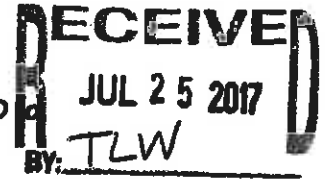


**Amended Justification for Rezoning of former Bluegrass Baptist School from R-1D  
R-4 and P-1 with additional restrictions  
July 24, 2017**



**Amended Application Update for Rezoning:**

The applicant has amended their application to a split zoning to limit the commercial use to as small an area as possible. This change resulted in dimensional variances and conditional use requests.

The applicant agrees to the following restrictions for the P-1 area:

1. Maximum 3000 square foot one-story building
2. 15' undisturbed landscape buffer along property line
3. Signage limited to one location on the face of the building and no larger than 10 square feet, unlit.
4. No drive through
5. Medical office limitations:
  - a. No chronic pain management/treatment
  - b. No narcotics or scheduled drugs except for acute care needs
  - c. No surgical suites
  - d. Radiography limited to xrays /radiographs
  - e. Only board certified family practice or geriatrics or internal medicine or pediatrics or osteopathy, doctors, nurses, or physicians assistants
6. Only the following principal uses shall be acceptable: 2, 4, 7, 9, 10 (except disallowed private clubs), 11, 14, 19, and 21

2. Offices for business, professional, government- tal, civic, social, fraternal, political, religious, and charitable organizations, including, but not limited to, real estate sales offices.

4. Schools for academic instruction.

7. Medical and dental offices, clinics, and laboratories.

9. Studios for work or teaching of fine arts, such as photography; music; drama; dance and theater.

10. Community centers and private clubs, churches, and Sunday schools. (EXCEPT DISALLOW PRIVATE CLUBS)

11. Hospitals, nursing homes, rest homes and assisted living facilities.

14. Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.

19. Beauty shops and barber shops not exceeding

2,000 square feet in floor area,  
which employ not more than five  
licensed cosmetologists,  
with all service provided only by licensed  
cosmetologists and/or barbers.

21. Adult day care centers.

7. Only the following accessory uses shall be acceptable: 1, 2, 3, 5, 6, 7

1. Establishments limited to the filling of prescriptions and retail sale of pharmaceutical and medical supplies.
2. Parking areas or structures.
3. Incidental retail sales or personal services, including facilities for serving food, only for employees, residents or visitors to any permitted use, and having no primary access to the exterior; and limited to a maximum of ten percent (10%) of the gross floor area of the building in which it is located, with no single such use being in excess of 5,000 square feet.
4. Sales offices for the display of merchandise and the acceptance of orders.
5. Swimming pools, tennis courts, putting greens, hiking and bicycling trails, botanical gardens, nature preserves and other similar non-commercial recreational uses.
6. Satellite dish antennas, as further regulated by Article 15-8.
7. One dwelling unit for owners, operators, or employees of a permitted use, provided that such dwelling unit shall be part of the building and located above, to the side, or to the rear of such permitted use.

8. Only the following conditional uses shall be acceptable: 1, 3

1. Offices of veterinarians, animal hospitals.
3. Parking lots and structures.

The applicant agrees to the following restrictions for the R-3 portion of the site:

1. Dedication of the pedestrian easement and paved connection to the park.
2. Dark sky friendly cut-off fixtures to be installed as fixtures are replaced over time.
3. 15' undisturbed buffer around property boundary
4. Restrict building size to maximum of 60,000 square feet for entire property
5. Only the following conditional uses shall be acceptable: 1, 2, 3, 5, 6, 7, 9
  1. The permitted conditional uses in the R-1A zone.
  2. Hospitals, nursing homes, rest homes, and orphanages.
  3. Community centers (such as YMCA, YWCA, etc.)
  5. Kindergartens, nursery schools, and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
  6. Parking, as permitted in Article 16-3.
  7. Satellite dish antenna, subject to the following:
    - a. For townhouse dwellings, as permitted as a conditional use in the R-1T zone.
    - b. For duplex dwellings, as permitted as a conditional use in the R-2 zone.
    - c. For single family dwellings, as permitted as a conditional use in the R-1A zone.
  9. Boarding or lodging houses, assisted living facilities, and hospitality houses for more than eight (8) persons and rehabilitation homes, provided that no use permitted under this section shall be located less than five hundred (500) feet, as measured from the nearest property line, from another use permitted under this section. However, the Board may reduce the 500-foot spacing requirement if it can determine that a reduction will not have an adverse influence on existing or future development of the subject property or its surrounding neighborhood.

