The condominium units will not be considered affordable housing because of the considerable infrastructure and development cost.</p>
<p>C-PS10-2</p>	<p><i>Developments should explore options for shared and flexible parking arrangements for currently underutilized parking lots.</i></p> <p>All condominium units will be entitled to two (2) parking spaces. If opportunities exist in which a unit only needs one of the two spaces from time to time, shared arrangements will be encouraged.</p>
<p>D-PL7-1</p>	<p><i>Stakeholders should be consulted to discuss site opportunities and constraints prior to submitting an application.</i></p> <p>At this time, the only stakeholders are the owners whom hope to develop the project as intended.</p>
<p>D-PL9-1</p>	<p><i>Historically significant structures should be preserved.</i></p> <p>There are no historically significant structures on the property.</p>
<p>D-PL10-1</p>	<p><i>Activate the streetscape by designating public art easements in prominent locations.</i></p> <p>No public easements are proposed.</p>
<p>D-SP3-2</p>	<p><i>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.</i></p> <p>No cellular tower is proposed for the property.</p>
<p>E-GR4-1</p>	<p><i>Developments should incorporate reuse of viable existing structures.</i></p> <p>There are no existing structures that exist on the property.</p>
<p>E-GR5-1</p>	<p><i>Structures with demonstrated historic significance should be preserved or adapted.</i></p> <p>There are no historic significant structures or features on the property to be preserved.</p>

TRANSPORTATION & PEDESTRIAN CONNECTIVITY	
A-DS1-1	<p><i>Mass transit infrastructure such as seating and shelters should be provided/enhanced along transit routes. (A-EQ7)</i></p> <p>The property is not located on a mass transit route.</p>
A-DS1-2	<p><i>Direct pedestrian linkages to transit should be provided.</i></p> <p>There is a continuous sidewalk link from the property to a bus stop at the intersection of Laredo Drive and Tates Creek Road.</p>
A-DS4-1	<p><i>A plan for a connected multi-modal network to adjacent neighborhoods, greenspaces, developments and complementary uses should be provided. (A-DS2, A-DN1, B-SU1, B-SU2, C-LI7, E-AC5)</i></p> <p>Walden Drive serves as the vehicular and bicycle transit route to adjacent neighborhoods and commercial/office uses. Continuous public sidewalks along Walden Drive provide pedestrian access to these same locations.</p>
A-DS10-2	<p><i>New focal points should be designed with multi-modal connections to the neighborhood.</i></p> <p>Designated entrance signage for each condominium building will serve to define the focal point identity for the development.</p>
A-DS13-1	<p><i>Stub streets should be connected. (D-CO4)</i></p> <p>No stub streets are proposed for this property.</p>
D-CO1-1	<p><i>Rights-of-way and multimodal facilities should be designed to reflect and promote the desired place-type.</i></p> <p>No multimodal facilities are proposed for this property.</p>
D-CO2-1	<p><i>Safe facilities for all users and modes of transportation should be provided.</i></p> <p>The two driveway entrances proposed to serve the two condominium buildings align with the existing library and office building driveway entrances across Walden Drive respectively. These locations will provide safe ingress/egress to the buildings. The driveways are planned to be shared with bicycle access to Walden Drive. The pedestrian walk links are independent of the driveways.</p>
D-CO4-1	<p><i>Dead-end streets and Cul-de-sacs should be discouraged except where connections are not topographically or environmentally feasible.</i></p> <p>No dead-end streets or Cul-de-sacs are planned for this development.</p>
D-CO4-2	<p><i>Roadway capacity should be increased by providing multiple parallel streets, which alleviate traffic and provide multiple route options, in lieu of additional lanes.</i></p> <p>Only sixteen (16) condominium units are planned. Walden Drive has the capacity to support vehicular use to serve this facility. It was determined that no traffic study will be required.</p>
D-CO4-3	<p><i>Street pattern and design should consider site topography and minimize grading where possible.</i></p> <p>No revisions to Walden Drive are required other than the two driveway entrances.</p>

D-CO5-1	<i>Streets should be designed with shorter block lengths, narrower widths, and traffic calming features.</i> No additional streets are required for this project.
D-SP1-3	<i>Developments should provide multi-modal transportation infrastructure to school sites, including sidewalks, shared-use paths, and roadways that can accommodate the bus and vehicle traffic associated with the site.</i> Other than Walden Drive vehicular and bicycle access and adjoining public sidewalks, no multi-modal transportation is planned for this project.
D-SP6-1	<i>Social services and community facilities should be accessible via mass transit, bicycle and pedestrian transportation modes. (A-EQ7)</i> The Lexington Public Library across Walden Drive can easily be accessed via public sidewalk. Bicycle parking for residents is planned within the parking garage.
GREENSPACE & ENVIRONMENTAL HEALTH	
A-EQ7-3	<i>Community open spaces should be easily accessible and clearly delineated from private open spaces.</i> A rain garden is planned to be located in the northern corner of the property. The community will be welcome to visit.
B-PR2-2	<i>Dividing floodplains into privately owned parcels with flood insurance should be avoided.</i> No floodplains exist on the property.
B-PR2-3	<i>Floodplains should be incorporated into accessible greenspace, and additional protection should be provided to areas around them.</i> No floodplains exist on the property.
D-SP2-1	<i>Visible, usable greenspace and other natural components should be incorporated into school sites.</i> This property is not a school site.
D-SP2-2	<i>Active and passive recreation opportunities should be provided on school sites.</i> This property is not a school site.

Variance

Variance for maximum height of building from 40' to 45'.

As described in the letter, the condominium development is proposing two (2); eight (8) unit condominium buildings containing a partial underground parking garage. Although the front portion of the garage will be partially underground, to achieve an at grade handicap front entrance and provide adequate ventilation, a portion is required to be above grade. To accommodate eight units containing 1,500 to 1,600 square feet of livable space, the building have to be three (3) stories above the garage level. To minimize the height to the extent possible, the floor to floor height of the condominium floors is 11' as opposed to 12'. In addition, we are proposing a 2' parapet instead of a sloped roof. To achieve a viable project, we respectfully request a variance to increase the building height from 40' to 45'. This only applies to the front of the building and not the rear. The rear will not exceed 40'. In addition, the units will be set back from the façade face to the extent possible to lessen the height appearance.

Conclusion

We respectfully request consideration to approve the proposed zone change and variance request. We believe this proposed sixteen (16) unit multi-family condominium development for this specific vacant property checks the boxes for the intended “infill site” development as outlined in Imagine Lexington; the 2018 Comprehensive Plan. We believe Enhanced Neighborhood; Medium Density Residential in a R-4 zone is the highest and best use for this property.

Respectfully submitted,

Fadi Bacha, Owner



November 30, 2020

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

Dear Chairman Forester:

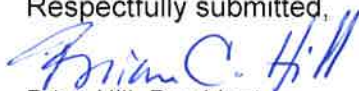
On November 2, 2020, on behalf of Dr. Fadi Bacha, we filed the following zone change request from R-3 to R-4 and height variance from 40' to 45'.

Owner: Walden Land Project, LLC
Address: 3621 Walden Drive
Application: PLN-MAR-20-00015

We have been requested by staff to provide additional information regarding the height variance request. Please find the supplemental justification as follows:

The subject lot has a steep topographic 20' incline from Walden Drive to the rear of the property. The two condominium buildings are planned to be built into the hillside to take up grade. Because of the limited lot depth, the building's front façade is planned to be located along the front yard setback. Likewise, the building's rear façade is planned to be located along the rear yard setback. The buildings will have a front grade entry door accessible to the sidewalk along Walden Drive. Although, the building's garage will be partially underground to take up grade, the building's condominium first floor will be a minimum of 1' from the exterior sloping rear grade for aesthetic and drainage purposes. As stated into the initial justification, the variance only applies to the front of the building and not the rear. To achieve an acceptable and pleasing front façade entry, three 11' floor to floor height condominium floors, and a 2' roof parapet, an additional 5' for portions of the front façade are required. The rear of the buildings adjoining the adjacent residential properties will not exceed 40'. In addition, because the condominium buildings will be located at a much lower grade than the adjoining residential properties, the roof parapets top elevation will be somewhat lower than the adjoining roof peaks and compatible in scale and appearance. In accordance with the initial submittal and this supplemental justification, we respectfully request the height variance be granted from 40' to 45'. If the Commission is so inclined, we would accept a conditional variance that only applies to the front and sides of the buildings and not the rear. The sides serve as a transition zone to take up grade.

Respectfully submitted,


Brian Hill, President

Cc: Hal Baillie, Planner Senior; Div. of Planning

Architecture • Engineering • Interior Design • Landscape Architecture

a: 400 East Vine Street, Suite 400 Lexington, Kentucky 40507

o: 859-254-6623 **f:** 859-259-1877 **w:** www.cmwaec.com

Hello to all,

Hal, please find the supplemental height various justification responses as requested. As you are aware, we no longer are requesting a height variance for the southern building, only the norther building. As I understood, you mentioned we should respond to the three (3) staff reasons for recommending postponement.

Please find our justification responses to the stipulated criteria as follows:

1) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone.

Response: There is a greater than 20' elevation change from the front of this narrow site to the rear where the norther building will be placed. We have determined we can only partially depress the 13' tall underground parking garage approximately 3'. This is required for multiple reasons. To achieve an acceptable driveway slope from Walden Drive to the parking garage. To provide an accommodating and accessible front door pedestrian walk to the sidewalk along Walden Drive. And to ensure the building's rear elevation is a minimum of 1' above grade. Lowering the garage more than 3' which translates to lowering the first floor, will inhibit the ability for these critical elevation factors to be achieved. Therefore, the front façade height profile as proposed is $10' + 33' + 2'' = 45'$. If the topography and lot dept would allow the garage to be depressed an additional 5', we would do it. The steep terrain and narrow width unfortunately do not make this possible.

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.

Response: Denying the height variance request for the northern building will restrict the building from accommodating 3 floors to 2, therefore reducing the building's units from 8 to 6. In addition to the loss of revenue from the sale of these 2 units needed to make the project economically viable, the mirrored buildings would look odd and unappealing. The southern building would be 3 floors above the underground garage while the northern building would only be 2.

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.

