

AN ORDINANCE CHANGING THE ZONE FROM A TOWNHOUSE RESIDENTIAL (R-1T) ZONE TO A HIGH DENSITY APARTMENT (R-4) ZONE, FOR 0.46 NET AND (1.39 GROSS) ACRES, FOR PROPERTY LOCATED AT 850 DEROODE STREET. (WEK JR. INVESTMENTS, LLC; COUNCIL DISTRICT 2).

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WHEREAS, at a Public Hearing held on June 24, 2021, a petition for a zoning ordinance map amendment for property located at 850 DeRoode Street from a Townhouse Residential (R-1T) zone to a High Density Apartment (R-4) zone, for 0.46 net (1.39 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending approval of the zone change by a vote of 11-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 850 DeRoode Street from a Townhouse Residential (R-1T) zone to a High Density Apartment (R-4) zone, for 0.46 net (1.39 gross) acres, being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the Lexington-Fayette Urban County Planning Commission is directed to show the amendment on the official zone map atlas and to make reference to the number of this Ordinance.

Section 3 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: August 26, 2021



\_\_\_\_\_  
MAYOR

ATTEST:

  
\_\_\_\_\_  
CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: September 2, 2021-1t

Rec'd by \_\_\_\_\_

Date: \_\_\_\_\_

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

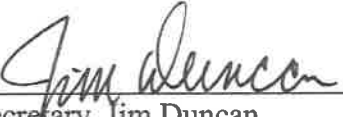
IN RE: **PLN-MAR-21-00007: WEK JR. INVESTMENTS, LLC** - a petition for a zone map amendment from a Townhouse Residential (R-1T) zone to a High Density Apartment (R-4) zone, for 0.46 net (1.39 gross) acres, for property located at 850 De Roode Street. (Council District 2)

Having considered the above matter on **June 24, 2021**, 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 rezoning accommodates the demand for housing in Lexington responsibly, prioritizing a mixture of housing types by incorporating multi-family residential in an area that is primarily single family in nature (Theme A, Goal #1.b.; Design Policy #8; Sustainability Policy #3).
  - b. The proposed rezoning addresses the goal of absorbing vacant and underutilized land within the Urban Service Area (Theme E, Goal #1.d.; Theme E, Goal #3, Theme E, Goal #1.a).
  - c. The proposed development accommodates the demand for housing in Lexington responsibly (Theme A, Goal #2.a), prioritizing higher-density and mixture of housing types by incorporating the missing middle housing type (Growth Policy #9) into an area that is primarily single-family residential in character.
  - d. The proposed development will include new pedestrian connections and encourage bicycle use through the inclusion of bicycle parking at the site (Theme A, Goal #3.b; Theme D, Goal #1.a; Theme D, Goal #1.b; Sustainability Policy #2) and the establishment of an eight foot wide shared-use trail that will connect to surrounding amenities (Design Policy #5; Sustainability Policy #4; Livability Policy #7; Connectivity Policy #3, Theme C, Goal #2.d; Livability Policy #6).
  - e. The application of the mixed income parking reduction and the ADA compliant units will allow for safe, affordable and accessible housing to meet the needs of older and/or disadvantaged residents (Theme A, Goal #1.c).
2. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
  - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location as the site creates a residential development that supports pedestrian mobility, while also acting as a buffer between the higher intensity roadway and the existing single family structures along Valley Avenue. The proposed development is in agreement with the Multi-Family Design Standards; however, some elements necessitate greater discussion during the final development plan.
  - b. The proposed rezoning includes safe facilities for the potential users, through the incorporation of enhanced pedestrian facilities along the property's frontages and the shared-use trail. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
  - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works will increase tree canopy coverage and establish green infrastructure that will help alleviate the impact on the surrounding development and the stormwater system.

3. This recommendation is made subject to approval and certification of PLN-MJDP-21-00026: Valley Park, 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 30<sup>th</sup> day of July, 2021.

  
Secretary, Jim Duncan

LARRY FORESTER  
CHAIR

Note: The corollary development plan, PLN-MJDP-21-00026: VALLEY PARK was approved by the Planning Commission on June 24, 2021 and certified on July 8, 2021.

Note: Four dimensional variances and one parking variance were approved by the Planning Commission on June 24, 2021.

K.R.S. 100.211(7) requires that the Council take action on this request by September 22, 2021.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Branden Gross, attorney.**

**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-21-00007** carried.

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

## MAP AMENDMENT REQUEST (MAR) APPLICATION

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

<b>Applicant:</b> WEK JR INVESTMENTS, LLC, 449 S. ASHLAND AVENUE, LEXINGTON, KY 40502
<b>Owner(s):</b> WEK JR INVESTMENTS, LLC 449 S. ASHLAND AVENUE, LEXINGTON, KY 40502
<b>Attorney:</b> BRANDEN GROSS, 300 WEST VINE STREET, STE 1200, LEXINGTON, KY 40507

**2. ADDRESS OF APPLICANT'S PROPERTY**

850 DE ROODE STREET, LEXINGTON, KY 40508
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**3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY**

Existing Use		Requested Use		Acreage	
Zoning		Zoning		Net	Gross
R-1T	VACANT	R-4	MULTI-FAMILY RESIDENTIAL	0.46	1.39

**1. COMPREHENSIVE PLAN**

a. Utilizing Placebuilder, what Place-Type is proposed for the subject site?	2ND TIER URBAN
b. Utilizing Placebuilder, what Development Type is proposed for the subject site? If residential, provide the proposed density	MEDIUM DENSITY RESIDENTIAL

**5. 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

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

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



May 3, 2021

Urban County Planning Commission  
Division of Planning – Planning Services Section  
101 E Vine Street, Floor 7  
Lexington, KY 40507

Re: Justification Letter – WEK JR Investments, LLC  
850 De Roode Street / PIDN 10923700  
From: Townhouse Residential (R-1T) Zone  
To: High Density Apartment (R-4) Zone

Variance Requests – Dimensional and Parking Reduction

Dear Members of the Planning Commission:

We submit this justification letter for WEK JR Investments, LLC's application for a zone map amendment request for 850 De Roode Street from Townhouse Residential (R-1T) Zone to High Density Apartment (R-4) Zone. Further, we are requesting dimensional variances to reduce the minimum front yard (a) along De Roode Street from 20' to 10', (b) along Valley Avenue from 20' to 10' and (c) along High Street from 20' to 5'. Lastly, we are requesting a variance to reduce the minimum required parking from 27 spaces to 24 spaces. The Applicant is proposing to construct a new apartment building on the property. As discussed below, the project meets numerous goals and objectives of the Comprehensive Plan, and further complies with relevant standards articulated in "Placebuilder" included as part of the Comprehensive Plan, and granting with variances comply with the Zoning Ordinance.

The property is approximately 0.46 acres net (1.34 acres gross), and it is located at the corner of Valley Avenue and De Roode Street near downtown Lexington (Density Policy #1). It is adjoined by (i) the existing Speigle Heights Neighborhood (f/k/a Irishtown) consisting of townhomes and single-family detached homes and (ii) the developing Davis Park Neighborhood (f/k/a Davis Bottom) consisting of a mixed-use development. The High Street viaduct and Norfolk Southern rail line border the east and south boundaries of the property. There is a 30' utility easement which reduces the buildable area of the property. The property has been vacant for a number of years, and this project will bring much needed residential development on underutilized land (Theme A, Goal 2, Objective a.; Theme E, Goal 1, Objective d.; Theme E, Goal 3). There are no principal structures located on any immediately adjoining lots, and the rail line and roadways separate this development from the existing and proposed residences in the area.

The development consists of one 4-story multi-family building with 16 apartment units, which will increase density in the defined Infill and Redevelopment Area (Theme A, Goal 1, Objective b.; Design Policy #8; Sustainability Policy #3). We are proposing one or more ADA-modified apartments on the ground floor, along with ADA compliant common use areas (Theme A, Goal 1, Objective c.; Support Policy #9). This project should be considered an upper missing middle housing type (being typically 12 units with a maximum of 19 units) (Growth Policy #9). There will be parking for 8 bicycles. The 48' height of the building will help screen the High Street viaduct from the Speigle Heights Neighborhood (Theme A, Goal 2, Objective b.). We are proposing seven new trees on the property, creating a walkable streetscape along Valley Avenue and De Roode Street (Theme A, Goal 3, Objective d.; Restoration Policy #1; Connectivity Policy #3). The parking will be oriented between the multi-family structure, the High Street viaduct, and the Norfolk Southern rail line, with vegetative screening and trees along De Roode Street (Design Policy #7). The Comprehensive Plan recognizes that all new apartments create a "downward pressure on rents," and therefore, they assist with providing more affordable housing across the city (Equity Policy #1). We intend to utilize a local building company for the construction of the project (Prosperity Policy #1). The project will comply with the multi-family design standards (Design Policy #3), and we anticipate the architectural designs to be similar to the multi-family structures located within the adjacent Davis Park Neighborhood (Theme A, Goal 2, Objective b.; Density Policy #2).

We are proposing new pedestrian connections and encouraging bicycle use with bicycle parking at the project (Theme A, Goal 3, Objective b.; Theme D, Goal 1, Objective a.; Theme D, Goal 1, Objective b.; Sustainability Policy #2). The 5' wide pedestrian upgrades will run along Valley Avenue and De Roode Street to allow future connections to the many amenities in the area (Design Policy #5; Sustainability Policy #4; Livability Policy #7; Connectivity Policy #3). There are communities centers (Nathaniel United Methodist Mission and Artworks at the Carver School). Speigle Heights Park is located in the Speigle Heights Neighborhood. The Distillery District, within walking distance, is home to multiple commercial developments, including music, restaurants and entertainment (Theme C, Goal 2, Objective d.; Livability Policy #6). These sidewalks will also allow the future connection of Speigle Heights Neighborhood and Davis Park Neighborhood. The future Town Branch Park and trail system (Protection Policy #8) is located along Manchester Street, and the new sidewalks will allow future connections thereto. The new connections will enhance the viable transportation network.

In conclusion, the project meets numerous goals and objectives of the Comprehensive Plan, and the map amendment request is in agreement with the Comprehensive Plan.

#### VARIANCE REQUESTS

In addition to the rezoning request above, we request several variances for the project. The dimensional variance requests are to reduce the front yard minimum (a) along De Roode Street from 20' to 10', (b) along Valley Avenue from 20' to 10' and (c) along High Street from 20' to 5'. The variance request for reduction in the minimum required parking is to reduce the parking from

27 spaces to 24 spaces. These variances can be considered by the Planning Commission at their scheduled public hearing, in their consideration of an associated development plan filed in conjunction with the requested zone change. These requests are necessary to allow the flexibility needed to maximize the density of this project in the defined Infill and Redevelopment Area.

The property is approximately 0.46 acres net located in the defined Infill and Redevelopment Area. A significant portion of the property will be underutilized due a 30' utility easement that is located at the corner of the Norfolk Southern rail line and Valley Avenue (which area is also steep). We are maximizing the area of the lot for the infill building and parking spaces. We are providing parking for eight bicycles to reduce the need for vehicle parking at the project; however, the project does not appear to qualify for any automatic parking reduction in spaces as provided in Article 16. The road frontage along High Street is elevated due to the viaduct. The size of the lot and utility easement dictated the location of the infill building and parking spaces. The reeducations to the setbacks and space requirements are necessary to fit the infill building and parking spaces on the buildable area of lot.

Article 8-13(n) provides that off-street parking shall be at a ratio of 1.5 space/unit (24 spaces) or 0.9 space/bedroom (27 spaces), whichever is greater. Article 7-6(b) provides for property located in the defined Infill & Redevelopment Area may receive parking variances of up to 50% of the requirement. As discussed above, there are special circumstances for this lot given its relative size and existing utility easements. 24 spaces are proposed. This variance is for a relatively modest reduction of approximately 11% of the required spaces. Further, pedestrian facilities and 8 bicycle spaces are proposed. As Newtown Pike Extension and Davis Park projects continue to develop, it can be anticipated that there will be more cycling, walking and public transportation available in the area. The modest reduction of the parking spaces will not have an adverse effect on the area.

Article 8-13(h) provides for a minimum front yard of 20'. As discussed above, there are special circumstances for this lot given its relative size and existing utility easements. Further, Spiegel Heights Neighborhood has residential units that have minimum front yards that vary from almost none to 20', and the request will not be out of character for the neighborhood. Reducing the setbacks will allow us to maximize the density of the project.

Granting the above requested variances 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.

#### DEVELOPMENT CRITERIA / THE PLACEBUILDER

In consultation with planning staff, we submit that the project could be evaluated as the 2<sup>nd</sup> Tier Urban Place Type classified as Medium Density Residential. Attached hereto is a color-coded reflection of how we have addressed the design criteria listed in that Placebuilder category. Items highlighted in green are represented graphically on our preliminary development plan, items in

yellow are addressed in this letter, and items highlighted in orange we do not believe are applicable to our proposal.

