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**SECOND AMENDED JUSTIFICATION FOR REQUESTED ZONE MAP  
AMENDMENT FOR PROPERTY OWNED BY CAPKY BLUEGRASS PROPERTIES,  
LLC AT 353 WALLER AVENUE LEXINGTON, KENTUCKY 40504 AND RELATED  
VARIANCE REQUESTS**

**SUMMARY**

The applicant CAPKY Bluegrass Properties, LLC ("Applicant") hereby files this Second Amended Justification Statement to its initial Justification Statement and Amended Justification Statement filed herein. The purpose of this Second Amended Justification Statement is to 1) request a variance reducing the minimum front yard from 20' to 8' and 2) to add a second variance request to reduce the minimum off-street parking requirement to 123 parking spaces, assuming the minimum front yard variance request (set forth below) is granted. The Applicant incorporates by reference all of the initial Justification Statement and Amended Justification Statement filed in this application, except as expressly amended herein. All undefined terms herein shall have the same meaning as given to them in the initial Justification Statement and Amendment Justification Statement.

Assuming that the Applicant's request for a reduction in front yard dimension from 20' to 8' and the second parking variance request are granted, the existing paved parking area and some additional areas will be restriped to permit a total of 123 parking spaces, with most of the existing parking spaces closest to Waller Avenue remaining. If the front yard variance is not granted then those parking spaces along Waller Avenue and located within the 20' front yard area will have to be eliminated. In that event, the Applicant will request that the pending variance application to reduce the minimum parking requirement to 112 spaces will be granted.

§8-14(n) of the Urban County Zoning Ordinance, applying R-3 minimum parking requirements contained in §8-12(n) of the Zoning Ordinance, provides for a minimum parking requirement in an R-5 zone of 3 spaces per two dwelling units or .9 spaces per bedroom, whichever is greater. Since this project is proposed to contain 100 efficiency dwelling units, the required parking would be 150 spaces. That requirement can be reduced by 5% for bicycle racks as provided for in §16.10 (a) of the Zoning Ordinance. This makes the minimum off-site parking requirement equal to 143 spaces, which is more than the number of parking spaces that can physically be created on the Property if the existing building is to be fully reused.

§ 8-14 (h) of the Zoning Ordinance requires lots in an R-5 zone to have a minimum front yard of 20'. There is currently a 50' building setback line as the result of a plat that was created over 50 years ago. The Applicant has filed an application with the Planning Commission for an Amended Final Record Plat that will reduce the platted 50' setback line to a 20' front yard to be consistent with the Zoning Ordinance. There are a number of existing parking spaces located within this 50' setback that have been there for many years and there would also be some parking spaces within the 20' front yard. However, that was not an issue until now as there is no prohibition against parking in the front yard in a P-1 zone (the current zone classification for the Property) but parking in the front yard in an R-5 zone is prohibited. See §16-4(c)(1) of the Zoning Ordinance. Since the Applicant is requesting a zone map amendment from P-1 to R-5, the existing parking spaces within the 20' front yard would have to be removed unless a variance is granted reducing it. However, the Applicant met with two of the interested commercial

owners that adjoin or are across Waller Avenue from the Property (343 Waller Avenue and 354 Waller Avenue) and they are supportive of maintaining the existing parking spaces even if they remain within the 20' front yard, so that the Applicant is able to increase the total parking spaces from 112 to 123. However, to add/keep these additional spaces the front yard requirement will be need to be reduced from 20' to 8'.

### VARIANCES

In addition to the zone change, the Applicant is requesting a dimensional variance of the useable open space minimum requirements (for which there is no change from that requested in the Application so it is not restated here, but is still being requested), a reduction in front yard dimension as requested below and a reduction in the minimum off-site parking requirement to either 123 spaces (preferred) or 112 spaces (based on the previously filed and pending parking variance request).

#### **a) Minimum Front Yard Variance.**

§ 8-14 (h) of the Zoning Ordinance requires lots in an R-5 zone to have a minimum front yard of 20'. The Applicant is requesting a variance of the front yard minimum requirement of 20' to a depth of 8' to permit some of the existing parking spaces that would otherwise be located in the 20' front yard to remain to increase overall parking. This variance is necessary because §16-4(c)(1) of the Zoning Ordinance does not permit parking in the front yard of an R-5 zone.

The Applicant is requesting approval of the minimum front yard variance for the following reasons:

1. Granting this variance will not adversely affect the public health, safety or welfare and will not alter the character of the general vicinity, and will not cause a hazard or nuisance to the public because the properties to the east and west along Waller Avenue are both zoned P-1, have a 20' front yard requirement and parking is permitted in the front yard in a P-1 zone. Also, the reduced front yard will do nothing more than to allow most of the existing parking spaces closest to Waller Avenue to remain where they currently exist. Finally, there will be no change in the location of the existing building, which is set back over 50' from the front property line along Waller Avenue as it will remain an existing condition. The parking area for the Property will continue to operate essentially the same as it did when the nursing home use was active. If the parking spaces closest to Waller Avenue and within the 20' front yard area were functional and safe when the nursing home operated, then they should be functional and safe for the proposed residential use.
2. Granting this variance will not allow an unreasonable circumvention of the requirements of the zoning ordinance because the reduction in the minimum front yard will not result in any change in existing building locations, added building area or added parking spaces.
3. The special circumstances which apply to this property and which do not apply to land in the general vicinity or in the same area are that the parking spaces within the 20' front yard are existing and reuse of them will not result in any change in building location or added parking

spaces and will permit the Applicant to fully reused the existing building consistent with the goals and objectives of the applicable Infill and Redevelopment zoning ordinances.