Response: As stated, the site's topography and dept are challenging . The zoning regulation understandable most likely did not contemplate such an unusual circumstance. To make this property viable, achieving 16 luxury condominiums units to off-set the substantial infrastructure cost is essential.

Respectfully submitted,
Brian Hill

STITES & HARBISON PLLC
ATTORNEYS

250 West Main Street
Suite 2300
Lexington, KY 40507-1758
(859) 226-2300
(859) 253-9144 Fax

December 16, 2020

Charlotte Turner McCoy
(859) 226-2258
cmccoy@stites.com

Via Email: hbaillie@lexingtonky.gov

Lexington-Fayette Urban County Planning Commission
101 E. Vine Street
Lexington KY 40507
Attn: Hal Baillie

RE: Walden Land Project, LLC Zoning Map Amendment and Atkins Property Lot 1
(AMD) Zoning Development Plan

Dear Hal:

This letter is submitted on behalf of our client, the Board of Trustees of the Lexington Public Library (the "Library"), concerning the petition filed by Walden Land Project, LLC to change the zoning designation of 3621 Walden Dr., Lexington KY from R-3 to R-4, to modify the existing Tree Protection Area and for a building height variance (the "Petition"). The Library's Tates Creek Branch is located directly across from the property that is the subject of the Petition. The Petition is on the agenda for the Planning Commission's December 17, 2020 hearing. It is our understanding that a revised preliminary development plan and a new drainage concept plan for the Petition were filed yesterday. The Library has not had sufficient time to review these new materials and respectfully requests that the hearing on the Petition be postponed to allow the Library time to analysis the revised plans and consult with its experts on the drainage plan.

In the event that a Library representative is not present at the December 17, 2020 hearing, we ask that this request be presented to the Planning Commission for its consideration.

Very truly yours,

STITES & HARBISON PLLC


Charlotte Turner McCoy

CTM:mbt

768579:1

LEGAL DESCRIPTION
of
Walden Land Project, LLC Property
(Lot 6 of Plat Cabinet M, Slide 955)
Zone Change from R-3 to R-4
3621 Walden Drive,
Lexington, Fayette County, Kentucky

Being a parcel of land in the city of Lexington, Fayette County, Kentucky lying northwest of the intersection of Laredo Drive and Walden Drive, said property being the same property described as Lot No. 6, Unit 2B, Section 1 of the Atkins Property as shown by Plat Cabinet M, Slide 955 and being more particularly described as:

BEGINNING at a point at the intersection of Walden Drive and Laredo Drive, and said point having Kentucky State Plane Coordinates of E(X)=1,568,369.20', N(Y)=1174,691.01' (NAD '83, KY North Zone, US Survey Feet); thence with the centerline of Laredo Drive and with a curve turning to the right with an arc length of 181.88 feet, with a radius of 1,519.26 feet, with a chord bearing of North 52°40'04" West, with a chord length of 181.77 feet, to a point in the centerline of Laredo Drive; thence leaving the centerline, North 60°54'58" East a distance of 42.68 feet to a MAG Nail with I.D. Washer (set, PLS 3350) in the south corner of Lot 188 of the Atkins Property Unit 1-F (Plat Cabinet K, Slide 476); thence with the easterly line of the Atkins Property Unit 1-F (Lot 188 then 181 through 177) for two calls:

North 60°54'58" East a distance of 290.38 feet to a 5/8" diameter rebar with plastic cap (found, PLS 2115); thence

North 35°02'09" East a distance of 192.67 feet to a 5/8" diameter rebar with plastic cap (found, PLS 2115) to a point in the east line of Lot 177 (Plat Cabinet K, Slide 476); thence leaving the line of Atkins Property Unit 1-F and with the southwest line of Lot 7 of the Atkins Property Unit 2B (Plat Cabinet L, Slide 244), South 62°17'28" East a distance of 137.87 feet to a MAG Nail with I.D. Washer (set, PLS 3350) in the west right-of-way of Walden Drive; thence continuing on this line, South 62°17'28" East a distance of 31.00 feet to a point in the

centerline of Walden Drive; thence with the centerline of Walden Drive for four (4) calls;

with a curve turning to the right with an arc length of 92.24 feet, with a radius of 254.50 feet, with a chord bearing of South 51°48'01" West, with a chord length of 91.74 feet, to a point; thence

South 62°11'00" West a distance of 160.04 feet to a point; thence

with a curve turning to the left with an arc length of 137.73 feet, with a radius of 290.00 feet, with a chord bearing of South 48°34'38" West, with a chord length of 136.44 feet, to a point; thence

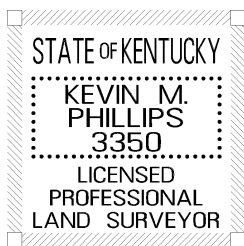
South 34°58'15" West a distance of 158.25 feet to a point; which is the Point of Beginning,


having a Gross area of 61,278.9 square feet or 1.4068 acres,

and a NET area of 39,048.5 square feet or 0.8964 acre.

The bearings and coordinates hereon are based on Kentucky State Plane North Zone, North American Datum of 1983 (NAD 83 (2011), US Survey Feet). Particularly, the bearings and coordinates are based on a GNSS Survey Utilizing a Trimble R6 GNSS Receiver and the KYTC VRS System.

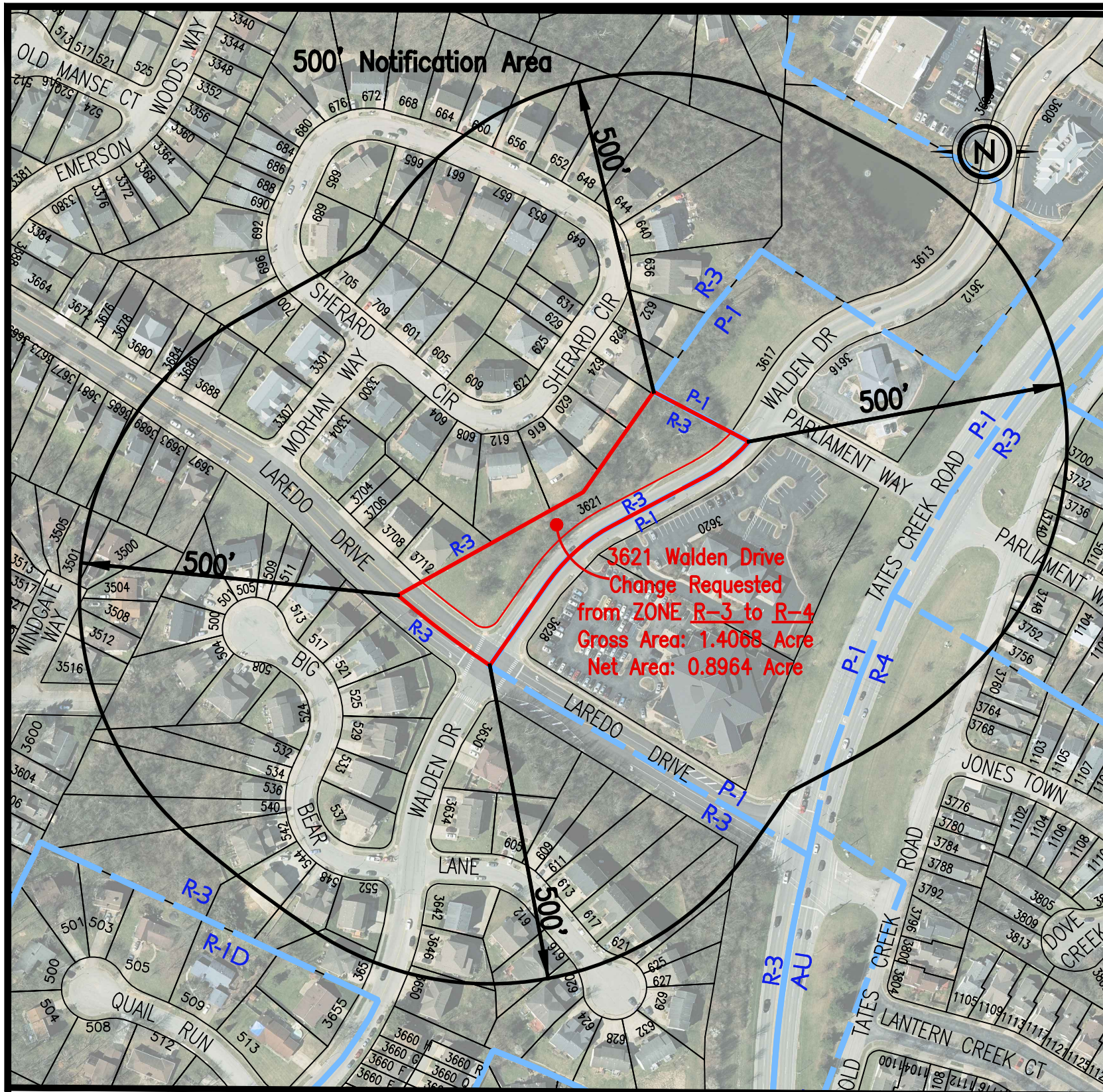
The description above being based on an actual ground survey of the property conducted under the direct supervision of Kevin Phillips (PLS 3350), of Endris Engineering, 771 Enterprise Drive, Lexington, Kentucky concluding on October 22, 2020.