### Standards That Are Applicable

#### SITE DESIGN, BUILDING FORM, & LOCATION

**A-DS3-1** At this time, we are working on architectural designs for the multi-family structure, and we anticipate the designs to be similar to the multi-family structures located within the adjacent Davis Park.

**A-DS4-2** While there are no four-story buildings in the immediate area, the High Street viaduct is a tall and dominating feature. The proposed multi-family structure will screen the High Street viaduct from the other residences in the area, and therefore, it will advance a neighborhood context. This criteria is also represented graphically on our preliminary development plan.

**A-DS5-3** The multi-family structure is proposed to face Valley Avenue into Irishtown, and a 5' sidewalk is proposed along the rights-of-way. The sidewalks will allow future access to trails and parks. The multi-family structure will have a sidewalk to Valley Avenue. This criteria is also represented graphically on our preliminary development plan.

**A-DS5-4** We are proposing sidewalks to provide a pedestrian-oriented and activated ground level. This criteria is also represented graphically on our preliminary development plan.

**A-DS7-1** The parking will be oriented between the multi-family structure, the High Street viaduct and the Norfolk Southern rail line. This criteria is also represented graphically on our preliminary development plan.

**A-DS7-2** The parking will be oriented between the multi-family structure, the High Street viaduct and the Norfolk Southern rail line. The parking area along De Roode Street will have vegetative screening. This criteria is also represented graphically on our preliminary development plan.

**A-DS8-1** The existing single-family units are separated from the project by Valley Avenue.

**A-DS10-1** The project is within walking distance of the Distillery District, Rupp Arena and the trails and parks. This criteria is also represented graphically on our preliminary development plan.

**A-DN2-1** This is an infill and redevelopment project that will increase density. This criteria is also represented graphically on our preliminary development plan.

**A-DN2-2** While there are no four-story buildings in the immediate area, the High Street viaduct is a tall and dominating feature. The proposed multi-family structure will screen the High Street viaduct from the other residences in the area, and therefore, it will advance scale of the neighborhood.

**B-SU11-1** By virtue of our street trees and vegetative buffering, we will be adding green infrastructure.

**C-LI6-1** This is a multi-family project. This criteria is also represented graphically on our preliminary development plan.

**C-PS10-3** The project is not overparked. We are requested a reduction in the minimum parking.



D-PL7-1 We have spoken with Lexington Habitat for Humanity, Lexington Housing Authority, and Lexington Community Land Trust. Those organizations were supportive of the project. We have also spoken with Paul Holland, who provided the attached letter of support. We have unsuccessfully attempted to contact the Speigle Heights Neighborhood Association and Southend Park Neighborhood Association.

D-SP3-1 We are proposing adequate rights-of-way and easements.

E-GR9-4 The project is using underutilized and vacant property. This criteria is also represented graphically on our preliminary development plan.

#### TRANSPORTATION & PEDESTRIAN CONNECTIVITY

A-DS5-1 We are proposing adequate multi-modal infrastructure to ensure vehicular separation from other modes of transport on the site.

A-DS5-2 We are proposing new street trees along both Valley Avenue and De Roode Street.

D-CO1-1 We are proposing sidewalks and bicycle storage area.

D-CO2-1 We are proposing safe facilities for all users and modes of transportation, including cyclist and pedestrians.

D-CO2-2 We are proposing safe, connected multimodal transportation network that satisfies all users' needs, including those with disabilities.

D-SP6-1 We are proposing pedestrian transportation to access community centers, parks and other public facilities. This criteria is also represented graphically on our preliminary development plan.

#### GREENSPACE & ENVIRONMENTAL HEALTH

B-PR7-2 We are proposing seven new trees on less than ½ acre.

B-PR7-3 We are proposing seven new trees on less than ½ acre.

B-RE2-1 We are proposing seven new trees along the proposed sidewalk to allow future connections to trails and parks.

E-GR3-1 We are proposing sidewalks to allow future pedestrian access to trails and parks.

#### Standards Not Applicable

#### SITE DESIGN, BUILDING FORM, & LOCATION

A-DS7-3 There are no proposed parking structures.

A-DS11-1 There are no proposed common public uses.

A-DN3-2 This is not a commercial center.

A-DN6-1 We are not proposing any single-family units.

A-EQ3-1 This is not in a corridor.

A-EQ7-1 There are no schools proposed.

B-PR9-1 There are no environmentally sensitive areas on this site.

- C-LI6-2 This is a multi-family project. We intend to lease units at market rates for the neighborhood.
- C-LI7-1 This is not a mixed-used project.
- C-PS10-2 The site is too small for shared parking.
- D-PL9-1 There are no historic structures.
- D-PL10-1 We are not proposing any street art.
- D-SP3-2 There are no cellular towers.
- D-SP9-1 There is only one building proposed.
- E-GR4-1 There are no existing structures.
- E-GR5-1 There are no historic structures.
- E-GR9-1 Only one multi-family structure is proposed.
- E-GR9-3 Only one multi-family structure is proposed.

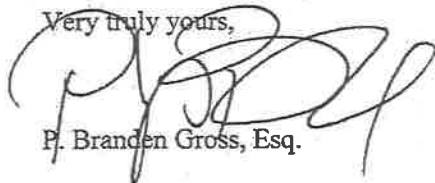
#### TRANSPORTATION & PEDESTRIAN CONNECTIVITY

- A-DS1-1 The property does not abut a transit route.
- A-DS1-2 The property does not abut a transit route. We are proposing new sidewalks.
- A-DS10-2 There are no proposed focal points.
- A-EQ3-2 This development is not along a corridor.
- B-SU4-1 Proposed parks are located within walking distance.
- D-CO4-2 No new roadways are proposed for this site.
- D-CO5-1 No new streets are proposed for this site.
- E-ST3-1 This project is not along a corridor.

#### GREENSPACE & ENVIRONMENTAL HEALTH

- A-DS4-3 There is no key natural feature.
- B-PR2-1 There are no environmentally sensitive areas on the site.
- B-PR2-2 No portion of the site is in a floodplain.
- B-PR2-3 No portion of the site is in a floodplain.
- D-SP2-1 There are no school sites.
- D-SP2-2 There are no school sites.
- E-GR3-2 There are no unique geographic features on the site.

Very truly yours,

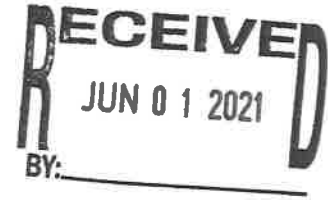


P. Branden Gross, Esq.

cc: WEK JR Investments, LLC  
Barrett Partners, Inc.

May 31, 2021

Urban County Planning Commission  
Division of Planning – Planning Services Section  
101 E Vine Street, Floor 7  
Lexington, KY 40507



Re: Additional Variance Request – Dimensional Reduction for Flood Plain

Supplemental Justification Letter – PLN-MAR-21-00007  
850 De Roode Street / PIDN 10923700 / WEK JR Investments, LLC  
From: Townhouse Residential (R-1T) Zone  
To: High Density Apartment (R-4) Zone

Dear Members of the Planning Commission:

We submit this justification letter for WEK JR Investments, LLC's application for a zone map amendment request for 850 De Roode Street (1) to request an additional dimensional variance to reduce the minimum building setback along a floodplain from 25' feet to 9' feet (Article 19-7(g)(4)(b)) in the defined Infill and Redevelopment Area and (2) to supplement the justification letter to address the multi-family design standards of the Comprehensive Plan.

#### ADDITIONAL VARIANCE REQUEST

The Planning Commission may consider this variance request at their scheduled public hearing with their consideration of an associated development plan filed in conjunction with the requested zone change. This request is necessary to allow the flexibility needed to construct a small apartment building on this site. The property is approximately 0.46 acres net, and it is located at the corner of Valley Avenue and De Roode Street near downtown Lexington. There is a 30' utility easement which reduces the buildable area of the property. Given these existing difficulties, no one has ever developed this site.

We recently discovered an additional difficulty in that a floodplain runs along the northeast corner of the subject property at Valley Avenue and De Roode Street. Due to the topography and existing stormwater mitigation improvements at this corner, it is not readily apparent that a floodplain exists on this site. The improvements consist of a concrete ditch running along Valley Avenue and two grated inlets to 18" RCP at the streets. We have discussed this variance request with LFUCG Division of Water Quality, and we have been informed that it has no objections. As part of the development of this site, we are proposing further stormwater controls with the construction of a stormwater management system near the area of the floodplain. This stormwater

management area will both enhance the greenspace and further protect the area from flooding (B-PR2-3). Further, we are hopeful that this area may be an appropriate location for a bioswale or other green infrastructure to be incorporated into stormwater management area and enhance the greenspace network at the propose 8' multi-purpose path (B-RE2-1).

Granting the above requested variance 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.

### Multi-Family Design Standards

This is a multi-family project in the defined Infill and Redevelopment Area. This site is less than ½ acre, and it is considered a small project apartment building. We are supplementing our discussion of Placebuilder Criteria **A-DS3-1** in the justification letter to include the multi-family design standards set forth below.

### Site Planning

SP.1 Technically, the site consists of three road frontages, but the proposed building will front along Valley Avenue toward the existing Speigle Heights Neighborhood (f/k/a Irishtown). The only 6' fence being proposed is along the Norfolk Southern rail line.

SP.2 We are planning for each ground level unit to have both an entry in the breezeway and an entry on a patio; provided, however, that final decision is contingent on (1) further discussions with KU related to the utility easements on the site and (2) the configuration of the stormwater management system near the floodplain. This will be further addressed during the final development phase.

SP.3 We are proposing a breezeway entry from Valley Avenue to the parking lot. Both entries will connect to the proposed 8' multi-purpose path via sidewalks.

SP.4 As part of this application, we are requesting a dimensional variance to reduce the minimum front yard from 20' to 10' for this site. There are special circumstances on this lot due to its small size and existing utility easements. Further, Spiegel Heights Neighborhood has residential units that have minimum front yards that vary from almost none to 20', and the request will not be out of character for the neighborhood.

SP.5 We are proposing a 8' multi-purpose path that may be connected to the pedestrian network.

SP.6 We are proposing a common outdoor space to be connected to the building with a 6' sidewalk; provided, a final design for that outdoor space is contingent upon further discussions with KU related to the utility easements. This will be further addressed during the final development phase. There is a new public park proposed about 600' from this site.

SP.7 The parking will be oriented between the multi-family structure, the High Street viaduct and the Norfolk Southern rail line. The parking area along De Roode Street will have vegetative screening.

SP.8 Given the small size of the lot, there is no room to break up the parking lot into smaller lots.

SP.9 The location of the balcony/patio for each unit is contingent on (1) discussions with KU related to the utility line(s) and easement and (2) the configuration of the stormwater management system near the floodplain. This will be further addressed during the final development phase.

SP.10 We are proposing the 8' multi-purpose path to allow for future connections to the adjacent neighborhoods and proposed public trails and parks in the area.

SP.11 We are not proposing any new streets or blocks, but we are proposing the 8' multi-purpose path to allow for future connections.

SP.12 We are not proposing any new streets or blocks, but we are proposing the 8' multi-purpose path to allow for future connections. We will work with traffic engineering related to safety at the access point along De Roode Street and within the parking lot. This will be further addressed during the final development phase.

SP.13 We are proposing the 8' multi-purpose path to allow for future connections to the adjacent neighborhoods and proposed public trails and parks in the area. We are not upgrading the street improvements along Valley Avenue and De Roode Street.

SP.14 We are proposing the 8' multi-purpose path to allow for future connections to the adjacent neighborhoods and proposed public trails and parks in the area. We are also proposing a stormwater management area. This area may be an appropriate location for a bioswale or other green infrastructure to be incorporated into the greenspace network. This will be further addressed during the final development phase.

SP.15 During the final development phase, we will address parking lot lighting safety and avoidance of the negative impact on surrounding buildings.

SP.16 We are proposing one or more ADA-modified units on the ground floor, and we plan to ensure that the common use areas are ADA compliant. We may need to construct larger patios near the proposed open space to provide ADA compliant private space for those units. Given the various difficulties with utilities on this site, this will need to be further addressed during the final development phase.

SP.17 We are not adding any new streets, but the 8' multi-purpose path, additional street trees and possible bioswale will create an enhanced character for this corner.

### **Open Space & Landscaping**

OS.1 We are planning for each unit to have a balcony/patio; provided, however, that that final decision is contingent on (1) discussions with KU related to the utility line(s) along Valley Avenue and (2) the configuration of the stormwater management system near the floodplain. This will be further addressed during the final development phase. There is a new public park proposed about 600' from this site.