4. Strict application of the regulations of the zoning ordinance would deprive the Applicant of a reasonable use of the land or create an unnecessary hardship because there are currently required parking spaces located within the 20' front yard that could not remain without this requested reduction and Applicant would be required to further reduce the number of available parking spaces to 112 spaces instead of the 123 spaces preferred by the Applicant and interested neighbors.

5. The circumstances surrounding the requested variance are not the result of the actions of this Applicant taken subsequent to the regulation from which relief is sought. This applicant has not started construction and is requesting the variance prior to, not after the construction of improvements and re-zoning of the Property.

**b) Second Parking Variance.**

The minimum parking space requirement for an R-5 zone classification is the greater of a) 3 parking spaces per two dwelling units or b) .9 parking spaces per bedroom pursuant to §8-14(n) of the Zoning Ordinance – applying parking requirements set for in an R-3 zone per §18-12(n) of the Zoning Ordinance. Based on the Applicant's conversion of the existing nursing home building to 100 efficiency dwelling units, there would be a minimum off-street parking space requirement of 150 parking spaces (i.e.  $100/2 \text{ units} \times 3 \text{ parking spaces} = 150 \text{ parking spaces}$ ). This required 150 parking space minimum would be reduced to 143 parking spaces based on a 5 percent reduction in parking spaces for bicycle racks pursuant to §16.10 (a) of the Zoning Ordinance. Because the Applicant desires to use the existing building and parking pavement area to complete the Applicant's Infill and Redevelopment conversion of the existing nursing home to a multi-family use, the maximum number of off-street parking spaces that can be constructed is 123, assuming that the foregoing front yard variance is granted. Therefore, the Applicant is requesting a variance to reduce the minimum parking space requirement to 123 spaces if the front yard variance is granted or 112 spaces if it is not. The Planning Commission is authorized to approve a reduction in the minimum parking space requirement pursuant to §16-10 (1) of the Zoning Ordinance as permitted by §7-6(b) of the Zoning Ordinance.

The Applicant's goal is to re-develop the site (parking lot and existing building) for multi-family apartments using the existing building and parking lot with the fewest changes as are practical to the exterior of the building and pavement areas. In order to do so, the maximum number of parking spaces that could be created on the property is 123 parking spaces if the front yard variance is granted or 112 parking spaces if it is not.

The interior re-design of the building has not been finalized as that effort will involve substantial architectural cost and time, which is not feasible until parking and other site requirements are approved. However, the goal of the Applicant is for the multi-family development to consist of as many efficiency units as practical.

The practical effect of this current minimum parking requirement would mean that the Applicant would have to provide 1.43 parking spaces per efficiency dwelling unit assuming one automobile

per efficiency unit. As noted by the Applicant in the Subdivision and Zoning Subcommittee meetings held on October 6, 2016, a primary focus of this multi-family development is international students attending the University of Kentucky, many of whom will not own automobiles.

The Planning Commission has the authority, pursuant to §7-6 (b) of the Zoning Ordinance, to reduce the minimum parking space requirement by up to 50% for multi-family developments located in the Infill and Redevelopment Area.

Accordingly, the Applicant requests a variance reducing the minimum off-street parking requirement of 150 off-street parking spaces (reduced to 143 for bike racks) to 123 off-street parking spaces, based on the project containing no more than 100 efficiency dwelling units. The Applicant also requests that it be permitted to add two bedroom dwelling units by reducing the number of efficiency dwelling units provided that a parking ratio of at least 1.23 parking spaces per bedroom is maintained (or 1.12 parking spaces per bedroom if the front yard variance is not granted) i.e. if 10 two bedroom dwelling units were added then the total number of efficiency dwelling units would need to be reduced to 80.

1. Granting this variance will not adversely affect the public health, safety or welfare and will not alter the character of the general vicinity, and will not cause a hazard or nuisance to the public because as noted above the parking spaces provided will be more than adequate for the use being proposed by the Applicant in that not all residents will have automobiles and the parking layout is consistent with the parking layout of the surrounding area.
2. Granting this variance will not allow an unreasonable circumvention of the requirements of the zoning ordinance as it, along with the Comprehensive Plan, encourages this type of infill redevelopment and contemplates that certain provisions of the Zoning Ordinance may need to be varied to achieved those goals. This variance request results in a 14% overall reduction in required parking (or 21% if only 112 parking spaces are allowed) and the Planning Commission is empowered to reduce minimum parking requirements by up to 50% of the required minimum parking pursuant to §7-6 (b) of the Zoning Ordinance.
3. The special circumstances which apply to this property and which do not apply to land in the general vicinity is that the existing building can only be fully redeveloped for a multi-family use with adequate parking with the requested reduction in required parking spaces.
4. Strict application of the regulations of the zoning ordinance would deprive the Applicant of a reasonable use of the land or create an unnecessary hardship because it would require that the Applicant reduce the number of efficiency dwelling units by almost 25% (100 to 74) leaving a substantial portion of the existing building unused, which would defeat the Infill and Redevelopment goal of maximizing the use of Infill and Redevelopment Area.
5. The circumstances surrounding the requested variance are not the result of the actions of this Applicant taken subsequent to the regulation from which relief is sought. This

applicant has not started construction and is requesting the variance prior to, not after the construction of improvements and re-zoning of the Property.

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