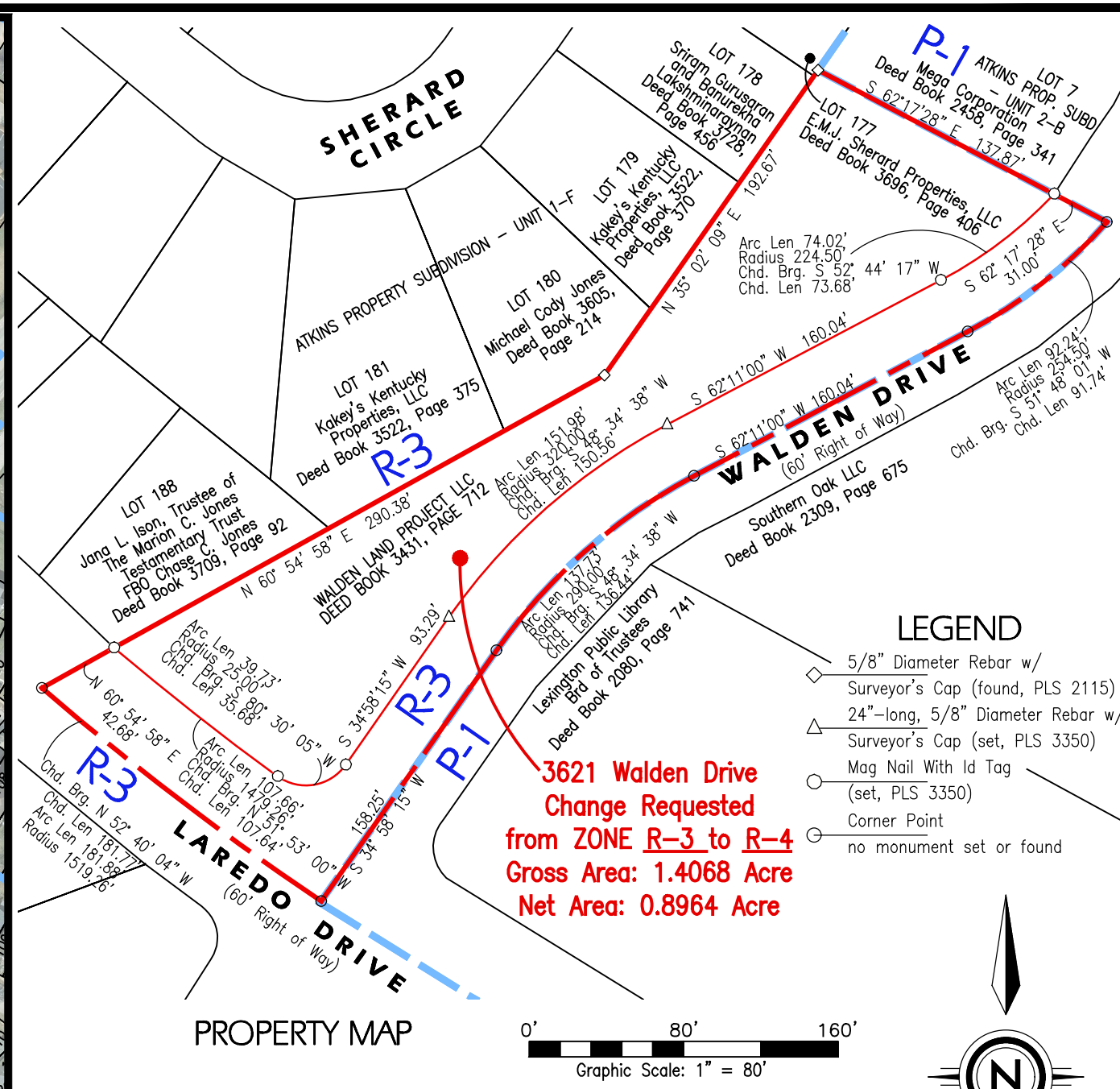
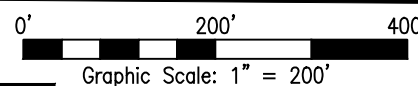
Kevin M. Phillips (PLS 3350)
Endris Engineering, PSC
771 Enterprise Drive
Lexington, KY 40510

10-29-2020
Date

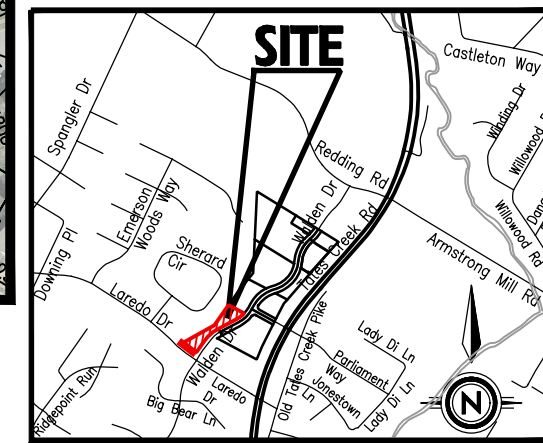
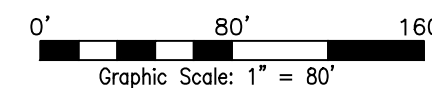


NOTIFICATION AREA MAP

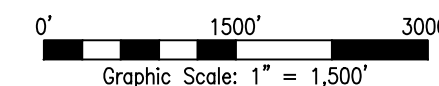
PREPARED BY:



PROPERTY MAP



VICINITY MAP



LEGEND

- ◊ 5/8" Diameter Rebar w/ Surveyor's Cap (found, PLS 2115)
- △ 24"-long, 5/8" Diameter Rebar w/ Surveyor's Cap (set, PLS 3350)
- Mag Nail With Id Tag (set, PLS 3350)
- Corner Point no monument set or found



STATE OF KENTUCKY
KEVIN M. PHILLIPS
 3350
 LICENSED PROFESSIONAL LAND SURVEYOR

(Signature)

11-02-2020

FROM	TO	NET	GROSS
R-3	R-4	0.8964 Acre	1.4068 Acre

TITLE: Atkins Property (PLN-MAR-20-00015)
 ADDRESS: 3621 Walden Drive
 APPLICANT: Walden Land Project, LLC
 100 Windridge Drive, Nicholasville, KY 40356
 OWNER: Walden Land Project, LLC

DATE FILED OR AMENDED: November 2, 2020

EE ENDRIS
 engineering

Land Surveyors Construction Layout GPS

771 ENTERPRISE DRIVE
 LEXINGTON, KY 40510
 PH: 859 253-1425
 FAX: 859 233-1436

MEDIUM DENSITY RESIDENTIAL

SITE DESIGN, BUILDING FORM, & LOCATION

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

NEIGHBORHOOD

- C-LI7-1** Developments should create mixed-use neighborhoods with safe access to community facilities, greenspace, employment, businesses, shopping, and entertainment.
- C-PS10-2** Developments should explore options for shared and flexible parking arrangements for currently underutilized parking lots.
- C-PS10-3** Over-parking of new developments should be avoided. (B-SU5)
- D-PL7-1** Stakeholders should be consulted to discuss site opportunities and constraints prior to submitting an application.
- D-PL9-1** Historically significant structures should be preserved.
- D-PL10-1** Activate the streetscape by designating public art easements in prominent locations.
- D-SP3-1** 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.
- D-SP3-2** 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.
- D-SP9-1** Encourage co-housing, shared housing environments, planned communities and accessory dwelling units for flexibility and affordability for senior adults and people with disabilities.
- E-GR4-1** Developments should incorporate reuse of viable existing structures.
- E-GR5-1** Structures with demonstrated historic significance should be preserved or adapted.
- E-GR9-1** Live/work units should be incorporated into residential developments.
- E-GR9-3** Less intense multi-family residence types (duplexes, four-plexes, courtyard apartments, etc.) should be incorporated into primarily single-family areas.
- E-GR9-4** Development should intensify underutilized properties and develop vacant and underutilized gaps within neighborhoods. (E-GR6)

TRANSPORTATION & PEDESTRIAN CONNECTIVITY

- A-DS1-1** Mass transit infrastructure such as seating and shelters should be provided/enhanced along transit routes. (A-EQ7)
- A-DS1-2** Direct pedestrian linkages to transit should be provided.
- A-DS4-1** A plan for a connected multi-modal network to adjacent neighborhoods, greenspaces, developments and complementary uses should be provided. (A-DS2, A-DN1, B-SU1, B-SU2, C-LI7, E-AC5)
- A-DS5-1** Adequate multi-modal 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 multi-modal 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 multi-modal 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.

Walden Land Project, LLC (PLN-MAR-20-00015)

3621 WALDEN DRIVE

Replace vacant lot and tree preservation area with a multi-family residential development.

Applicant/Owner

WALDEN LAND PROJECT, LCC
100 Windridge Drive
Nicholasville, KY 40356
859-687-0023



Application Details

Acreage:

0.8964 net (1.4068 gross) acres

Current Zoning:

Planned Neighborhood Residential (R-3) zone

Proposed Zoning:

High Density Apartment (R-4) zone

Place-type / Development Type:

Enhanced Neighborhood*
Medium Density Residential

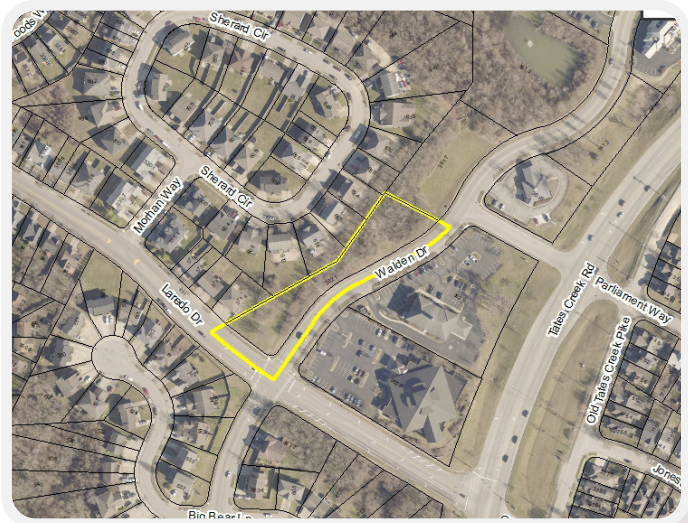
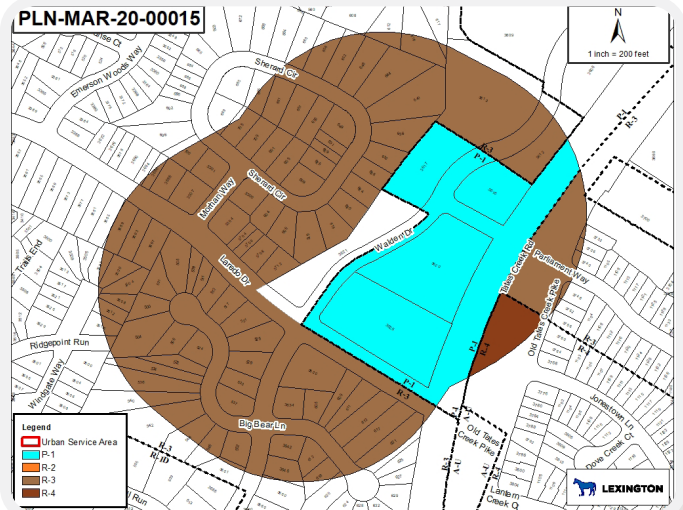
For more information about the Enhanced Neighborhood Place-Type see Imagine Lexington pages 327-336.