OS.2 Given the difficulties with this site, we are not proposing a central common open space. But, we are providing an open space, and plan to have it separated from Valley Avenue with a 4' fence and landscaping; provided, however, that that final decision is contingent on (1) discussions with KU related to the utility easements and (2) the configuration of ADA compliant patios. This will be further addressed during the final development phase.

OS.3 We are planning for each unit to have a balcony/patio; provided, however, that that final decision is contingent on (1) discussions with KU related to the utility easements and (2) the

configuration of the stormwater management system near the floodplain. This will be further addressed during the final development phase.

OS.4 We are planning for each private patio to have railing to separate it from the common area. We are proposing landscaping to separate public space from the open space, and plan a 4' fence and landscaping along the common area and Valley Avenue; provided, however, that that final decision is contingent on (1) discussions with KU related to the utility easements and (2) the configuration of the stormwater management system near the floodplain. This will be further addressed during the final development phase.

OS.5 We are proposing landscaping and large variety trees between the parking lot and the 8' multi-purpose path along De Roode Street.

OS.6 The building and proposed landscaping and large variety trees with screen the parking lot from the adjacent neighborhoods.

OS.7 Given the small size of the site and location of the utilities, we are not able to use berms. We are proposing landscaping and not fencing to the extent possible. This will be further addressed during the final development phase.

OS.8 We are proposing the 8' multi-purpose path to allow for future connections to the adjacent neighborhoods and proposed public trails and parks in the area. We are also proposing a stormwater management area that will enhance the greenspace. Further, this area may be an appropriate location for a bioswale or other green infrastructure to be incorporated into the greenspace network. This will be further addressed during the final development phase.

OS.9 We are proposing a 8' multi-purpose path along the streets and a 6' sidewalk along the parking lot and building.

OS.10 We are not proposing any new streets, but we are proposing the 8' multi-purpose path along the existing streets to allow for future connections to the adjacent neighborhoods. We are also proposing a stormwater management area in which a bioswale could be constructed to enhance the greenspace and separate the building from most of the 8' multi-purpose path.

OS.11 We are not proposing any internal streets, but we are proposing landscaping and large variety trees between the 8' multi-purpose path and the parking lot along De Roode Street.

OS.12 We are not ready to design the landscaping or lighting beyond what is shown on the preliminary development plan. This will be further addressed during the final development phase.

OS.13 During the final development phase, we will address lighting design to avoid spillage and glare on private spaces.

### **Architectural Design**

AD.1 We are proposing one (1) building for the site, but we have not had architectural plans prepared at this time. The existing streets and improvements separate this site from the other adjacent neighborhoods. The proposed 48' height of the building will help screen the High Street viaduct from the Speigle Heights Neighborhood. Due to overhead utility lines, we are limited in the size variety of new trees. We are proposing large variety trees to further transition the scale at feasible locations.

AD.2 We are proposing one (1) building for the site, but we have not had architectural plans prepared at this time. The 48' height of the building will help screen the High Street viaduct from

May 31, 2021

Page 5

the Speigle Heights Neighborhood. We are proposing large variety trees to further transition the scale at feasible locations. We are proposing paths, landscaping and green infrastructure along with streets to enhance, and blend into, the pedestrian network.

AD.3 We have not had architectural plans prepared at this time, but we are proposing paths, trees, landscaping and green infrastructure along the streets that will break up the building.

AD.4 We have not had architectural plans prepared at this time, but we plan to maximize windows and views for the units.

AD.5 Given the location and size of the building, we do not plan to have large areas of blank wall facing the streets. Further, we are proposing paths, trees, landscaping and green infrastructure along the streets that will break up the walls facing the streets. We are planning for each unit to have a balcony/patio; provided, however, that that final decision is contingent on (1) discussions with KU related to the utility easementss and (2) the configuration of the stormwater management system near the floodplain area. This will be further addressed during the final development phase.

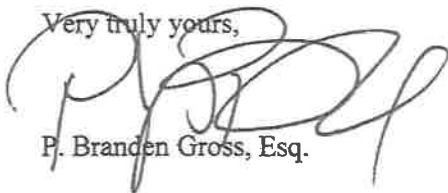
AD.6 We have not had architectural plans prepared at this time, but we are planning for each unit to have a balcony/patio; provided, however, that that final decision is contingent on (1) discussions with KU related to the utility easementss and (2) the configuration of the stormwater management system near the floodplain area. This will be further addressed during the final development phase.

AD.7 We have not had architectural plans prepared at this time, but we are only planning one building. Further, the existing streets and area improvements separate this site from the residences within the adjacent neighborhoods.

AD.8 We have not had architectural plans prepared at this time, but we are planning for each unit to have a balcony/patio that should add details to the rear and sides of the building; provided, however, that that decision is contingent on (1) discussions with KU related to the utility easementss and (2) the configuration of the stormwater management system near the floodplain area. This will be further addressed during the final development phase.

AD.9 We have not had architectural plans prepared at this time, but the existing streets and other improvements separate this site from the buildings within the adjacent neighborhoods

Very truly yours,



P. Branden Gross, Esq.

cc: WEK JR Investments, LLC  
Barrett Partners, Inc.

June 20, 2021

Urban County Planning Commission  
Division of Planning – Planning Services Section  
101 E Vine Street, Floor 7  
Lexington, KY 40507

Re: Second Supplemental Justification Letter and Supplemental Variance Request  
PLN-MAR-21-00007  
850 De Roode Street / PIDN 10923700 / WEK JR Investments, LLC  
From: Townhouse Residential (R-1T) Zone  
To: High Density Apartment (R-4) Zone

Dear Members of the Planning Commission:

We submit this second supplemental justification letter for WEK JR Investments, LLC's application for a zone map amendment request for 850 De Roode Street and its variance requests to address several matters raised during the sub-committee meetings.

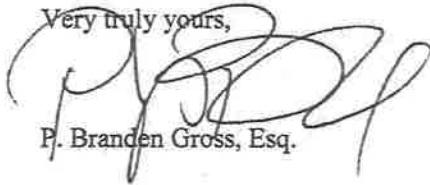
- The building is pushed and oriented toward Valley Avenue. The proposed height of the building is approximately the same as the height of the High Street viaduct, and therefore, the building will act as a screen and buffer of the High Street viaduct from the existing residences along Valley Avenue.
- The Shadow Exhibit submitted herewith is from a Google image on October 11, 2019, and it demonstrates the anticipated shadowing near mid-day. The Shadow Exhibit places the same shadow cast from the High Street viaduct on the building. We anticipate that the location of the building is outside of the shadow of the High Street viaduct. Further, we do not anticipate that any residents along Valley Avenue will be located within the shadowing of the building.
- As shown on the Building Setback Exhibit submitted herewith, the property has a large right-of-way adjacent to it. Even with the reduction of the setbacks to 10', there is a minimum of 27', and up to 43', between the road improvements and the building.
- We are requesting a parking reduction of 3 spaces. Our plans reduce reliance on single parking vehicles through short and long term bicycle parking. The property will be part of the future multi-modal transportation network connecting its 8' multi-use path to Town Branch Trail and University of Kentucky. Further, we are



proposing 8 affordable housing units in the building to further reduce our parking requirements. We anticipate that the project will have adequate parking.

- At this time, we are anticipating open space as shown on the plan. We hope that that space will be utilized for patios, a grill area and other amenities for the residents. But, there are limitations that may affect the open space given the proximity to the KU easement (and its lines and poles) and the future location of the dumpster. Fortunately, the property will have plenty of access to other public open space through its 8' multi-use path to Town Branch Commons Park and Southend Park.
- At this time, we do not have architectural renderings for the building. There are limitations that may affect the location and viability of patios, balconies and other details given proximity to the KU easement (and its lines and poles) and the future location of the dumpster. We anticipate that those issues will be addressed during the final development stage, and at that time, we will be able to have architectural renderings for the building prepared. But, we anticipate utilizing double paned glass to reduce noise from the rail way and viaduct.
- In consultation with planning and city staffs, we have addressed the improvements along Valley Avenue. We plan to build a 8' multi-use path along Valley Avenue. Further, we have agreed to upgrade Valley Avenue with additional pavement and curbs and gutters.

Very truly yours,



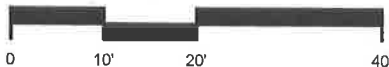
P. Branden Gross, Esq.

cc: WEK JR Investments, LLC  
Barrett Partners, Inc.



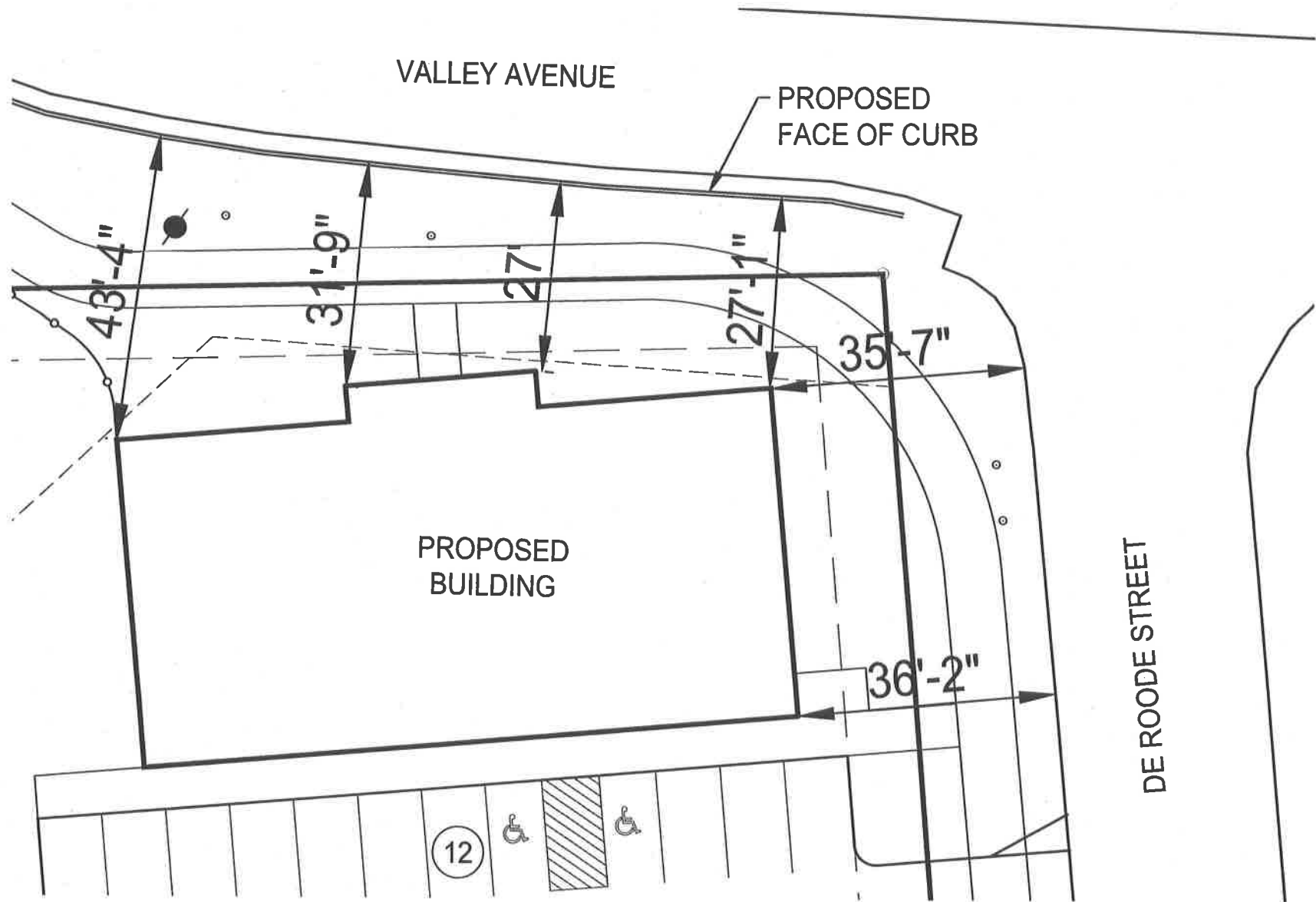
NORTH

SCALE: 1" = 20'-0"



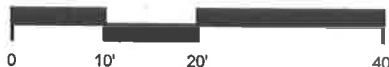
*Barrett Partners, Inc.*  
PLANNING AND LANDSCAPE ARCHITECTURE  
209 E. High Street, Suite 201 • Lexington, Kentucky 40507  
859-381-9697 • www.barrettpartnersinc.com

Shadow Exhibit  
**VALLEY PARK**  
850 De Roode Street  
Lexington, Kentucky  
June 17, 2021



NORTH

SCALE: 1" = 20'-0"



**Barnett Partners, Inc.**  
 PLANNING AND LANDSCAPE ARCHITECTURE  
 209 E. High Street, Suite 201 • Lexington, Kentucky 40507  
 859-381-9697 • www.barnettpartnersinc.com

Building Setback Exhibit  
**VALLEY PARK**  
 850 De Roode Street  
 Lexington, Kentucky  
 June 17, 2021

# WEK JR INVESTMENTS, LLC (PLN-MAR-21-00007)

Multi-family residential development on a vacant parcel.

850 DE ROODE STREET

## Applicant/Owner

WEK JR INVESTMENTS, LLC  
449 South Ashland Avenue  
Lexington, KY 40502  
branden.gross@dentons.com



## Application Details

### Acreage:

0.46 net (1.39 gross) acres

### Current Zoning:

Townhouse Residential (R-1T) zone

### Proposed Zoning:

High Density Apartment (R-4) zone

### Place-Type / Development Type:

2nd Tier Urban

Medium Density Residential

*For more information about the 2nd Tier Urban Place-Type see Imagine Lexington pages 303-304. For more information on Medium Density Residential Development Type see page 271.*

### Description:

The applicant is seeking to develop a multi-family structure and associated parking. The proposed four-story building would include 16 dwelling units and associated open space.



## Public Engagement

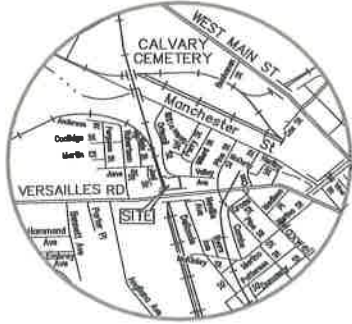
- The applicant has met with individuals and management companies in the Irishtown area.
- The applicant has not yet held a neighborhood meeting.

## 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](http://lexingtonky.gov/plans)) or contact Planning for the latest information.

# Development Plan



VICINITY MAP

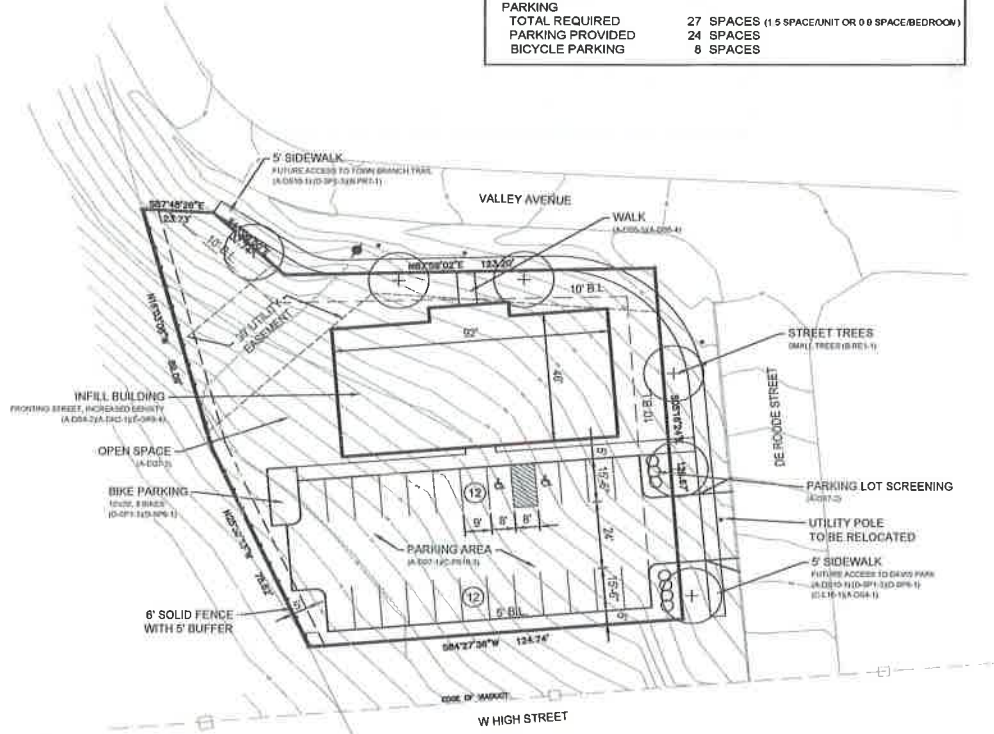
SITE STATISTICS		
EXISTING ZONE	R-1T	
PROPOSED ZONE	R-4	
SITE AREA	0.46 NET AC	1.39 GROSS AC
APARTMENTS		
BUILDING AREA	17,744 SQ. FT.	
BUILDING HEIGHT	48', 4 STORIES	
BUILDING COVERAGE		
ALLOWED	40%	8,015 SQ. FT.
PROPOSED	22%	4,436 SQ. FT.
FLOOR AREA RATIO		
ALLOWED	1.6	32,061 SQ. FT.
PROPOSED	0.74	14,860 SQ. FT.
OPEN SPACE		
REQUIRED	20%	4,007 SQ. FT.
PROPOSED	27%	5,346 SQ. FT.
STREET FRONTAGE		
DE ROODE STREET	127'	
VALLEY AVENUE	156'	
HIGH STREET	125'	
PARKING		
TOTAL REQUIRED	27 SPACES (1.5 SPACE/UNIT OR 0.9 SPACE/BEDROOM)	
PARKING PROVIDED	24 SPACES	
BICYCLE PARKING	8 SPACES	

OWNERS CERTIFICATION:  
 I (WE) DO HEREBY CERTIFY THAT I AM (WE ARE) THE OWNERS OF THE PROPERTY SHOWN HEREON, DO FULLY AGREE TO ALL GRAPHIC AND TEXTUAL REPRESENTATIONS SHOWN HEREON, AND DO ADOPT THIS AS MY (OUR) DEVELOPMENT PLAN FOR THE PROPERTY.

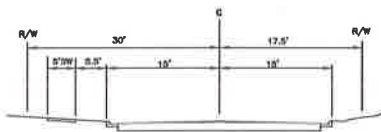
OWNER \_\_\_\_\_ DATE \_\_\_\_\_

COMMISSION'S CERTIFICATION:  
 I DO HEREBY CERTIFY THAT THIS DEVELOPMENT PLAN WAS APPROVED BY THE URBAN COUNTY PLANNING COMMISSION AT ITS MEETING HELD ON -

PLANNING COMMISSION SECRETARY \_\_\_\_\_ DATE \_\_\_\_\_



- NOTES:**
- THIS DEVELOPMENT PLAN SHALL NOT BE USED AS THE BASIS FOR SALE OF THIS PROPERTY. ANY SALE SHALL BE BASED UPON AN APPROVED SUBDIVISION PLAN.
  - ACCESS SHALL BE LIMITED AS SHOWN ON THIS PLAN.
  - THIS DEVELOPMENT PLAN MAY BE AMENDED WITH THE APPROVAL OF THE PLANNING COMMISSION AS SET FORTH IN THE ZONING ORDINANCE.
  - NO GRADING, STRIPPING, EXCAVATION, FILLING OR OTHER DISTURBANCE OF THE NATURAL GROUND COVER SHALL TAKE PLACE PRIOR TO APPROVAL OF AN EROSION CONTROL PLAN. SUCH PLAN MUST BE SUBMITTED IN ACCORDANCE WITH CHAPTER 16 OF THE CODE OF ORDINANCES.
  - ACCESS DETAILS SHALL BE APPROVED BY THE DIVISION OF TRAFFIC ENGINEERING.
  - STORMWATER MANAGEMENT, SANITARY SEWERS, STORM SEWERS, AND PUBLIC STREET IMPROVEMENTS SHALL BE DESIGNED AND CONSTRUCTED IN ACCORDANCE WITH THE LFUCG ENGINEERING MANUALS.
  - SCREENING AND LANDSCAPING SHALL BE AS REQUIRED BY ARTICLE 10 OF THE ZONING ORDINANCE.
  - IF ANY PART OF THIS PLAN SHALL BE JUDGED INVALID, SUCH JUDGEMENT SHALL NOT INVALIDATE THE REMAINDER OF THE PLAN.
  - LOCATION OF ANY FIRE HYDRANTS, FIRE DEPARTMENT CONNECTIONS, FIRE SERVICE FEATURES, IF REQUIRED, SHALL BE APPROVED BY THE DIVISION OF FIRE-WATER CONTROL OFFICE.
  - THIS PROPERTY IS OF RECORD PER RECORD PLAT FOUND IN PLAT CABINET E SLIDE 32.
  - NO BUILDING PERMITS SHALL BE ISSUED UNLESS AND UNTIL A FINAL DEVELOPMENT PLAN IS APPROVED BY THE PLANNING COMMISSION.



SECTION A-A

## 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-EQ3-1** Development should create context sensitive transitions between intense corridor development and existing neighborhoods.
- 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)
- 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.

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-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-L17, E-AC5)
- A-DS5-1** Adequate multi-modal infrastructure should be provided to ensure vehicular separation from other modes of transport.
- 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-EQ3-2** Development on corridors should be transit-oriented (dense & intense, internally walkable, connected to adjacent neighborhoods, providing transit infrastructure & facilities). (B-SU3)
- 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-CO4-2** Roadway capacity should be increased by providing multiple parallel streets, which alleviate traffic and provide multiple route options, in lieu of additional lanes.
- D-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)
- E-ST3-1** Development along major corridors should provide for ride sharing pick up and drop off locations along with considerations for any needed or proposed park and ride functions of the area. (E-GR10, E-GR7)

### 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.

2ND TIER URBAN

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 ###

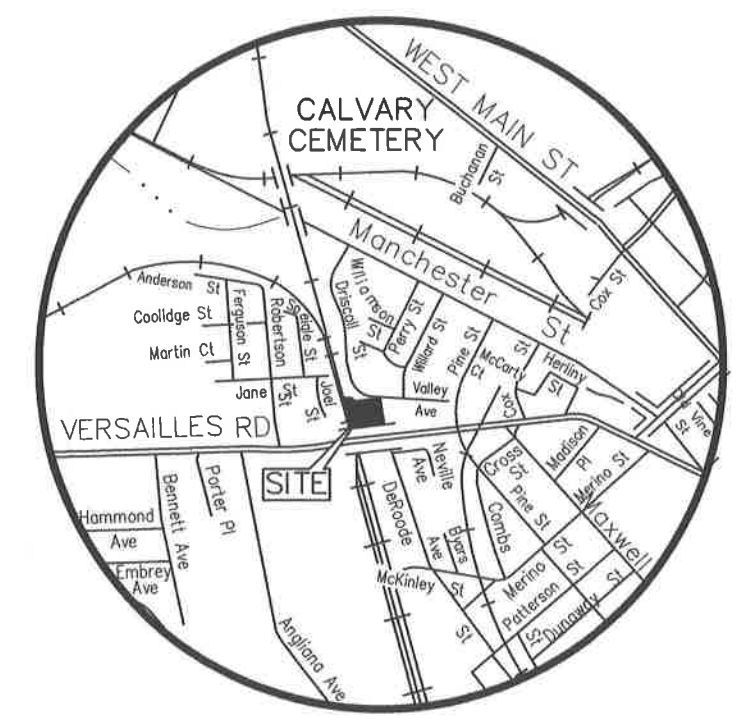
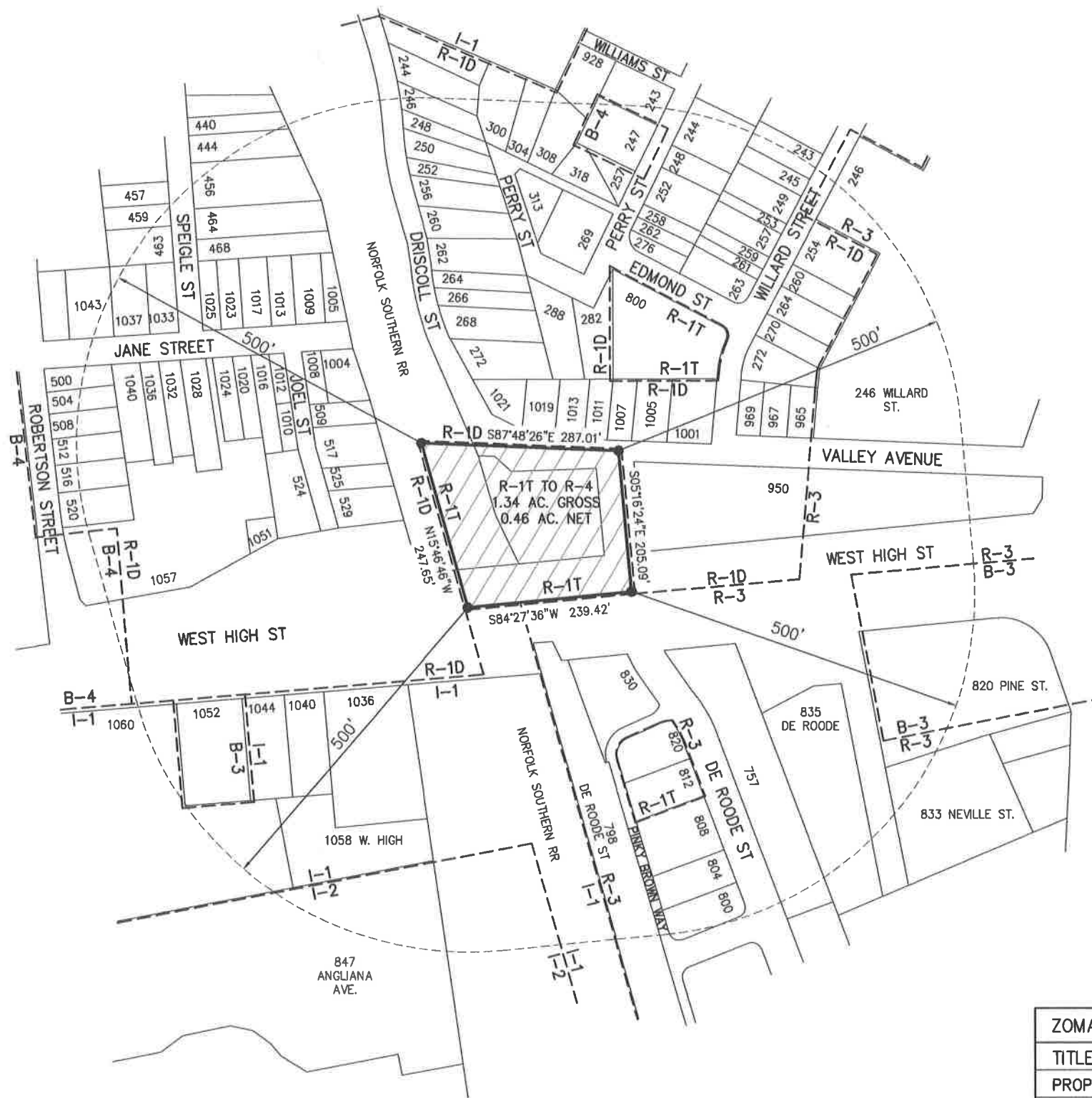
Criteria that include additional policy items in parentheses refer to companion policies that will provide additional context to the related criteria.