Description:

The applicant is seeking to develop two multi-family structures, which are planned to be sold as condos. The proposed three-story building would include eight units per structure, with the base floor being utilized as parking.

Public Engagement

- The applicant has planned a virtual meeting with surrounding property owners on November 18th, 2020.



Status

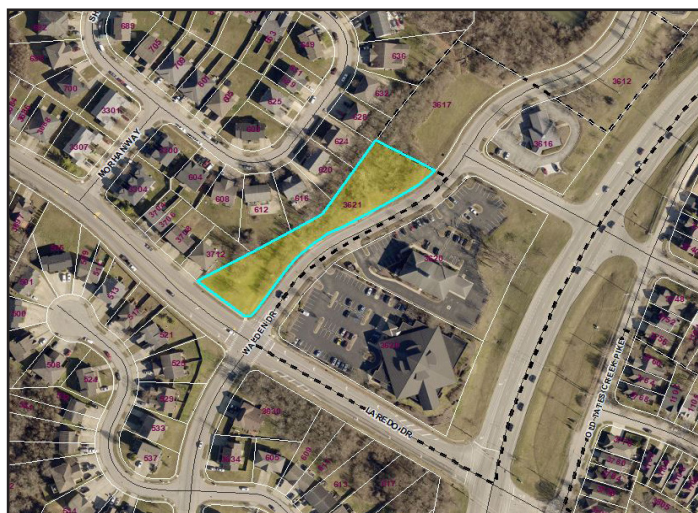
- Public Engagement
- Pre-Application Meeting
- Application Review
- Planning Staff Review
- Technical Review Committee
- Zoning/Subdivision Committee Meetings
- Planning Commission Hearing
- Urban County Council Meeting

DISCLAIMER: Plans are subject to change. Visit the Accela Citizen Portal (lexingtonky.gov/plans) or contact Planning for the latest information.

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-20-00015: WALDEN LAND PROJECT, LLC

DESCRIPTION OF ZONE CHANGE

Zone Change: From a Planned Neighborhood Residential (R-3) zone
To a High Density Apartment (R-4) zone
Acreage: 0.89 net (1.40 gross) acres
Location: 3621 Walden Drive



EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Property	R-3	Vacant / Tree Preservation Area
To North	R-3 / P-1	Duplexes / Vacant
To East	P-1	Bank / Library
To South	R-3 / P-1	Duplexes
To West	R-3	Duplexes

URBAN SERVICE REPORT

Roads - The subject property is bordered by Walden Drive along its eastern boundary and Laredo Drive along its southern boundary. Both Walden and Laredo Drive are collector streets. Walden Drive connects Redding Road to Wilson Downing Road, and supports the movement of both commercial and residential traffic. Laredo Drive connects Redding Road to Tates Creek Road and supports residential traffic. Access to the site is proposed along Walden Drive.

Curb/Gutter/Sidewalks - Walden Drive and Laredo Drive have been constructed with curb, gutter, and sidewalks at this location.

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 West Hickman Creek watershed. Storm sewers were constructed with the development of the property located with the north and east. There is a major detention basin two properties to the north that serves this development and the residential properties to the west.

Sanitary Sewers - Sanitary sewers exist in the immediate area. The subject property would be served by the West Hickman Wastewater Treatment Facility, in northern Jessamine County. A sanitary sewer line crosses the property along the southern boundary to serve the nearby neighborhoods. 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 Mondays. However, supplemental service by private refuse haulers is commonly utilized for multi-family residential land uses, such as the proposed.

Police - The nearest police station is the East Sector Roll Call Center, located less than 1.5 miles to the northeast of the subject property, off Centre Parkway in Gainesway.

Fire/Ambulance - Fire Station #7 is located less than 1.5 miles to the north of the subject property, along Tates Creek Road between Raven Road and Dove Run Road.

Transit - LexTran transit route service is available along Tates Creek Road on the Tates Creek Route (#3); however, there are no immediate stops available for the subject property, as it is currently open space.

Parks - There are two public parks within close proximity of the development. Kirklevington is located approximately a 1/2 mile in walkable distance northwest of the subject property located along Spangler Drive. Belleau Woods Park is located approximately a 1/2 mile in walkable distance south of the subject property located along Forest Green Drive.

SUMMARY OF REQUEST

The applicant is seeking a zone change from the Planned Neighborhood Residential (R-3) zone to the High Density Apartment (R-4) zone for the property located at 3621 Walden Drive. The zone change application is seeking to construct two multi-family residential structures. With a total of 16 dwelling units.

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

MEDIUM DENSITY RESIDENTIAL
Primary Land Use, Building Form, & Design
Primarily attached and multi-family units. Multi-family units should complement and enhance existing development through quality design and connections.
Transit Infrastructure & Connectivity
Nearby commercial/employment uses and greenspaces should be easily accessible, and bicycle and pedestrian modes should be maximized to connect residents to destinations.
Quality of Life Components
These developments should include intentional open space designed to fit the needs of area residents, and a variety of neighborhood-serving commercial/employment uses.

PROPOSED ZONING



This zone is primarily for multi-family dwellings, but at a higher density than the R-3 zone. The R-4 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 High Density Apartment (R-4) zone to develop two multi-family structures, which are planned to be sold as condos. The proposed four-story building would include eight units per structure, with the base floor being utilized as parking. The proposed residential density is 18 dwelling units per net acre.

APPLICANT & COMMUNITY ENGAGEMENT



On November 18th, the applicant and their development team conducted a neighborhood meeting via Zoom to discuss the proposed rezoning and the associated development. The applicant sent a letter inviting all owners within the 500 foot notification area to the meeting. Within the letter, the applicant included the meeting information, a brief description of the zone change and development, and a copy of the development plan. Three members of the surrounding community attended the meeting, including two individuals associated with the Lexington Public Library, and one individual associated with a local real estate investment group. At the meeting the development team introduced themselves and described the plans for the subject property. Over the course of the meeting, questions focused on the impact that the development would have on the surrounding infrastructure, including potential impact on traffic and the increase of stormwater runoff. The applicant team also responded to questions regarding the construction schedule for the proposed project, which they indicated a hope to complete construction in early 2022. The applicant provided staff with minutes of the meeting, which can be found in the application file.

PROPERTY & ZONING HISTORY



The subject property was initially rezoned from the Agricultural Urban (A-U) zone to the Low Density Apartment (R-3) zone, now referred to as the Planned Neighborhood Residential zone, in 1996 (MAR 96-14; Ord. No. 142-96). While the property was officially rezoned to the R-3 zone, the initial application for the subject property and the surrounding land was for the High Density Apartment (R-4) zone. During the public hearing, the application was amended from the High Density Apartment (R-4) zone to the Low Density Apartment (R-3) zone for the area of rezoning and adopted the findings provided by the staff in an effort to alleviate some of the concerns of the surrounding neighborhood and to find that the rezoning was in agreement with the Land Use Plan of the 1996 Comprehensive Plan, which called for medium density residential development.

At the time of the 1996 rezoning, there was particular attention given to the impact that the proposed development might have on the environment. The applicant indicated that the tree preservation area was specifically meant to protect areas of steep slope, buffer between residential densities, and help with potential water runoff. The inclusion of the tree preservation area has been a constant throughout the review of the area and was raised again during the subsequent zone change for portions of the same property.

While not part of the rezoning, the subject property was referenced in 1997 during the rezoning of portions of the property from a R-3 zone to a Professional Office (P-1) zone (MAR 97-33 and MAR 97-34; Ord. No. 49 and Ord. No. 50). The tree preservation areas were not being proposed for rezoning, and remained zoned R-3. However, the importance of tree preservation was reiterated and referenced by the applicant's attorney as to why the principal primary uses of a P-1 zone were more appropriate than the uses allowable in the R-3 zone.

In addition to the continued inclusion of the tree preservation area, the subject property was impacted by the inclusion of conditional zoning restrictions, imposed by the Urban County Council, which stated that, "the total project density is limited to this development plan. No greater building square footage or parking spaces shall be allowed than what is indicated." This restriction limited the overall development of the site in an effort to protect the environmentally sensitive areas on and near the property.

COMPREHENSIVE PLAN COMPLIANCE



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 their proposed rezoning is in agreement with several goals, objectives, and policies of the 2018 Comprehensive Plan. In the following section, the staff describes some of the elements that are in agreement with the Comprehensive Plan and some areas that necessitate greater discussion.

GOALS & OBJECTIVES

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), supporting infill and redevelopment (Theme A, Goal #2), providing well-designed neighborhoods and communities (Theme A, Goal #3), and upholding the urban service area concept (Theme E, Goal #1). More specifically, the applicant indicates that the project addresses the goal of absorbing vacant and underutilized land within the Urban Service Area (Theme E, Goal #1.a), and accommodating the demand for housing in Lexington responsibly, prioritizing higher-density and mixture of housing types.

The staff agrees that these aspects of the applicant's proposal and that these Goals and Objectives of the 2018 Comprehensive can be met with the proposed development.



One area of concern that staff has with this application is connected to the treed areas of the development, which led to the establishment of the tree preservation area and the rationale behind the imposition of the conditional zoning restrictions. Theme B, Goal #3 states that new development should apply environmentally sustainable practices to protect, conserve and restore landscapes and natural resources. This Goal is further supported by Protection Policy #7: Protect sensitive streams, natural habitats and wildlife in the Urban Service Area; protect the urban forest and significant tree canopies as crucial ecological networks. The petitioner is seeking to remove the tree preservation area that was established during the 1996 rezoning of the area and was continually discussed throughout all subsequent modifications. This area was further protected on the Major Development Plan (ZDP 97-121), with Note #12 stating, “The Tree Preservation Area shall remain undisturbed and shall be permanently preserved. No significant tree removal, grubbing or clearing shall be allowed without the future amendment of this plan.” Furthermore, the conditional zoning restrictions were placed on the plan by Council, specifically to protect the environmentally sensitive areas on and near the property, including the tree areas.