Legal Description  
WEK Jr. Investments, LLC Property (applicant)  
Zone Change From R-1T to R-4  
Located at 850 De Roode Street  
Lexington, Fayette County, Kentucky

ALL THAT TRACT OR PARCEL OF LAND SITUATED AT THE SOUTHWEST CORNER OF VALLEY AVENUE AND DE ROODE STREET IN LEXINGTON, FAYETTE COUNTY, KENTUCKY MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Beginning at the intersection of the centerline of De Roode Street with the centerline of Valley Avenue; thence with the centerline of De Roode Street south 05 degrees 16 minutes 24 seconds east 205.09 feet to the centerline of the West High Street Viaduct; thence along said centerline south 84 degrees 27 minutes 36 seconds west 239.42 feet to the centerline of the Southern Railroad; thence along said centerline north 15 degrees 46 minutes 46 seconds west 247.65 feet to the intersection of the centerline of the Southern Railroad with the centerline of Valley Avenue extended; thence with the centerline of Valley Avenue south 87 degrees 48 minutes 26 seconds east 287.01 feet to the point of beginning and containing 1.34 gross acres and 0.46 net acres.





VICINITY MAP  
nts

AREA NOTIFICATION MAP  
1"=200'



ZOMAR				
TITLE: PLN-MAR-21-00007	FROM	TO	GROSS	NET
PROPERTY ADDRESS: 1540 EASTLAND PARKWAY (A PORTION OF)	R-1T	R-4	1.34 AC.	0.46 AC.
OWNER/APPLICANT: WEK JR INVESTMENTS LLC 449 S ASHLAND AVENUE LEXINGTON, KENTUCKY 40502	<div style="border: 1px solid black; padding: 5px; text-align: center;">             STATE OF KENTUCKY              WESLEY B. WITT              2187              LICENSED PROFESSIONAL LAND SURVEYOR  </div>			
PREPARED BY: WESLEY B WITT, INC.				
DATE PREPARED: MAY 3, 2021				

# STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-21-00007: WEK JR INVESTMENTS, LLC

## DESCRIPTION OF ZONE CHANGE

Zone Change:	From a Townhouse Residential (R-1T) zone To a High Density Apartment (R-4) zone
Acreage:	0.46 net (1.39 gross) acres
Location:	850 De Roode Street



## EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Property	R-1T	Vacant
To North	R-3	Single Family Residential
To East	R-3	Vacant
To South	R-3 / I-1	Right-of-Way / Multi-family Residential
To West	R-3	Rail line / Single Family Residential

## URBAN SERVICE REPORT

**Roads** - The subject property is located at the southwest corner of Valley Avenue and De Roode Street, just north of the West High Street viaduct. Valley Avenue is a short local street that extends from Driscoll Street and terminates in a cul-de-sac. The portion of the property that fronts on Valley Avenue is substandard; however, as new development has occurred to the west, improvements to the roadway have been constructed in an effort to modernize the roadway. De Roode Street is also a local street, which connects Valley Avenue and Chair Avenue. The modernization of De Roode Street was a major component of the development of the Newtown Pike Corridor Extension and the implementation of the Southend Park Urban Village Plan. While much of the roadway has been improved the focus of those improvements have been primarily located south of the West High Street viaduct. The viaduct is situated just south of the subject property. While West High Street (US 60), an arterial roadway, is a major component associated with the built form in vicinity to the subject property, there is no access to or from the property to West High Street.

**Curb/Gutter/Sidewalks** - Valley Avenue does not have curb, gutter, or sidewalks at this location. De Roode Street does have curb and gutter, but does not have sidewalks at this location. The inclusion of facilities along Valley Avenue and De Roode Street will need to be provided as development occurs.

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

**Storm Sewers** - The subject property is located within the Town Branch watershed. A FEMA Special Flood Hazard Area (floodplain) is located within the Irishtown and the Speigle Heights neighborhoods. An extensive floodplain extends throughout the neighborhoods, which resulted in some historic flood events. The floodplain does occupy the northeast corner of the subject property. Storm sewers were installed as part of the Newtown Pike Extension project improvements at the corner of Valley Avenue and De Roode Street.

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

**Refuse** - The Urban County Government serves this area with refuse collection on Thursdays. However, supplemental service by private refuse haulers is commonly utilized for multi-family residential development.

**Police** - The nearest police station is located less than one mile northeast of the subject property at the East Main Street headquarters location.

**Fire/Ambulance** - The nearest fire station (#2) is located about ¼ mile north of the subject property, on Jefferson Street between W. Second and W. Third Street. Station #3 is also within proximity of the site at Merino Street and W. Maxwell Street, but does not answer regular calls, but houses Rescue Company #1, which serves the entire county.

**Transit** - LexTran transit route service is available along West High Street (#8) and Oliver Lewis Way (#22).

**Parks** - In association with the development of the properties associated with the Southend Park Urban Village Plan, a public park is planned. Davis Park (FKA Southend Park) will serve the future residents and the broader community.

## SUMMARY OF REQUEST

The applicant is seeking to rezone the subject property from the Townhouse Residential (R-1T) zone to the High Density Apartment (R-4) zone in an effort to construct multi-family residential development with sixteen (16) dwelling units on a property that is currently vacant.

## PLACE-TYPE

2ND TIER URBAN

The Second Tier Urban Place-Type is where significant infill and redevelopment opportunities exist in order to complement the urban core, generally situated within the established Infill and Redevelopment Boundary. While not expected to be as intensely developed as the downtown core, high-rise opportunities are not precluded provided that measures are taken to address the adjacent context. The forward trend for development in the 2nd tier urban areas should be towards more walkability, intensity, and appropriate stewardship of the available opportunities that will accommodate Lexington's future growth, first and foremost.

## 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



The petitioner proposes the rezoning of the subject property to allow for the construction of a multi-family residential structure and associated open space and off-street parking. The proposed residential development would include sixteen (16) one and two-bedroom units, at a residential density of 35 dwelling units per net acre.

## APPLICANT & COMMUNITY ENGAGEMENT



Included in the applicant's justification, the applicant indicated that they have spoken with Lexington Habitat for Humanity, the Lexington Housing Authority, and the Lexington Community Land Trust. Those organizations have indicated support for the project. They have also spoken with one neighborhood businessperson, who provided a letter of support. They have yet to successfully get in contact with the Speigle Heights Neighborhood Association and Southend Park Neighborhood Association.

## PROPERTY & ZONING HISTORY



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

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

Over the last 50 years, there have been a total of seven (7) zone changes within the Irishtown Neighborhood, not including those properties with frontage along Manchester Street. All but one of these zone changes sought to vary the form of housing in the area by including townhouses. The area along Manchester Street and Oliver Lewis Way has been the subject of substantial redevelopment and adaptive reuse. The Distillery District East comprises the eastern most portion of Irishtown and includes residences, a live music venue, catering services, banquet facilities, a coffee shop, and retail sales establishment. While the non-residential land use has focused on the adaptive reuse of the area, all residential development has been the result of new construction.

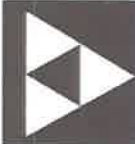
While not directly impacting the subject property, the Southend Park Urban Village Plan was published and adopted by the Urban County Planning Commission in 2003 and guides the development of the areas located to the south, across the West High Street viaduct. The purposes of the Southend Park Urban Village Plan were to mitigate the social, economic and environmental impacts of the Newtown Pike Extension on residents living and working in the Southend Park Neighborhood and to guide the successful redevelopment of this area. The study area was historically an isolated, mixed-use area located at the western edge of Downtown Lexington with scattered, modest wood-frame houses, intrusive commercial/industrial uses and a decaying urban infrastructure. The proposed plan for the site includes affordable housing, a large park, and social services. Any future development in proximity of the Southend Park Urban Village should respect and complement the tenants of that plan.

Historically, the subject area has been a residential zoning and was largely tied to the industrial and warehousing operations located along Manchester Street and the urban spur of the Southern Railroad (the area replaced by the construction of Oliver Lewis Way). Prior to the comprehensive rezoning of the County in 1969, the subject property was zoned Two-Family Residence District (R-2). During the comprehensive rezoning of the merged county, the property and the surrounding area was downzoned to a Single-Family Residential (R-1D) to better fit the land use in the area.

In 2007, the subject property (FKA 981 West High Street) was the focus of an application to change the zone from a Single Family Residential (R-1D) zone to a Townhouse Residential (R-1T) zone. The modification of the zoning, shifting to a more intense residential land use, sought to allow for the construction of six townhomes. At the time, the adopted Comprehensive Plan and the Newtown Pike Corridor Study recommended Medium Density Residential (MD) future land use for the subject property. The application was approved with various dimensional variances granted.

While the zoning of the subject property has been variable over time, the subject property's land use has been consistent. Despite being located in close proximity to the downtown area and an area that was historically focused residential construction in support of industrial activities, the property has seemingly remained vacant. Review of the Sanborn Insurance Maps from the late 19th century and other archival materials shows no construction on the subject 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, Objectives, and Policies 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 by incorporating multi-family residential in an area that is primarily single family in nature (Theme A, Goal #1.b.; Design Policy #8; Sustainability Policy #3). The applicant indicates that the project addresses the goal of absorbing vacant and underutilized land within the Urban Service Area (Theme A, Goal #2.a; Theme E, Goal #1.d.; Theme E, Goal #3, Theme E, Goal #1.a), and accommodating the demand for housing in Lexington responsibly, prioritizing higher-density and mixture of housing types. They suggest that the project should be considered an upper density level of the missing middle housing type (being typically 12 units with a maximum of 19 units) (Growth Policy #9), which is a type of housing that is often missing in Lexington's housing stock.

In addition to the built form, the applicant indicates that they are proposing new pedestrian connections and encouraging bicycle use through the inclusion of bicycle parking at the project (Theme A, Goal #3.b; Theme D, Goal #1.a; Theme D, Goal #1.b; Sustainability Policy #2). The proposed five (5) foot wide pedestrian upgrades will run along Valley Avenue and De Roode Street to allow future connections to the downtown and the amenities planned within Davis Park (FKA Southend Park) (Design Policy #5; Sustainability Policy #4; Livability Policy #7; Connectivity Policy #3). Additionally, the proposed project will be connected to the nearby community centers including Nathaniel United Methodist Mission and Artworks at the Carver School. Furthermore, the proposed project is in close proximity to the Distillery District, within walking distance, is home to multiple commercial developments, including music, restaurants and entertainment (Theme C, Goal #2.d; Livability Policy #6) and will be near the future Town Branch Commons and trail system (Protection Policy #8), located along Manchester Street.