The applicant states that their intention is to provide a variety of young healthy trees throughout the site and exceed the current quantity to provide a new canopy coverage for the foreseeable future. While the applicant has provided documentation regarding the planting of new trees, staff does not have a completed Tree Inventory Map, nor the total tree canopy coverage for the subject property. These elements will need to be submitted to ensure the increased quantity of tree coverage onsite. Furthermore, the applicant should evaluate Restoration Policy #1: Follow the LFUCG Urban Forestry Management Plan, protecting and recovering Lexington’s urban forest by strategically planting new trees and creating walkable streetscapes, to ensure that the proposed plantings are achieving the level of quantity and quality that would offset the impacts of removal of the established tree preservation area.

CRITERIA

The development 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 development criteria 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 a Medium Density Residential Development Type. Within this Place-Type and Development Type, the Comprehensive Plan states that special care should be taken to address mixing housing types, connecting multi-modal transportation networks, context sensitive development, and well integrated public facilities and green spaces. Staff concurs with the applicant’s assessment of the Place-Type and agrees that medium density residential development can be appropriate for the subject property within a High Density Apartment (R-4) zone.

The applicant has done much to address the Development Criteria, including supplemental materials regarding staff’s early areas of concern regarding agreement with the multi-family design standards. While the applicant has addressed some of the Development Criteria, there are areas of concern as to how the applicant has applied or not applied the development criteria.

1. Site Design, Building Form and Location

Despite compliance with some of the criteria for Site Design, Building Form and Location, there were several criteria that necessitated added discussion and warranted a staff response.

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

SP.12 Implement traffic calming measures such as limit lane widths, tighter turn radii, narrow street crossing, on-street parking, bulbouts, textured materials and crosswalks, and compatible lighting to reinforce a pedestrian environment and improve walkability.

The Walden Drive frontage of the subject property is a active element of the proposed development, with specific attention being paid to establishment of street trees. As this area is heavily traveled by residential,



commercial, and public facility (Library) traffic, the applicant should consider the inclusion of bulbouts and onstreet parking, which would act as a traffic calming measure. Additionally, greater review of the intersection of Laredo Drive and Walden Drive should be conducted by both the applicant and the LFUCG to seek to limit traffic conflicts.

OS.2 Common open space should be centralized and buildings should define the edges of and face onto the common open space.

The proposed rain garden and seating area is located to the northern most portion of the site. Staff agrees that due to the site constriction that this may be the only location for the amenity; however, there is no direct access to the amenity space from the proposed structures. The applicant should review ways to integrate the area into the overall development.

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.

AD.8 Side and rear facades should maintain the architectural design, articulation, level of detail, and materials consistent with the front facade.

The applicant should provide greater detail regarding the buildings' facade articulation for the sides and rear of the structures. This is particularly important for the area that is along the Laredo Drive frontage.

A-DS5-3 Development should provide a pedestrian-oriented and activated ground level.

The applicant has recently provided an elevation drawing for the front of the proposed structure, which has included greater articulation and the inclusion of windows along the parking garage. However, there is seemingly a conflict between the location of the garbage cans, the required screening and the activation of the building. The applicant should clarify the location of the garbage cans, and the activation of the front of the structure. The applicant should also depict how the building is addressing Laredo Drive.

A-DS7-3 Parking structures should activate the ground level.

The applicant should clarify the location of the garbage cans, and the activation of the front of the structure.

B-PR9-1 Minimize disturbances to environmentally sensitive areas by utilizing the existing topography to the greatest extent possible.

The applicant is proposing significant disturbances to the topography, necessitating the construction of retaining walls and the removal of the tree preservation area. Staff understands the need to be flexible on small lots within the Urban Service Area, but are concerned with the potential impacts that such a development might have on the stormwater drainage in the area. The applicant has provided an exhibit regarding the retention and dispersement of stormwater runoff; however, the modification made to alleviate the stormwater issues, seemingly impact the proposed tree plantings. The staff has concerns that with the modification of the landscape and the viability of the proposed plantings for the subject property.

2. Transportation and Pedestrian

Despite compliance with some of the criteria for Transportation and Pedestrian, there is still an area of concern. The applicant should expand upon the following development criterion and staff comments.

D-CO1-1 Rights-of-way and multi-modal 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.

The applicant should consider the inclusion of bulbouts and onstreet parking, which would act as a traffic calming measure. This would also allow for greater utilization of the area and provide a safe parking area for visitors to the site.

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, and adds both street trees and



internal tree canopy coverage.

A-DS4-3 Development should work with the existing landscape to the greatest extent possible, preserving key natural features.

The applicant is seeking to modify the existing landscape dramatically in an effort to utilize the site to the greatest extent possible. The applicant must provide more information regarding the viability of the proposed plantings and the proposed drainage plan.

B-PR7-1: Connections to greenways, tree stands, and stream corridors should be provided.

E-GR3-2: New focal points should emphasize geographic features unique to the site.

The applicant should provide a clear internal connection to the amenity space located on Lot 1B.

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



1. The zone change application for the subject property, as proposed, does not completely address how they are meeting the Goals and Objectives of the 2018 Comprehensive Plan. The following Goals and Objectives require further discussion by the applicant to address compliance with the Comprehensive Plan:
 - a. Theme B, Goal #3: Apply environmentally sustainable practices to protect, conserve and restore landscapes and natural resources.
 - b. Protection Policy #7: Protect sensitive streams, natural habitats and wildlife in the Urban Service Area; protect the urban forest and significant tree canopies as crucial ecological networks.
 - c. Restoration Policy #1: Follow the LFUCG Urban Forestry Management Plan, protecting and recovering Lexington's urban forest by strategically planting new trees and creating walkable streetscapes.

2. The zone change application for the subject property, as proposed, does not completely address the development criteria for a zone change within the 2nd Tier Urban Place Type, and the Medium-Density Residential Development Type. The following criteria require further discussion by the applicant to address compliance with the Comprehensive Plan:
 - a. A-DS3-1: Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.
 - b. A-DS5-3 Development should provide a pedestrian-oriented and activated ground level.
 - c. A-DS7-3 Parking structures should activate the ground level.
 - d. B-PR9-1 Minimize disturbances to environmentally sensitive areas by utilizing the existing topography to the greatest extent possible.
 - e. D-CO1-1 Rights-of-way and multi-modal facilities should be designed to reflect and promote the desired place-type.
 - f. D-CO2-1 Safe facilities for all users and modes of transportation should be provided.
 - g. A-DS4-3 Development should work with the existing landscape to the greatest extent possible, preserving key natural features.
 - h. B-PR7-1: Connections to greenways, tree stands, and stream corridors should be provided.
 - i. E-GR3-2: New focal points should emphasize geographic features unique to the site.

STAFF REPORT ON VARIANCE REQUEST



As part of their application, the petitioner is seeking a dimensional variance regarding the height of the proposed structures. Article 8-13(m) of the Zoning Ordinance requires that the maximum height of a building requires a 2:1 height-to-yard ratio, except that buildings under forty (40) feet may have side and rear yards as required in the R-3 zone. Article 8-12(i) defines the side yard for the R-3 zone as five (5) feet and 8-12(j) defines the rear yard for the R-3 zone as ten (10) feet. The applicant is seeking a five (5) foot increase of the allowable height of the structure, totaling 45 feet, while retaining the side and rear yard setbacks defined in the R-3 zone.

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 8-13(m) states that the maximum height of a building requires a 2:1 height-to-yard ratio, except that buildings under forty (40) feet may have side and rear yards as required in the R-3 zone.

Article 8-12(i) states that the side yard for the R-3 zone shall be five (5) feet.

Article 8-12(k) states that the rear yard for the R-3 zone shall be ten (10) feet.

Article 15-1(b) defines how height is measured. For the purpose of this Zoning Ordinance, the “height” of a wall of a structure (or any part of a building) is the mean vertical distance from the established grade in front of the lot or the average grade at the base of the front facade of the building, whichever is higher, to the average height of the top of the cornice of a flat roof or roof line; to the deck line of a mansard roof; or to the middle of the highest gable or dormer in a pitched or hipped roof. If there are no gables or dormers, the “height” of a wall shall be to the middle of such pitched or hipped roof.

On a corner lot, the height is the mean vertical distance from the average grade at the base of the building on the street of greatest width. If two (2) or more such streets are of the same width, and one (1) is at a higher elevation, it shall be from the highest of such grades. The height limitations, as controlled by the wider street, shall govern for a distance of one hundred twenty (120) feet, measured at right angles back from such wider street, unless parts of the one hundred twenty (120) feet are within a more restricted height zone.

CASE REVIEW

The applicant is requesting the variance to the height of the proposed structures in an effort to develop two (2) condominium buildings including a partially underground parking garage. Although the front portion of the garage will be partially underground, to achieve an at grade handicap front entrance and provide adequate ventilation, a portion is required to be above grade. The applicant indicates that to accommodate eight units containing 1,500 to 1,600 square feet of livable space, the buildings have to be three (3) stories above the garage level. To minimize the height to the extent possible, the floor to floor height of the



condominium floors is eleven (11) feet as opposed to twelve (12) feet. In addition, the applicant is proposing a two (2) foot parapet instead of a sloped roof. The applicant indicates that to achieve a viable project, they are requesting a variance of the maximum height of the proposed structures increasing the allowable height from 40 feet to 45 feet.

For their request the applicant should provide greater information regarding the properties special circumstances, how 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/or how the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. Additionally, the applicant should review Article 15-1(b) to calculate the height of the buildings per the LFUCG Zoning Ordinance. The modification of the height of the buildings may reduce or remove the need for the variance for one or both of the buildings.

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



- a. The applicant has not submitted a sufficient application for a variance request. For this reason the staff can not support the request at this time. The applicant must address the following in their justification:
 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.

SUPPLEMENTAL STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-20-00015: WALDEN LAND PROJECT, LLC



STAFF REVIEW

As outlined in the initial staff report and further discussed during the December Subdivision and Zoning Subcommittee meetings, there were four overriding concerns regarding the proposed rezoning for the property located at 3621 Walden Drive. These concerns included the intent and maintenance of the Tree Preservation Area, the impact of stormwater flow across the site, the need for traffic calming along Walden Drive, and the application of the multi-family design criteria associated with the Enhanced Neighborhood Place-Type and the Medium Density Residential Development Type. Since the committee meetings, the applicant's team has met with Planning staff to discuss the areas of potential conflict and seek remedies so to allow for the best possible solution for the Urban County.

The applicability and the need for the Tree Preservation Area (TPA) was established during the 1996 zone change for the property that resulted in the shift from the Agricultural Urban (A-U) zone to the Planning Neighborhood Residential (R-3) zone. The TPA note specifically states that "The Tree Preservation Area shall remain undisturbed and shall be permanently preserved. No significant tree removal, grubbing or clearing shall be allowed without the future amendment of this plan." In this case, the only regulating body that has the ability to allow for the modification of the TPA is the Planning Commission.

During their initial submissions, the applicant indicated a desire to shift the TPA to the perimeter of the property and establish new trees within the modified TPA. Staff was concerned with the impact of the modification of the TPA on the overall intent and the viability of some of the trees. The established TPA is meant to be a naturalized area rather than one that is manicured. Trees associated with development or surrounding development play an important role in the reduction of the heat island effect and reducing the amount of stormwater runoff, but do not act as a more naturalized environment. Furthermore, the proposed sizing of the trees and the conflict with infrastructure on such a small site has the high potential to stunt tree growth or lead to the premature death of the proposed trees.

Since the Subcommittee meetings and with information from the Urban Forester, staff has met with the applicant's team to discuss solutions to both provide adequate and viable trees in the area, while also allowing for the infill of the property. Should the applicant be approved for the zone change, they must meet the required canopy coverage on their site (30%), while also establishing a new tree stand in the area of the subject property. The newly established tree stand shall include 18 large trees and shall be approved by the City Arborist to replace the square footage of lost TPA. The tree stand should be planted prior to the certification of a final development plan. It is important to note that the existing TPA will remain active, protecting the area of concern, until after the certification of a final development plan. This ensures that any removal of trees would only be legally done once a suitable new stand was planted. This also allows the applicant to pursue the planting of the 18 trees prior to the submission of a final development plan. There are active projects in the area that would benefit from the establishment of new tree stands. The Belleau Woods Park, which is located less than a half of a mile south of the subject property, is currently a targeted site for the Reforest the Bluegrass project. The Division of Parks and Recreation and the Division of Environmental Services have expressed interest in working with the applicant to meet their responsibility for the proposed development of this property. This requirement will be noted on the associated preliminary development plan.

Associated with the TPA, the staff had concerns with the amount of stormwater runoff that currently washes from the duplexes on Sherard Circle, down the slope of the property and into the roadway. Specifically, staff was concerned that the removal of the TPA and the establishment of impervious areas, which might increase the stormwater runoff and adversely impact the properties located to the east, including the Lexington Public Library and the First State Bank of the Southeast. The applicant has provided a conceptual stormwater



management plan to show how they are planning to slow the stormwater runoff and drain into the established stormwater facilities. Staff believes that this is an important factor in any increase in the intensity of land use in the area. Furthermore, the establishment of the applicant's stormwater quality measure should aid in the retention and cleaning of runoff prior to entering into the stormwater facilities along Walden Drive. Stormwater quality is not typically an element of development for a site of this size, but because there are known issues, it should be addressed.

Next, the staff and the applicant discussed the need for traffic calming along Walden Drive and the potential for on-street parking. These elements will be an important aspect of the development of the property and can provide increased safety to both pedestrians and vehicular users. However, due to the need for greater collaboration between the applicant, Planning staff, and the Division of Traffic Engineering, staff believes that these elements can be discussed at the time of the final development plan.

Finally, the staff and the applicant discussed the multi-family design criteria, with a specific focus on the activation of the street levels along both Walden Drive and Laredo Drive. The applicant has provided an updated development plan, removing the solid waste roll carts from the front of the building, an updated front elevation, replacing the concrete facade with windows, and have submitted a side elevation depicting how the proposed structure will address Laredo Drive. While staff discussed the potential of including access to the dwelling units that would front on Laredo Drive, the elevation depicts the challenges that would cause to the development of the property.



CONDITIONAL ZONING RESTRICTIONS

In an effort to alleviate some of the potential adverse impacts on the adjacent properties and to meet the intent of the proposed rezoning, the staff recommend conditional zoning restrictions for the subject property. Prior to the establishment of new conditional zoning restrictions, it is important to note that the established conditions for the development plan will remain. The modification of the plan will increase the cap on the density and on-site parking for the development plan, rather than removing the established restrictions. In addition to the established restrictions, staff recommends that there shall be no long-term or residential surface parking associated with the development of the subject property. The proposed development is seeking to provide structured parking and are proposing to utilize the building to slow stormwater runoff. Surface parking lots can increase stormwater runoff, which would adversely affect the neighboring properties. In this case, the applicant is showing two parking spaces for drop-off/pick-up. These will be categorized as short-term parking and are not meant for use by residents.

STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASONS:



1. The requested High Density Apartment (R-4) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed development will accommodate the demand for housing in Lexington responsibly, prioritizing a mixture of housing types (Theme A, Goal #1), by providing a denser type development in an area that is primarily single family detached and duplex dwelling units.
 - b. The proposed rezoning will support infill (Theme A, Goal #2), and add to a well-designed neighborhood and community (Theme A, Goal #3), while upholding the urban service area concept (Theme E, Goal #1).
 - c. The proposed rezoning addresses the goal of absorbing vacant and underutilized land within the Urban Service Area (Theme E, Goal #1.a), and accommodating the demand for housing in Lexington responsibly, prioritizing higher-density and mixture of housing types.

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 allows increased residential options, provides for safe pedestrian mobility and provides amenities for both residents and the surrounding community. In addition, the development will meet the multi-family design guidelines.
 - b. The proposed rezoning includes safe facilities for the potential users of the site by updating the pedestrian facilities along both Walden Drive and Laredo drive, providing safe and clear access to the building, and providing covered and safe bike storage facilities. In addition, traffic calming along Walden Drive will decrease speeding and improve the Walden and Laredo Drive intersection. 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 adds green infrastructure through the creation of bioswales and will add viable native tree canopy coverage in the area, while also meeting the required canopy coverage on-site.

3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restriction is recommended via conditional zoning:
 - a. Surface parking shall be prohibited.

This restriction is appropriate and necessary to reduce the potential impact of stormwater runoff on the adjacent properties.

4. This recommendation is made subject to approval and certification of PLN-MJDP-20-00075: Atkins Property Lot 1 (AMD), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

REVISED STAFF REPORT ON VARIANCE REQUEST



As part of their application, the petitioner is seeking a dimensional variance regarding the height of the proposed structures. Article 8-13(m) of the Zoning Ordinance requires that the maximum height of a building requires a 2:1 height-to-yard ratio, except that buildings under forty (40) feet may have side and rear yards as required in the R-3 zone. Article 8-12(i) defines the side yard for the R-3 zone as five (5) feet and 8-12(j) defines the rear yard for the R-3 zone as ten (10) feet. The applicant is seeking a five (5) foot increase of the allowable height of the structures, totaling 45 feet, while retaining the side and rear yard setbacks defined in the R-3 zone.

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 8-13(m) states that the maximum height of a building requires a 2:1 height-to-yard ratio, except that buildings under forty (40) feet may have side and rear yards as required in the R-3 zone.

Article 8-12(i) states that the side yard for the R-3 zone shall be five (5) feet.

Article 8-12(k) states that the rear yard for the R-3 zone shall be ten (10) feet.

Article 15-1(b) defines how height is measured. For the purpose of this Zoning Ordinance, the “height” of a wall of a structure (or any part of a building) is the mean vertical distance from the established grade in front of the lot or the average grade at the base of the front facade of the building, whichever is higher, to the average height of the top of the cornice of a flat roof or roof line; to the deck line of a mansard roof; or to the middle of the highest gable or dormer in a pitched or hipped roof. If there are no gables or dormers, the “height” of a wall shall be to the middle of such pitched or hipped roof.

On a corner lot, the height is the mean vertical distance from the average grade at the base of the building on the street of greatest width. If two (2) or more such streets are of the same width, and one (1) is at a higher elevation, it shall be from the highest of such grades. The height limitations, as controlled by the wider street, shall govern for a distance of one hundred twenty (120) feet, measured at right angles back from such wider street, unless parts of the one hundred twenty (120) feet are within a more restricted height zone.

CASE REVIEW

Within the applicant’s previous justification letter regarding the requested variance, they were missing several key elements. Since their initial submission they have added more information regarding the unique nature of the subject property and the proposed use. Additionally, the applicant has indicated that they are only seeking a variance for the northern structure located on the property, as they are meeting the height requirements outlined in Article 15 of the LFUCG Zoning Ordinance for the structure proposed at the corner.



The applicant indicates that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone. They state that there is a greater than 20 foot elevation change from the front of this narrow site to the rear where the northern building is proposed. The applicant indicates that they have determined they can only partially depress the 13 foot tall underground parking garage approximately three (3) feet. They opine that this is due to multiple reasons including accessibility to the building along the driveway from Walden Drive to the parking garage, accommodating an accessible front door pedestrian walk to the sidewalk along Walden Drive, and ensuring the building's rear elevation is a minimum of one (1) foot above grade. Lowering the garage greater than three (3) feet would inhibit the ability for these critical elevation factors to be achieved. Therefore, the front façade height profile as proposed is as follows: 10 feet for the garage, 11 feet per story and two (2) feet for the cornice totaling 45 feet. If the topography and lot dept would allow the garage to be depressed an additional five (5) feet, The applicant indicated that it would be beneficial and they would be able to comply with the Zoning Ordinance without seeking relief. The steep terrain and narrow width, unfortunately, do not make this possible.

The applicant also indicates that 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. The applicant opines that by denying the height variance request for the northern building, it will restrict the building from accommodating three (3) floors, allowing only two (2) floors. This would cause the reduction in the available dwelling units from eight (8) to six (6). In addition to the loss of revenue from the sale of these dwelling units needed to make the project economically viable, the mirrored buildings would look odd and unappealing. The southern building would be three (3) floors above the underground garage while the northern building would only be two (2). While staff understands the limitations of the site, staff does not find merit in the statement that buildings of different sizes are odd or unappealing.

Finally, the applicant indicates that the circumstances are not the result of actions that the applicant has taken subsequent to the adoption of the zoning regulation from which relief is sought. They stress that the site's topography and depth are challenging and that the Zoning Ordinance did not contemplate such an unusual circumstance. They state that to enable development on the property, achieving 16 luxury condominiums units to off-set the substantial infrastructure cost is essential.