The staff agrees that these aspects of the applicant's proposal can show agreement with some of the Goals, Objectives, and Policies of the 2018 Comprehensive. However, staff does have a few concerns regarding some statements made by the applicant, which necessitates greater discussion.

The applicant states that project will comply with the Multi-family Design Standards (Design Policy #3), and they anticipate the architectural designs to be similar to the multi-family structures located within the adjacent Davis Park Neighborhood (Theme A, Goal #2.b; Density Policy #2). The Multi-family Design Standards fall into three categories: Site Planning, Open Space and Landscaping, and Architectural Design. Each of these categories should be addressed in associations with the Development Criteria for the 2nd Tier Urban Place-Type and Medium Density Residential Development Type (A-DS3-1).

Additionally, the applicant states that the proposed development can create a "downward pressure on rents," and assist with providing more affordable housing across the city (Equity Policy #1). Theme A, Equity Policy #1 states that Lexington should aim to meet the demand for housing across all income levels. While the applicant is proposing to introduce new housing stock, with an emphasis on denser housing, there is a locational element to the impacts of downward pressure.

### 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 2nd Tier Urban 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 infill and redevelopment opportunities that will allow for 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. 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.

The applicant has not addressed the Multi-family Design Standards with their letter of justification nor the development plan. The applicant must address the site planning, open space and landscaping, and architectural design of Appendix 1 of the 2018 Comprehensive Plan. Special attention should be paid to the circulation throughout the site and how the open space will be accessed. Elevation drawings or renderings may be submitted to illustrate how the application is seeking to meet the Multi-family Design Standards.

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.

The applicant indicates that these areas will be screened. They should describe their plans for the screening.

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.

The applicant should describe how they are respecting the context of the neighborhood or the historical development of Irishtown with their proposed development. Staff agrees that the potential development can be a transition and serve as a buffer between the neighborhood and the West High Street viaduct; however, the applicant should describe how they are making the transition from the intensity of the corner of De Roode Street and Valley Avenue into the neighborhood. This transition is more important as the applicant is seeking to lessen the front yard setbacks between the taller multi-family development and the primarily one story, single family neighborhood.

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

The applicant is proposing to construct their development on a parcel of land that has never had documented development in the past and is located at the edge of an identified FEMA floodplain. While the zone change may be early in the development process, the applicant should describe how they will contend both with the topography, as well as the floodplain. 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 potential impact on the stormwater system in an area that has experienced flood events places a greater emphasis on the inclusion of green infrastructure or BMPs.

B-SU11-1 Green infrastructure should be implemented in new development. (E-GR3)

The applicant indicates the inclusion of trees in their development and the use of vegetative buffering as being adequate in meeting this criterion. However, this criterion is focused on the definition of green infrastructure defined within the Stormwater Manual and is focused on infrastructure that stores, delays, or allows for



the percolation of stormwater into the stormwater system. This includes impervious area disconnection, bioretention and raingardens, permeable pavement, bioinfiltration swales, infiltration basins and trenches, tree trenches and planter boxes, rainwater harvesting, vegetated roofs, riparian buffer restoration, and constructed wetlands.

### 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.

As presented in the Lexington Area Bicycle and Pedestrian Master Plan, Driscoll Street and Valley Avenue, and De Roode Street are planned to have a connector trail extending from the Town Branch Trail along Manchester Street. The applicant should consider the inclusion of an eight (8) foot shared-use trail along the Valley Avenue and De Roode Street frontages.

D-CO2-1 Safe facilities for all users and modes of transportation should be provided.

The applicant should consider the shifting the location of the bicycle parking to an area that is covered. While it has been the norm to provide bicycle parking in areas that are open-air, for residential land use to accommodate long-term bicycle parking, it is preferable to locate facilities in areas that are covered. Recent studies indicate that it is safer both for the user and for the bike.

### 3. Greenspace and Environmental Health

The proposed rezoning meets some of the criteria for Greenspace and Environmental Health. There are still areas of concern that staff would like to applicant to expand upon. These include the following:

A-EQ7-3 Community open spaces should be easily accessible and clearly delineated from private open spaces.

The open space for the subject property has been located to the west of the proposed structure. As this is considered the side yard, staff would like to know how this portion of the property will be fenced and separated from the public realm to meet the Zoning Ordinance requirements.

B-PR2-1 Impact on environmentally sensitive areas should be minimized within and adjacent to the proposed development site.

There is a floodplain located on the northeastern portion of the subject property. While the floodway is seemingly held within a culvert, the applicant should address the history of flood events and how they will meet the requirements of the Zoning Ordinance.

B-RE1-1 Developments should incorporate street trees to create a walkable streetscape.

The applicant is currently showing small street trees along the De Roode Street frontage. Trees from Group A or B are typically better in creating a more walkable environment, as there are not maintenance issues or hanging branches in the pedestrian walkways.

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



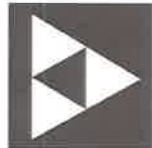
1. The zone change application for the subject property, as proposed, does not completely address the development criteria for a zone change within the 2nd Tier Urban Place Type, and the Medium-Density Residential Development Type. The following criteria require further discussion by the applicant to 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-DS7-2 Any non-residential or multi-family parking not buffered by a building should be screened from the streetscape view and adjacent properties.
  - c. 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.
  - d. B-PR9-1 Minimize disturbances to environmentally sensitive areas by utilizing the existing topography to the greatest extent possible.
  - e. B-SU11-1 Green infrastructure should be implemented in new development. (E-GR3)
  - f. D-CO1-1 Rights-of-way and multi-modal facilities should be designed to reflect and promote the desired place-type.
  - g. D-CO2-1 Safe facilities for all users and modes of transportation should be provided.
  - h. A-EQ7-3 Community open spaces should be easily accessible and clearly delineated from private open spaces.
  - i. B-PR2-1 Impact on environmentally sensitive areas should be minimized within and adjacent to the proposed development site.
  - j. B-RE1-1 Developments should incorporate street trees to create a walkable streetscape.

HBB/TLW  
5/26/2021

Planning Services/Staff Reports/MAR/2021/PLN-MAR-21-00007 WEK JR Investments, LLC.pdf



## STAFF REPORT ON VARIANCE REQUEST



As part of their application, the petitioner is seeking three dimensional variances requesting the reduction of the front yard setback minimum along De Roode Street from twenty (20) feet to ten (10) feet, along Valley Avenue from twenty (20) feet to ten (10) feet, and along High Street from twenty (20) feet to five (5) feet. Article 8-13(h) of the Zoning Ordinance requires that the minimum front yard setback be twenty (20) feet. Additionally, the applicant is requesting an 11% reduction in the required parking from twenty-seven (27) parking spaces to twenty-four (24) parking spaces. Article 8-13(n) refers back to the parking in the Planned Neighborhood Residential (R-3) zone (Article 8-12(n)), which states that multiple family dwellings (other than Elderly Housing), requires three (3) spaces for every two (2) dwelling units, or 0.9 spaces per bedroom in a multi-family dwelling, whichever is greater. Due to the location of the property in the defined Infill and Redevelopment Area, a request for a variance is allowable per Article 7-6(b).

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 7-6(b) states that the Board may grant a variance to the maximum number of parking spaces allowed in a zone, or reduce the minimum number of parking spaces by fifty percent (50%) of the otherwise required number in accordance with Section 16-10 for projects within the defined Infill and Redevelopment Area.

Article 8-13(h) states that the minimum front yard setback is twenty (20) feet.

Article 8-13(n) refers back to Article 8-12(n), which states that Multiple Family Dwellings (other than Elderly Housing) shall require three (3) spaces for every two (2) dwelling units, or 0.9 spaces per bedroom in a multi-family dwelling, whichever is greater.

Article 15-2(a)(4) states that for front yards on through lots or on any lot which runs through a block from street to street, a front yard as otherwise required in the zone shall be provided along each street lot line. In residential zones, the small lot provisions will apply. In the event that one (1) of the streets is an alley, the required front yard along the alley shall be the equivalent of fifty percent (50%) of the otherwise required front yard for the zone in which it is located. Alignment of existing structures shall not be used to determine a building line along a rear alley.

Article 16-4(c)(4) states that within the defined Infill and Redevelopment Area, the maximum number of surface parking spaces on the lot will be no more than fifty percent (50%) additional spaces over the required parking.



### CASE REVIEW

The applicant is requesting the dimensional variances to the front yard setback and a reduction of the required parking in an effort to develop a four (4) story, multi-family structure with the associated parking and open space.

The property is approximately 0.46 net acres net located in the defined Infill and Redevelopment Area. A significant portion of the property will remain open space due a thirty (30) foot utility easement that is located at the corner of the Norfolk Southern Rail Line and Valley Avenue. The applicant opines that they are seeking to maximize the area of the lot to allow for greater infill with a building that will maximize potential density and provide an adequate amount of parking for the potential residents. The applicant also indicates that they are impacted by the road frontage along West High Street, which is not at the property elevations and is elevated for use as a viaduct. The applicant states that the smaller size of the lot and expansiveness of the utility easement dictates the location of the proposed building and required parking spaces. The proposed reeducations to the three setbacks and a decrease in the off-street parking requirements are necessary to fit all aspects of the proposed development on the buildable area of lot.

Article 8-13(h) provides for a minimum front yard of twenty (20) feet. The applicant opines that there are special circumstances for the subject property due to its size, position and existing utility easements. The subject property does have three active street frontage: Valley Avenue, De Roode Street, and West High Street. To allow for their development, the petitioner is seeking three dimensional variances requesting the reduction of the front yard setback minimum along De Roode Street from twenty (20) feet to ten (10) feet, along Valley Avenue from twenty (20) feet to ten (10) feet, and along High Street from twenty (20) feet to five (5) feet. The applicant indicates that the Spiegel Heights Neighborhood has dwelling units that have minimal front yards that vary in setback from close proximity to the roadway to the required twenty (20) feet. They state that the request will not be out of character for the neighborhood. Further, reducing the setbacks will allow the developer the flexibility on the property to maximize the density of the proposed development.

The staff agrees that the character of the area does depict a variable setback, which is typical for historical areas of Lexington. However, the proposed multi-family development that is being requested differs from the historical development and is far more dominant in height compared to the historic development. This difference makes the setbacks or the transition from the roadway important to alleviate potential impacts on the surrounding development. The applicant should discuss in greater detail the how the sites situation unique characteristic of the site will lessen the impact of the height and mass of the proposed development or ways that they plan to lessen the impact of the height of the building on the surrounding properties.

In additional to the dimensional variances, the applicant is requesting an 11% reduction of required off-street parking from twenty-seven (27) parking spaces to twenty-four (24) parking spaces. Article 8-13(n) provides that off-street parking shall be at a ratio of 1.5 space/unit (24 spaces) or 0.9 space/bedroom (27 spaces), whichever is greater. Article 7-6(b) provides for property that is located in the defined Infill & Redevelopment Area may receive parking variances of up to 50% of the requirement. The applicant indicates that for many of the same reasons associated with the dimensional variances, there are physical restrictions and special circumstances for this lot given its relative size and existing utility easements. Additionally, the applicant posits that the pedestrian facilities and eight (8) associated bicycle spaces will offset the impact on the required off-street parking. The applicant indicates that as the Newtown Pike Extension and Davis Park projects continue to develop, it can be anticipated that there will be more cycling, walking and public transportation available in the area. The modest reduction of the parking spaces will not have an adverse effect on the area.

The staff agrees that the inclusion of the bike and pedestrian infrastructure can offset the need for off-street parking. However, this puts a greater onus on the pedestrian or multi-modal infrastructure on site or in the right-of-way. The applicant should better describe the inclusion of these facilities.

The applicant indicates that granting the above requested variances 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.

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



- a. The applicant should depict or describe how the proposed project will lessen the impact on surrounding properties and meet the intent of the setbacks while also providing the relief caused by the decrease of required off-street parking. For this reason the staff cannot support the requests at this time. The applicant must address the following in their justification:
  1. How the unique characteristics of the site will lessen the impact of the height and mass of the proposed development or ways to lessen the impact of the height of the building on the surrounding properties.
  2. How the multi-modal infrastructure will alleviate some of the need for off-street parking for the proposed development.

# SUPPLEMENTAL STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-21-00007: WEK JR INVESTMENTS, LLC



## STAFF REVIEW

In the period following the June Subdivision and Zoning Committee meetings, the applicant met with staff to discuss the proposed rezoning. Following those meetings, the applicant reviewed staff's and zoning sub-committee's comments, and modified their application regarding the proposed development and its agreement with the 2018 Comprehensive Plan. New information submitted by the applicant includes a supplemental justification letter, revised variance request, updated development plan, and a shadow exhibit. The new information provided by the applicant addresses the majority of staff's concerns.

The materials submitted specifically focuses on those Goals and Objects, and Development Criteria that were deficient within the original application. These elements were specifically focused on how the proposed development would promote a pedestrian-first design that accommodates the needs of bicycle, transit and other vehicles (Theme B, Goal #2.d and Theme D, Goal #1.a), implement green infrastructure while minimizing the impact on the adjacent neighborhood and infrastructure (B-SU11-1, B-PR9-1, B-PR2-1), promote safe facilities for all users and modes of transportation (D-CO2-1), and develop a multi-family residential development that meets the standards of the Comprehensive Plan, while not overpowering the context of the established neighborhood (A-DS3-1, A-EQ7-3, B-RE1-1, A-DS8-1).

Finally, while it is not fully described in relation to the zone change, the applicant has indicated that they will be utilizing the mixed income parking reduction described in Articles 16-10(c) and 1-11 of the Zoning Ordinance. This provision allows for a reduction in the amount of required parking from the traditional three (3) spaces per two (2) dwelling units or 0.9 per bedroom, whichever is greater, to one (1) space per dwelling unit if the development is targeted at households with an income that does not exceed eighty percent (80%) of the median income (adjusted for family size) for Lexington-Fayette County. Additionally, the inclusion of ADA compliant units on the ground floor allows for greater accessibility. The application of the mixed income parking reduction and the ADA compliant units will allow for safe, affordable and accessible housing to meet the needs of older and/or disadvantaged residents (Theme A, Goal #1.c).

Staff can now recommend approval of the proposed zone change from a Townhouse Residential (R-1T) zone to a High Density Apartment (R-4) zone for the property located at 850 De Roode Street, as the proposal is in agreement with the 2018 Comprehensive Plan, including the applicable Goals and Objectives, Policies, and Development Criteria.

## STAFF RECOMMENDS: **APPROVAL**, FOR THE FOLLOWING REASON:



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 rezoning accommodates the demand for housing in Lexington responsibly, prioritizing a mixture of housing types by incorporating multi-family residential in an area that is primarily single family in nature (Theme A, Goal #1.b.; Design Policy #8; Sustainability Policy #3).
  - b. The proposed rezoning addresses the goal of absorbing vacant and underutilized land within the Urban Service Area (Theme E, Goal #1.d.; Theme E, Goal #3, Theme E, Goal #1.a).
  - c. The proposed development accommodates the demand for housing in Lexington responsibly (Theme A, Goal #2.a), prioritizing higher-density and mixture of housing types by incorporating the missing middle housing type (Growth Policy #9) into an area that is primarily single-family residential in character.
  - d. The proposed development will include new pedestrian connections and encourage bicycle use through the inclusion of bicycle parking at the site (Theme A, Goal #3.b; Theme D, Goal #1.a;

## STAFF RECOMMENDATION CONTINUED...

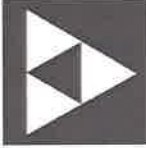


- Theme D, Goal #1.b; Sustainability Policy #2) and the establishment of an eight foot wide shared-use trail that will connect to surrounding amenities (Design Policy #5; Sustainability Policy #4; Livability Policy #7; Connectivity Policy #3, Theme C, Goal #2.d; Livability Policy #6).
- e. The application of the mixed income parking reduction and the ADA compliant units will allow for safe, affordable and accessible housing to meet the needs of older and/or disadvantaged residents (Theme A, Goal #1.c).
2. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
    - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location as the site creates a residential development that supports pedestrian mobility, while also acting as a buffer between the higher intensity roadway and the existing single family structures along Valley Avenue. The proposed development is in agreement with the Multi-Family Design Standards; however, some elements necessitate greater discussion during the final development plan.
    - b. The proposed rezoning includes safe facilities for the potential users, through the incorporation of enhanced pedestrian facilities along the property's frontages and the shared-use trail. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
    - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works will increase tree canopy coverage and establish green infrastructure that will help alleviate the impact on the surrounding development and the stormwater system.
  3. This recommendation is made subject to approval and certification of PLN-MJDP-21-00026: Valley Park, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

HBB/TLW  
06/22/2021

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## STAFF REPORT ON VARIANCE REQUEST



Following the Zoning Subcommittee meeting the applicant supplemented their justification for the dimensional variances and the requested parking reduction and added one dimensional variance to their application for the floodplain setback. The petitioner is now seeking four dimensional variances including three reductions to the building setback along a frontage, requesting the reduction of the front yard setback minimum along De Roode Street from twenty (20) feet to ten (10) feet, along Valley Avenue from twenty (20) feet to ten (10) feet, and along High Street from twenty (20) feet to five (5) feet. Article 8-13(h) of the Zoning Ordinance requires that the minimum front yard setback be twenty (20) feet. The fourth dimensional variance is the reduction of the building setback from a floodplain from twenty-five (25) feet to nine (9) feet. Article 19-7(g)(b) states that for all lots which contain or adjoin a floodplain shall have a minimum building setback from the floodplain of twenty-five (25) feet. Additionally, the applicant is requesting an 11% reduction in the required parking from twenty-seven (27) parking spaces to twenty-four (24) parking spaces. Article 8-13(n) refers back to the parking in the Planned Neighborhood Residential (R-3) zone (Article 8-12(n)), which states that multiple family dwellings (other than Elderly Housing), requires three (3) spaces for every two (2) dwelling units, or 0.9 spaces per bedroom in a multi-family dwelling, whichever is greater. Due to the location of the property in the defined Infill and Redevelopment Area, a request for a variance is allowable per Article 7-6(b).

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 7-6(b) states that the Board may grant a variance to the maximum number of parking spaces allowed in a zone, or reduce the minimum number of parking spaces by fifty percent (50%) of the otherwise required number in accordance with Section 16-10 for projects within the defined Infill and Redevelopment Area.

Article 8-13(h) states that the minimum front yard setback is twenty (20) feet.

Article 8-13(n) refers back to Article 8-12(n), which states that Multiple Family Dwellings (other than Elderly Housing) shall require three (3) spaces for every two (2) dwelling units, or 0.9 spaces per bedroom in a multi-family dwelling, whichever is greater.

Article 15-2(a)(4) states that for front yards on through lots or on any lot which runs through a block from street to street, a front yard as otherwise required in the zone shall be provided along each street lot line. In residential zones, the small lot provisions will apply. In the event that one (1) of the streets is an alley, the required front yard along the alley shall be the equivalent of fifty percent (50%) of the otherwise required front yard for the zone in which it is located. Alignment of existing structures shall not be used to determine a building line along a rear alley.

Article 16-4(c)(4) states that within the defined Infill and Redevelopment Area, the maximum number of surface parking spaces on the lot will be no more than fifty percent (50%) additional spaces over the required parking.



Article 19-7(g)(b) states that for all lots which contain or adjoin a floodplain shall have a minimum building setback from the floodplain of twenty-five (25) feet depicted on the final record plan and on the final development plan. This building setback shall be measured horizontally from the edge of the floodplain and shall be applicable to all principal and accessory buildings on the lot.

### **CASE REVIEW**

The applicant is requesting dimensional variances to the front yard setback, the building setback from a floodplain, and a reduction of the required off-street parking in an effort to develop a four (4) story, multi-family structure with the associated parking and open space. Since the June Subdivision and Zoning Committee meetings, the applicant has submitted additional information to clarify how the unique characteristics of the site will lessen the impact of the height and mass of the proposed development and how the multi-modal infrastructure will alleviate some of the need for off-street parking for the proposed development. The applicant also provided a justification for the dimensional variance for the building setback from a floodplain.

The applicant has submitted a shadow exhibit to demonstrate the anticipated shadowing at mid-day caused by the proposed structure. The exhibit displays why the applicant has placed the structure in the location fronting on Valley Avenue, and depicts how none of the single family residential structures across Valley Avenue from the subject property will be located within the shadowing of the proposed structure. Additionally, the applicant stressed that the proposed height of the building is approximately the same as the height of the High Street viaduct, and will act as a screen and buffer of the High Street viaduct for the existing residences along Valley Avenue.

Additionally, the applicant has submitted an exhibit regarding the setback from the proposed curb of Valley Avenue and De Roode Street to the proposed building. This exhibit depicts that there is a minimum distance between the back of the proposed curb to the proposed building of twenty-seven (27) feet and a maximum distance of forty-three (43) feet. The large area between the roadway and the front of the structure mimics and exceeds the required setback for the R-4 zone. If the property were to meet the requirements of the Zoning Ordinance the proposed project would differ from the established built context of the neighborhood.

In addition to the variance request for the front yard setbacks, the applicant is also seeking a variance to reduce the minimum building setback from the floodplain from twenty-five (25) feet to nine (9) feet. The applicant states that due to the topography and existing stormwater mitigation improvements at this corner, it is not readily apparent that a floodplain exists on this site. Improvements exist along the property, consisting of a concrete ditch running along Valley Avenue and two grated inlets located at the corner of Valley Avenue and De Roode Street, which drain into a 18 inch reinforced concrete pipe. As part of the development of this site and to alleviate the impact of stormwater runoff, the applicant is proposing stormwater controls near the location of the floodplain.

Finally, in regards to the applicant's request to reduce the off-street parking, the staff agrees that the inclusion of the bike and pedestrian infrastructure can offset the need for required off-street parking. The applicant has provided greater information as to how the shared-use trail will work with the on-site bike and pedestrian facilities. The applicant has also provided greater information as to the nearby amenities, which coupled with the multi-modal facilities can reduce the need for the reliance on single occupancy vehicles.

The applicant indicates that granting the above requested variances 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.

Staff agrees with the applicant that the number of frontages, the impact of the established easements, and the need to buffer the single family dwellings from higher intensity roadways constitutes a special circumstance that justifies the need for the variances. Without the variances, multi-family residential development would be difficult and would limit the intensity and density within the defined Infill and Redevelopment Area. Granting the variances 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. 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 variances should not adversely affect the public health, safety, or welfare; nor should it affect the character of the general vicinity, as the proposed project will buffer the existing single family land use from the elevated highway.
2. The need for the variances arises from the special circumstances of the existing lot, and the development will help buffer the established neighborhood from the higher intensity roadway.
3. The strict application of the minimum front yard setback requirements and the floodplain setback would create an unnecessary hardship on the proposed development forcing the placement of the structure to be closer to the viaduct and in the show of the roadway. Finally, the inclusion of the three (3) parking spaces would result in the decrease in useable open space and building footprint.
4. The requests are 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 variances 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 variances shall be null and void.
- b. The development shall be constructed in accordance with the approved Final Development Plan, or as amended by the Planning Commission.
- c. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
- d. Action of the Planning Commission shall be noted on the Development Plan for the subject property.



2. **WEK JR. INVESTMENTS, LLC ZONING MAP AMENDMENT & VALLEY PARK ZONING DEVELOPMENT PLAN**

- a. **PLN-MAR-21-00007: WEK JR. INVESTMENTS, LLC (8/1/21)\***- a petition for a zone map amendment from a Townhouse Residential (R-1T) zone to a High Density Apartment (R-4) zone, for 0.46 net (1.39 gross) acres, for property located at 850 De Roode Street. Four dimensional variances and a parking variance have 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 to rezone the subject property from the Townhouse Residential (R-1T) zone to the High Density Apartment (R-4) zone in an effort to construct multi-family residential development with sixteen (16) dwelling units on a property that is currently vacant.

**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 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-DS7-2 Any non-residential or multi-family parking not buffered by a building should be screened from the streetscape view and adjacent properties.
  - c. 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.
  - d. B-PR9-1 Minimize disturbances to environmentally sensitive areas by utilizing the existing topography to the greatest extent possible.
  - e. B-SU11-1 Green infrastructure should be implemented in new development. (E-GR3).
  - f. D-CO1-1 Rights-of-way and multi-modal facilities should be designed to reflect and promote the desired place-type.
  - g. D-CO2-1 Safe facilities for all users and modes of transportation should be provided.
  - h. A-EQ7-3 Community open spaces should be easily accessible and clearly delineated from private open spaces.
  - i. B-PR2-1 Impact on environmentally sensitive areas should be minimized within and adjacent to the proposed development site.
  - j. B-RE1-1 Developments should incorporate street trees to create a walkable streetscape.
- b. **VARIANCE REQUEST** – Four dimensional variances to reduce the required front yard setback minimum along De Roode Street from twenty (20) feet to ten (10) feet, along Valley Avenue from twenty (20) feet to ten (10) feet, and along High Street from twenty (20) feet to five (5) feet and a variance to reduce the minimum building setback from a floodplain from twenty-five (25) feet to nine (9) feet. A parking variance has also been requested to reduce the required parking from twenty-seven (27) parking spaces to twenty-four (24) parking spaces in the Planned Neighborhood Residential (R-3) zone.