Staff agrees with the applicant that the odd shape and the narrow width of the lot constitutes a special circumstance that justifies the need for the variance. Without the variance allowing for the creation of the parking garages, the applicant would be unable to provide the required parking for multi-family residential development. Granting the variance will allow the applicant to utilize a small lot, that is currently vacant and provide needed housing. Furthermore, the variance request will not adversely affect the public health, safety, or welfare, nor alter the character of the general vicinity as a five-foot variance is quite minimal and unlikely to be easily noticed due to the surrounding grade change. Finally, the variance request does not attempt to circumvent the provisions of the Zoning Ordinance.

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 as the site's grade change allow the structure's additional five (5) feet of height to be undistinguishable.
2. The need for the variance arises from the special circumstances of the proposed development, due to the steep grade of the established area and the odd shape and the narrow width of the lot.
3. 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-4 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 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, 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.

1. WALDEN LAND PROJECT, LLC ZONING MAP AMENDMENT & ATKINS PROPERTY LOT 1 (AMD) ZONING DEVELOPMENT PLAN

- a. PLN-MAR-20-00015: WALDEN LAND PROJECT, LLC (1/31/21)*- a petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone to a High Density Apartment (R-4) zone, for 0.896 net (1.406 gross) acre, for property located at 3621 Walden Drive. A dimensional variance has also been requested.

COMPREHENSIVE PLAN AND PROPOSED USE

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 is seeking a zone change from the Planned Neighborhood Residential (R-3) zone to the High Density Apartment (R-4) zone for the property located at 3621 Walden Drive. The zone change application is seeking to construct two multi-family residential structures. With a total of 16 dwelling units.

The Zoning Committee Recommended: Postponement for the reasons provided by staff.

The Staff Recommends: Postponement, for the following reasons:

1. The zone change application for the subject property, as proposed, does not completely address how they are meeting the Goals and Objectives of the 2018 Comprehensive Plan. The following Goals and Objectives require further discussion by the applicant to address compliance with the Comprehensive Plan:
 - a. Theme B, Goal #3: Apply environmentally sustainable practices to protect, conserve and restore landscapes and natural resources.
 - b. Protection Policy #7: Protect sensitive streams, natural habitats and wildlife in the Urban Service Area; protect the urban forest and significant tree canopies as crucial ecological networks.
 - c. Restoration Policy #1: Follow the LFUCG Urban Forestry Management Plan, protecting and recovering Lexington's urban forest by strategically planting new trees and creating walkable streetscapes.
 2. The zone change application for the subject property, as proposed, does not completely address the development criteria for a zone change within the 2nd Tier Urban Place Type, and the Medium-Density Residential Development Type. The following criteria require further discussion by the applicant to address compliance with the Comprehensive Plan:
 - a. A-DS3-1: Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.
 - b. A-DS5-3 Development should provide a pedestrian-oriented and activated ground level.
 - c. A-DS7-3 Parking structures should activate the ground level.
 - d. B-PR9-1 Minimize disturbances to environmentally sensitive areas by utilizing the existing topography to the greatest extent possible.
 - e. D-CO1-1 Rights-of-way and multi-modal facilities should be designed to reflect and promote the desired place-type.
 - f. D-CO2-1 Safe facilities for all users and modes of transportation should be provided.
 - g. A-DS4-3 Development should work with the existing landscape to the greatest extent possible, preserving key natural features.
 - h. B-PR7-1: Connections to greenways, tree stands, and stream corridors should be provided.
 - i. E-GR3-2: New focal points should emphasize geographic features unique to the site.
- b. VARIANCE REQUEST - a variance to increase the allowable height of the building from forty (40) feet to forty-five (45) feet, while retaining the side and rear yard setbacks defined in the R-3 zone.

The Zoning Committee recommended: Postponement to the full Commission.

The Staff Recommends: Postponement, for the following reason:

- a. The applicant has not submitted a sufficient application for a variance request. For this reason the staff can not support the request at this time. The applicant must address the following in their justification:
 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.

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

- c. PLN-MJDP-20-00075: ATKINS PROPERTY LOT 1 (AMD) (1/31/21)* - located at 3621 WALDEN DR., LEXINGTON, KY.
Project Contact: CMW, Inc. (Council District 4)

Note: The purpose of this amendment is to rezone Lot 1.

Note: The applicant submitted a revised development plan on November 30th to address some of the staff's concerns; however, the staff continues to recommend **postponement** due to concerns about compliance with the Comprehensive Plan and questions regarding the proposed modification of the Tree Protection Area.

The Subdivision Committee Recommended: Postponement, There are questions regarding the proposed modified Tree Protection Area, which is currently protected by a development plan note.

1. Provided the Urban County Council rezones the property to R-4; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. United States Postal Service Office's approval of kiosk locations or easement.
8. Provided the Planning Commission grants the requested height variance.
9. Discuss proposed revised Tree Protection Area per note #12.
10. Discuss Placebuilder criteria:
 - a. A-DS3-1: Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.
 - b. A-DS5-3: Development should provide a pedestrian-oriented and activated ground level.
 - c. A-DS7-3: Parking structures should activate the ground level.
 - d. B-PR9-1: Minimize disturbances to environmentally sensitive areas by utilizing the existing topography to the greatest extent possible.
 - e. D-CO1-1: Rights-of-way and multi-modal facilities should be designed to reflect and promote the desired place-type.
 - f. D-CO2-1: Safe facilities for all users and modes of transportation should be provided.
 - g. A-DS4-3: Development should work with the existing landscape to the greatest extent possible, preserving key natural features.
 - h. B-PR7-1: Connections to greenways, tree stands, and stream corridors should be provided.
 - i. E-GR3-2: New focal points should emphasize geographic features unique to the site.

Staff Zoning Presentation – Mr. Baillie said that the staff had received one letter, from the Board of Trustees for the Lexington Public Library, asking for a postponement of this application. He said that the applicant has contacted the attorney representing the Library and was unable to converse with them. He then presented the staff report and recommendations for the zone change application. He displayed photographs of the subject property and aerial photographs of the general area. He said this the applicant is seeking to situate this development within an Enhanced Neighborhood Place-Type, in the Medium Density Residential Development Type. He said that the applicant is seeking to develop two multi-family structures, which will be sold as condominiums. Each structure will be four-stories and will include 8 units with the basement being utilized as parking. The proposed residential density is 18 dwelling units per net acre.

Mr. Baillie said that the subject property is located along Bates Creek Road at the intersection of Walden Drive and Laredo Drive. He said that there is a significant amount of residential zoning to the north, west and south of the site and some Professional Office (P-1) zoning along the west boundary of the subject property. He said that this property has experienced several changes since 1996, from its original Agricultural Urban (A-U) zone. This property has remained Planned Neighborhood Residential (R-3) zoned since the 1996 zone change. However, the property to the south was rezoned in 1997 to allow for Professional Offices to occupy that space.

Mr. Baillie said that the one of the aspects that was a significant consideration throughout the review process has been the historical development of the area. He said that portions of the subject property are denoted as a tree preservation area, which has been modified since the 1996 zone change. This area has a note, which states that "there can be no removal, grubbing, or modification of the tree preservation area." He said that this has led to a problem with the maintenance of this area; and that there has been an increase of invasive species, and the ash trees within the area are dying from insect damage.

Mr. Baillie said that at the Zoning Committee on December 3, 2020, there was extensive discussion regarding the grade of this property, the tree preservation area, stormwater management, increased traffic and Multi-Family Design Standards. Since then, the applicant has met with staff seeking to alleviate some of the potential impacts of this development on the area, as well as to provide a solution to increase the canopy coverage and increased viability of trees. He said that the applicant has agreed to plant 18 large trees, which will have a canopy coverage of 750 sq. ft. each. He added that the applicant will still need to meet the required canopy coverage on their site, which is 30 percent in the R-4 zone. He identified an area on the northern portion of the

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development and said that the viability of dense trees would be low. Allowing the applicant to locate them off-site, to an area that will provide them a longer, viable life to the trees is preferable. This would also allow the applicant to achieve the Infill and Redevelopment goals of the Comprehensive Plan.

Mr. Baillie said that the applicant has submitted renderings, and has provided the staff with greater information as to why they are unable to meet some of the Multi-Family Design Standards. He said that there was also a concern regarding the activation of the frontage along Walden Drive. The concrete inserts within the windowed area of the ground floor, which will be structured parking, have been replaced with glass on the updated elevation. This modification will make it look more similar to a residential type development. He said that the applicant has also relocated the waste receptacles and placed them interior to the buildings. He then displayed the rendering of the side of the building, which would be along Laredo Drive, and identified the elevation difference of the property. He said that it would preclude the ability to add pedestrian entry-ways along that frontage.

Mr. Baillie said that the applicant has also discussed the addition of traffic calming along Walden Drive, because it is a collector street and will intersect with another collector street. He added that the applicant will work with the Division of Traffic Engineering, to review this in greater detail at the time of the Final Development Plan.

Mr. Baillie said the staff is recommending approval for this zone change for the following reasons:

1. The requested High Density Apartment (R-4) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed development will accommodate the demand for housing in Lexington responsibly, prioritizing a mixture of housing types (Theme A, Goal #1), by providing a denser type development in an area that is primarily single family detached and duplex dwelling units.
 - b. The proposed rezoning will support infill (Theme A, Goal #2), and add to a well-designed neighborhood and community (Theme A, Goal #3), while upholding the urban service area concept (Theme E, Goal #1).
 - c. The proposed rezoning addresses the goal of absorbing vacant and underutilized land within the Urban Service Area (Theme E, Goal #1.a), and accommodating the demand for housing in Lexington responsibly, prioritizing higher-density and mixture of housing types.
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 allows increased residential options, provides for safe pedestrian mobility and provides amenities for both residents and the surrounding community. In addition, the development will meet the multi-family design guidelines.
 - b. The proposed rezoning includes safe facilities for the potential users of the site by updating the pedestrian facilities along both Walden Drive and Laredo drive, providing safe and clear access to the building, and providing covered and safe bike storage facilities. In addition, traffic calming along Walden Drive will decrease speeding and improve the Walden and Laredo Drive intersection. 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 adds green infrastructure through the creation of bioswales and will add viable native tree canopy coverage in the area, while also meeting the required canopy coverage on-site.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restriction is recommended via conditional zoning:
 - a. Surface parking shall be prohibited.

This restriction is appropriate and necessary to reduce the potential impact of stormwater runoff on the adjacent properties.
4. This recommendation is made subject to approval and certification of PLN-MJDP-20-00075: Atkins Property Lot 1 (AMD), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

Commission Questions – Ms. Plumlee asked what would be the diameter at breast height (DBH) of the 18 trees the applicant is planting and also how long will it take them to mature to provide 750 sq. ft. of canopy. Ms. Wade said that the 30 percent coverage can be met on site with a variety of tree types. She said that the 18 trees that the staff is recommending to be planted off-site, will not be part of that 30 percent canopy coverage, but will be replacing the loss of trees from the Tree Preservation Area. She said that the diameter at breast height is the measurement that the arborist use when evaluating the size of a planted tree. She believes that the question should be what the caliper size of the tree being selected from the nursery is. She added that these are generally the same size as street trees, which are approved by the Urban Forester. Ms. Plumlee then asked if the mature trees will be replaced with much smaller trees. Mr. Baillie said that they will be much smaller. He said that the Urban Forester visited this site and reviewed the Tree Preservation Area, and said that this site is more viable for development. He said that because they are removing trees from the Tree Preservation Area, it was important to get some kind of trees in return from the applicant. The 18 trees will equal 70 percent of the Tree Preservation Area that is proposed to be removed. With the required 30 percent,

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connected to the R-4 zone, the applicant will be providing 100 percent of the lost coverage. He added some of the trees being removed are decayed or already dead trees. The staff is also recommending that the applicant work with the Division of Parks and Recreation and the Division of Environmental Services to select an appropriate location, which the applicant has agreed to do so.

Development Plan Presentation – Mr. Martin presented the development plan associated with this zone change. He emphasized that this is a Preliminary Development Plan and there will be a Final Development Plan at a later date. He said that there will not be any construction or modifications of this site until the Planning Commission has approved the Final Development Plan and it has been certified. He added at that time is when detailed infrastructure and drainage plans will actually be prepared.

Mr. Martin identified the subject property on the development plan and said that the applicant is proposing two, four-story buildings, with parking garages on the bottom levels. The building will have three residential floors, with 8 units, in each building. He said that the footprint of these buildings is approximately 6,900 sq. ft. per building. He added that each building is more than 20,000 sq. ft. total. He said that each building will have their own driveway access, which he pointed to on the plan. He also pointed to the proposed rain garden, public art, and the pedestrian system. He then pointed to the north boundary of the subject property and said that is the area of the grade change and also the area that the staff was concerned about replacing the trees. In regards to Ms. Plumlee's question, he said that the applicant is going to meet the 30 percent canopy requirement, but they will need to plant street trees along the south and west boundaries. He said that at the December 3, 2020 Subdivision Committee meeting, the committee recommended postponement and the staff stressed that the Zoning Ordinance requirements for canopy coverage and the street tree requirement does not equal to the Tree Preservation Area, and that they are separate issues. He displayed the entire development and said that the application has many challenges with this lot. The Tree Preservation Area extends to the north on the adjoining properties, which has sink holes, non-buildable lots, and a man-made retention stormwater facility. He said that the applicant's stormwater plan will need to address the runoff, according to the Stormwater Manual. In regards to the Tree Preservation Area, he said that the applicant has agreed to mitigation for the loss of the trees and that the remaining areas should provide for the 30 percent canopy coverage, which can include street trees.

Mr. Martin said there are the standard sign-offs for the Preliminary Development Plan, with the exception of conditions #9 and #10. He said that with regard to condition #9, discuss the Tree Preservation Area, the proposed resolution has been discussed. With regard to condition #10, discuss the Placebuilder criteria, that Mr. Baillie has already addressed that in his presentation. The staff believes that condition #9 and #10 can be changed to resolve. He reiterated that the applicant will submit a Final Development Plan and the staff is recommending approval at this time.

Commission Questions – Mr. Penn stated that the Subdivision Committee recommended postponement because there was concern about a variance request. Mr. Martin said that there is a variance request associated this applicant, which Mr. Baillie will present.

Variance Presentation – Mr. Baillie presented the variance request associated with this application. He said that the applicant is seeking to increase the height of the structure from 40 feet to 45 feet. He displayed the renderings and said that the variance is not for the structure along Laredo Drive and Walden Drive, because it meets the height requirements. He said that the variance request is for the structure on the north side of the site only. He said that the applicant's justification for the variance request states the unique circumstance due to the grade change, as well as the narrow lot size, which the staff is in agreement. He said that because of this grade change the applicant will need to build the bottom floor at a 13-foot height, which would raise the structure above the 40 foot height limit. This would allow the applicant to utilize the R-3 setback requirements.

Mr. Baillie said that the applicant also requested this variance because of the appearance of the structures due to the different heights of the buildings, which the staff disagreed with. The staff does agree that this is not a circumvention of the Zoning Ordinance and there will not be any health, safety or welfare impacts from the proposed development. He said that the staff is recommending approval of this portion of the variance request, 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 as the site's grade change allow the structure's additional five (5) feet of height to be undistinguishable.
2. The need for the variance arises from the special circumstances of the proposed development, due to the steep grade of the established area and the odd shape and the narrow width of the lot.
3. 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-4 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 amended to address design requirements of the Divisions of Engineering, Traffic Engineering, or Building Inspection.

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- c. All necessary permits shall be obtained from the Divisions of Planning, 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.

Applicant Presentation – Dr. Favi Bacha, property owner, and Mr. Brian Hill, CMW, Inc., representing the applicant, spoke on the application. Dr. Bacha has owned this property for five years and has attempted various types of development, but due to the constraints of this site, it has been very difficult. Mr. Hill said that they are proposing high-end condominiums, where the units will warrant the site improvements, and the parking will be an asset and a supplement to the Tates Creek Road corridor, with restaurants, a library and a drug store all within walking distance. He said that this development will fit into the hillside with the rear wall acting as a retaining wall and the foundation wall. He added that the minimum unit will be 1,400 sq. feet and the largest will be 1,600 sq. feet. Each unit will have a terrace and two dedicated parking spaces. There will be a delivery space in front of each building. He said that they worked meticulously with the staff to meet the architectural criteria. He said that drainage has been a concern of the staff's and they have worked to meet those concerns.

Mr. Hill said that they had a public meeting last month and there were two representatives from the library in attendance and their concern was stormwater drainage which runs across the street into their parking lot. He said that he had attempted to contact the attorney representing the library. He said that he did speak with Charlotte McCoy, Stites and Harbison PLLC, before today's hearing and explained that this is a Preliminary Development Plan and that they believe this development will resolve that drainage concern. He said that they would be capturing the water that runs down the hillside because the buildings will have internal collectors, and an underground detention system that connects the two buildings, which will then be channeled into a detention area on their side of the street. He also told Ms. McCoy that they will continue to work with the staff and the representative from the library to satisfy these drainage concerns.

Mr. Hill said in regards to the tree canopy, they have also worked diligently with the staff and they will have an abundance of trees. He said that this is an opportunity to reforest the area to make it more aesthetically pleasing.

Citizen Comment – There were no citizens present to speak to this application.

Commission Questions – Mr. Wilson thanked the applicant for taking all the concerns into consideration and working very hard to address them.

Mr. Penn said that there was a note on the plan that stated this lot was to remain a Tree Preservation Area and how is that being removed. Mr. Martin said that the plan and the zone is being amended. Mr. Penn then asked if the zone change is approved, will that not be removed. Mr. Baillie said that that note will not be removed, but the Tree Preservation Area is being modified and removed from this property. He added that the conditional zoning restrictions are being modified with the increase of density. He then reiterated the two conditional zoning restrictions that are being recommended with this zone change. The first one is the prohibited of surface parking and the second is the modification of the current conditional zoning restrictions on this site, which is being done with the development plan. He added that by passing this along with the zone change and the Preliminary Development Plan, which will then go before the Urban County Council, we are able to increase the available parking and the available density that is allowed on site. The note currently on the plan was developed specifically by the Urban County Council, limited all parking and density to what is shown on the plan. Mr. Penn then said the trees that are being planted off-site are for a mitigation reason. Mr. Baillie said that the Urban Forester has indicated that this area is not being maintained because that note states that it can't be maintained in a typical manner. The note does not allow for any removal, but does allow for planting.

Zoning Action – A motion was made by Mr. Penn, seconded by Mr. Bell, and carried 11-0 to approve PLN-MAR-20-00015: WALDEN LAND PROJECT, LLC, for the reasons provided by the staff.

Variance Request Action – A motion was made by Mr. Penn, seconded by Mr. Bell, and carried 11-0 to approve the associated variance request, for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Penn, seconded by Mr. Bell, and carried 10-0 (due to video failure, Mr. Wilson was unable to vote and counted as abstention) to approve PLN-MJDP-20-00075: ATKINS PROPERTY LOT 1 (AMD), as presented by the staff, with the following revisions:

1. Provided the Urban County Council rezones the property to R-4; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. United States Postal Service Office's approval of kiosk locations or easement.
8. Provided the Planning Commission grants the requested height variance.

9. Resolve ~~Discuss~~ proposed revised Tree Protection Area per note #12.
10. Resolve ~~Discuss~~ Placebuilder criteria:
 - a. A-DS3-1: Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.
 - b. A-DS5-3: Development should provide a pedestrian-oriented and activated ground level.
 - c. A-DS7-3: Parking structures should activate the ground level.
 - d. B-PR9-1: Minimize disturbances to environmentally sensitive areas by utilizing the existing topography to the greatest extent possible.
 - e. D-CO1-1: Rights-of-way and multi-modal facilities should be designed to reflect and promote the desired place-type.
 - f. D-CO2-1: Safe facilities for all users and modes of transportation should be provided.
 - g. A-DS4-3: Development should work with the existing landscape to the greatest extent possible, preserving key natural features.
 - h. B-PR7-1: Connections to greenways, tree stands, and stream corridors should be provided.
 - i. E-GR3-2: New focal points should emphasize geographic features unique to the site.

Commission Comment – Mr. Bell expressed appreciation to the staff and the applicant for working together on this project.