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

**The Staff Recommends: Postponement, for the following reason:**

1. The applicant should depict or describe how the proposed project will lessen the impact on surrounding properties and meet the intent of the setbacks while also providing the relief caused by the decrease of required off-street parking. For this reason the staff cannot support the requests at this time. The applicant must address the following in their justification:
  - a. How the unique characteristics of the site will lessen the impact of the height and mass of the proposed development or ways to lessen the impact of the height of the building on the surrounding properties.
  - b. How the multi-modal infrastructure will alleviate some of the need for off-street parking for the proposed development.
- c. **PLN-MJDP-21-00026: VALLEY PARK (8/1/21)\*** - located at 850 DE ROODE ST., LEXINGTON, KY.  
Project Contact: Barrett Partners, Inc.

**The Subdivision Committee Recommended: Approval**, subject to the following requirements:

1. Provided the Urban County Council rezones the property to **R-4**; otherwise, any Commission action of approval is null and void.

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

2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. 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 frontage setback variance.
9. Provided the Planning Commission grants the requested parking variance.
10. Provided the Planning Commission grants the requested floodplain setback variance.
11. Discuss dumpster location.
12. Discuss Placebuilder criteria:
  - a. A-DS3-1 Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.
  - b. 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.
  - c. 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.
  - d. B-PR9-1 Minimize disturbances to environmentally sensitive areas by utilizing the existing topography to the greatest extent possible.
  - e. B-SU11-1 Green infrastructure should be implemented in new development. (E-GR3).
  - f. D-CO1-1 Rights-of-way and multi-modal facilities should be designed to reflect and promote the desired place-type.
  - g. D-CO2-1 Safe facilities for all users and modes of transportation should be provided.
  - h. A-EQ7-3 Community open spaces should be easily accessible and clearly delineated from private open spaces.
  - i. B-PR2-1 Impact on environmentally sensitive areas should be minimized within and adjacent to the proposed development site.
  - j. B-RE1-1 Developments should incorporate street trees to create a walkable streetscape.

Staff Zoning Presentation – Mr. Baillie presented the revised 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 that the petitioner submitted their application under the Second Tier Urban Place-Type and a Medium-Density Residential Development type of the 2018 Comprehensive Plan. He said the applicant is seeking to allow for the construction of a multi-family residential structure and associated open space and off-street parking. The proposed residential development would include sixteen (16) one and two-bedroom dwelling units, at a residential density of 35 dwelling units per net acre. The property is primarily surrounded by the Planned Neighborhood Residential (R-3) zone to the north, east and southeast, and Light Industrial (I-1) zone to the southwest. He said that the subject property has three frontages, which are on De Roode Street, Valley Avenue, and West High Street, as well as the Norfolk Southern Railroad along the rear of the subject property. He said that the historical development of this area is associated with the residential housing that was attributed to the industrial practices that occurred along Manchester Street. This area has been categorized as the Irishtown Neighborhood. He said that the West High Street viaduct is approximately 42 feet above ground level and that there is a sound barrier along the Southend Park area blocking that development from the rail line, but it does not extend to the subject property. The railroad is also approximately 10-12 feet above the subject property.

Mr. Baillie said that after the Subdivision and the Zoning Committee meetings on June 3, 2021, the applicant provided the staff with a revised plan, which has more information regarding the orientation of the building. They also provided a setback study, which indicates where the proposed face of curb will be located. The structure is proposed to be approximately 27 feet at the least and 43 feet at their largest setback from the edge of the curb. That study also provided the location of the pedestrian facilities, which includes an 8-foot wide multi-use trail along De Roode Street that will connect to a planned public project and then to Manchester Street and the Town Branch Trail. He said that the applicant had also provided a shadow study, which was completed in October. This study displays the location of the shadow caused by the viaduct and the shadow caused by the proposed structure.

Mr. Baillie said that there are many limits on the site and that the applicant had provided substantial information to show compliance with the Comprehensive Plan. He said that the staff is recommending 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 rezoning accommodates the demand for housing in Lexington responsibly, prioritizing a mixture of housing types by incorporating multi-family residential in an area that is primarily single family in nature (Theme A, Goal #1.b.; Design Policy #8; Sustainability Policy #3).
  - b. The proposed rezoning addresses the goal of absorbing vacant and underutilized land within the Urban Service Area (Theme E, Goal #1.d.; Theme E, Goal #3, Theme E, Goal #1.a).
  - c. The proposed development accommodates the demand for housing in Lexington responsibly (Theme A, Goal #2.a), prioritizing higher-density and mixture of housing types by incorporating the missing middle housing type (Growth Policy #9) into an area that is primarily single-family residential in character.

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- d. The proposed development will include new pedestrian connections and encourage bicycle use through the inclusion of bicycle parking at the site (Theme A, Goal #3.b; Theme D, Goal #1.a; Theme D, Goal #1.b; Sustainability Policy #2) and the establishment of an eight foot wide shared-use trail that will connect to surrounding amenities (Design Policy #5; Sustainability Policy #4; Livability Policy #7; Connectivity Policy #3, Theme C, Goal #2.d; Livability Policy #6).
  - e. The application of the mixed income parking reduction and the ADA compliant units will allow for safe, affordable and accessible housing to meet the needs of older and/or disadvantaged residents (Theme A, Goal #1.c).
2. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
    - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location as the site creates a residential development that supports pedestrian mobility, while also acting as a buffer between the higher intensity roadway and the existing single family structures along Valley Avenue. The proposed development is in agreement with the Multi-Family Design Standards; however, some elements necessitate greater discussion during the final development plan.
    - b. The proposed rezoning includes safe facilities for the potential users, through the incorporation of enhanced pedestrian facilities along the property's frontages and the shared-use trail. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
    - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works will increase tree canopy coverage and establish green infrastructure that will help alleviate the impact on the surrounding development and the stormwater system.
  3. This recommendation is made subject to approval and certification of PLN-MJDP-21-00026: Valley Park, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

Development Plan Presentation – Mr. Martin presented a rendering of the preliminary development plan associated with this zone change. He said that as Mr. Baillie stated, this site has frontage along Valley Avenue, De Roode Street, West High Street and the Norfolk Southern Railroad. He said that the applicant is proposing a 4,436 square feet, four-story (48 feet in height) apartment building. He said that the lot coverage and the floor area ratio are within compliance of the requested zone. He said that the building is oriented along Valley Avenue and the proposed multi-use trail. Access to the building will be from the trail and from the proposed parking lot, which will be located in the rear of the site. The applicant is requesting 24 parking spaces and access will be from De Roode Street. He said that this site is heavily impacted by the frontages, which is the reason for the variances, and by the large electrical transmission lines that cover the easement area. He said that one of the variance requests is for a 25 foot setback from a floodplain, which is located in an A-zone floodplain. This area has never been studied and there isn't any base-flood elevation determined. He said that it didn't even appear on the floodplain maps until the 2014 revisions and is related to the backflow from the Town Branch Creek, and most of the drainage is located in a large culvert.

Mr. Martin said that there is a discussion item regarding the location of the dumpster, which is usually addressed at the time of the Final Development Plan. He said that because of the challenges and functionality of this site, staff had early concerns with the location of the dumpster and their parking arrangements. He said that condition #12 will be resolved at the time of the Final Development Plan.

Commission Questions – Mr. Penn asked if the proposed building will be greater in height than the West High Street viaduct. Mr. Martin said that the site will be graded, therefore the base elevation will change and the proposed building will be away from the viaduct. He added that the viaduct is approximately 60 feet high at its peak. Mr. Penn then asked if the multi-use trail will be located under the shadow of the viaduct. Mr. Martin said that a section of the trail will be in the shadow of the viaduct. He said that the trail is a public project, and that the developer is constructing a very small part of it that is located along their frontage.

Variance Presentation – Mr. Baillie presented the variance requests associated with this application. He said that the applicant is seeking three dimensional variances specifically focused on the setback requirements along the street right-of-ways on De Roode Street, Valley Avenue, and High Street. There is a fourth dimensional variance for the reduction of the building setback from the floodplain. Additionally, the applicant is seeking a parking reduction associated with this zone change and development plan, which is for an 11% reduction of the required parking from 27 parking spaces to 24 parking spaces.

Mr. Baillie displayed the development plan and said that the applicant is requesting a setback from 20 feet to 10 feet along De Roode Street specifically for the parking area because the layout of the site is prohibiting them from constructing the parking lot behind the building line. They are also requesting a setback from 20 feet to 5 feet along West High Street for the parking screening. He said that along Valley Avenue, the setback study displayed the amount of land that would be between the structure and the proposed back-of-curb that is associated with the roadway improvements.

Mr. Baillie then identified the floodplain area and said that it is an A-zone, which is an unstudied floodplain. This floodplain is actually encapsulated underground within a pipe system and captures the water from the Town Branch Creek area. He said that

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

some of the grade improvements along De Roode Street, associated with the South End Park Urban Village development, have alleviated some of the stormwater issues near this site. The applicant has incorporated additional green infrastructure, which is meant to alleviate more of the stormwater impacts from this site along the street frontages, which will create a buffer between the proposed 8-foot multi-use trail. He said that the applicant is also requesting an 11% reduction of the parking within the Infill and Redevelopment Area and they have provided both short-term and long-term bicycle parking, as well as the shared-use trail.

Mr. Baillie said that the staff is recommending approval of the various variances for the following reasons:

1. Granting the requested variances should not adversely affect the public health, safety, or welfare; nor should it affect the character of the general vicinity, as the proposed project will buffer the existing single family land use from the elevated highway.
2. The need for the variances arises from the special circumstances of the existing lot, and the development will help buffer the established neighborhood from the higher intensity roadway.
3. The strict application of the minimum front yard setback requirements and the floodplain setback would create an unnecessary hardship on the proposed development forcing the placement of the structure to be closer to the viaduct and in the shadow of the roadway. Finally, the inclusion of the three (3) parking spaces would result in the decrease in useable open space and building footprint.
4. The requests are 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 variances 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 variances shall be null and void.
- b. The development shall be constructed in accordance with the approved Final Development Plan, or as amended by the Planning Commission.
- c. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
- d. Action of the Planning Commission shall be noted on the Development Plan for the subject property

Applicant Presentation – Mr. Branden Gross, attorney; and Tony Barrett, Barrett Partners, Inc. were present representing the petitioner. Mr. Gross said that they are in agreement with the staff's recommendations for the zone change and the variances and that he is available for any questions.

Commission Questions – Mr. Penn asked if the parking area will have enough space for the dumpsters and not leave residents to park along De Roode Street. Mr. Gross said that they have eliminated 3 parking spaces to create space for the location of the dumpsters in the parking lot. He said that they have spoken with staff and the Division of Waste Management and they now have a few other parking options, which will be resolved at the time of the Final Development Plan. Mr. Penn then asked if the variance requests will make construction of the multi-use trail difficult. Mr. Gross said that the multi-use trail will have enough space to be constructed, but because of the right-of-way boundaries, they are proposing part of the trail to be utilized as a sidewalk easement on their property. Mr. Barrett added that they initially had a 5-foot sidewalk proposed within the right-of-way, but added 3 feet to the width to create the 8-foot multi-use trail.

Mr. Pohl asked for clarification of the retaining wall and how the grade change will be effected. Mr. Barrett said that they are proposing a 12-foot retaining wall at the end of the parking lot, which will be the tallest at the rear of the parking lot and it will then taper down towards De Roode Street. Mr. Pohl then asked if there will be a steep hill on the west side of the property. Mr. Barrett said that is the location of the railroad track. He added that the railroad track will have a retaining wall along High Street. Mr. Pohl also asked what kind of safety precautions will be taken for a 12-foot retaining wall. Mr. Barrett said that there will be a railing at the top of the wall.

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

Zoning Action – A motion was made by Mr. Wilson, seconded by Mr. Davis, and carried 11-0 to approve PLN-MAR-21-00007; WEK JR. INVESTMENTS, LLC, for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Wilson, seconded by Mr. Davis, and carried 11-0 to approve PLN-MJDP-21-00026; VALLEY PARK, as presented by the staff, with the following changes

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, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. 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 frontage setback variance.
9. Provided the Planning Commission grants the requested parking variance.
10. Provided the Planning Commission grants the requested floodplain setback variance.
11. Resolve dumpster location at the time of the Final Development Plan.
12. Discuss Placebuilder criteria:
  - ~~A-DS3-1 Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.~~
  - ~~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-DS8-1 At the individual street level, medium-density housing types should be interspersed with single-family detached units and should be context sensitive.~~
  - ~~B-PR0-1 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).~~
  - ~~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.~~
  - ~~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-RE1-1 Developments should incorporate street trees to create a walkable streetscape.~~

Variance Request Action – A motion was made by Mr. Wilson, seconded by Mr. Davis, and carried 11-0 to approve the associated variances, for the reasons provided by the staff.