The original application acreage changed by a very small amount as we moved from the record survey to the final boundary survey. Also, the existing school building is 1 story on the street side and 2-story on the low side. The number of stories in the past staff report may not have been clear in this regard.

The R-4 is submitted for the majority of the property because it meets the criteria of the open space for our design. The design is very close to meeting the R-3 regulations, but not quite. The R-4 regulation primarily differs from the R-3 regulation in the open space manner. From the list above, the applicant is willing to add many restrictions to the property use and physical layout to more further protect the existing neighborhood from a size or use-inappropriate development now or in the future. It would be possible to go to an R-3 designation if the final phase of apartments were to be ironically 3 story rather than 2 story. Going 3-story would allow for the garden apartments to be in a single building. We believe that the demand exists for garden apartments on a ground level much more so than in a larger dormitory looking building. We further believe the neighbors prefer a 2-story maximum to a 3 story maximum.

The applicant has added the split zoning line and changed the original request from entirely P-1 to primarily R-4 with a small half acre to accommodate the medical office use not permitted as a for-profit entity in any R zone.

Is P-1 really necessary for this Project? YES.

Staff's recommended R3 or R4 with a conditional use permit is not viable because it would only support a Mission Lexington style non-profit clinic not open to the public. Our client's vision is that a doctor would not only provide services to the on-site residents, but that the neighborhood could utilize it as a reasonably priced walk in clinic. This is intended to be a business component-not free. This office would be an employer and we do not expect to have more than 15 persons in the facility at any single point in time. The other features of the property and development plan are acceptable in concept.

A point of clarification about restricted zoning-in many other communities it is the staff that suggest the restrictions. The applicant was under the expectation that those would be given by staff at the hearing. Only when handouts were distributed was this made clear. The applicant has sent draft copies of these restrictions to the staff but due to vacation days and Mr. Sallee's impending transition the applicant received feedback late today. The applicant is open and flexible to changes in the zoning restrictions.

### **Infrastructure and Traffic Concerns**

Adequate infrastructure has been a concern of staff. The public facilities to be used remain in place from the existing school campus. The site has been reviewed by a professional civil engineer, the only license able to determine sizes of adequate infrastructure, and found them adequate for this property. Each of these items is available onsite, at an adequate size line or width.

- Transportation (30' pavement width) (existing sidewalks) (adding connection to park)
- Water (8")
- Sewer (8" VCP)
- Stormwater 18" RCP
- Electric
- Cable

The only specific infrastructure concerns of the planning staff and traffic engineering staff have been transportation so we believe that is the true item of concern.

The applicant has provided a TIS (which was not even required due to the size of the development by the city reviewer Mr. Emmons) and testimony from the applicants' Traffic Engineer, Diane Zimmerman by way of Ms. Jones at the hearings. The TIS provides that the fully built out senior campus will have less traffic than the fully operational school. Questions have been raised about the type of traffic being different. Just as schools have occasional EMS visits, so would this level of senior care. Because this is not a nursing home, we do not anticipate the level of EMS visits suggested. Other vehicular traffic that will be lessened includes less food deliveries because of on-site production greenhouses and on-site laundry facilities.

Traffic Calming was mentioned earlier in the process with staff and with the neighborhood. We shared with the neighborhood at the very beginning that traffic calming must meet traffic engineering requirements (ie no stop signs for calming, must have neighbor approval for installation of facilities, etc). These standards were illuminating for the neighbors in that the increased noise level and reduced EMS response time added by speed humps or tables are undesirable. Knowing that information, there were no volunteers interested in having a speed table or hump in front of their property present at the neighborhood meeting. An additional concern was that of snow plows with speed tables.

The city staff concerns for speed calming have come primarily from the short term section of the planning department and not the long term planning or traffic engineering staff. Our applicant is planning a phased installation of facilities. As such we do not expect the technical warrants for speed calming to be met (if at all) until the final phase of development. The applicant is willing to have DP notes or zoning restrictions addressing potential traffic calming requirements in future phases of build out, as long as they are based upon engineering warrants and the regular traffic calming regulations.

To summarize our concerns about traffic and transportation:

1. These are perceived problems or fears with no engineering support.
2. This project will have less impact than the school it is replacing, even at full build out.
3. The MPO group has found this project does not even meet thresholds for requiring a TIS (meaning another part of city staff does not find this project to be harmful).

**Annotated Responses to previous staff recommendation:**

- **#1** We believe the entire Armstrong Mill SAP points to wanting more housing types, medical close by, and more grocery options. The report also shows the past neighborhood dislike of certain rental housing situations as did our recent neighborhood meeting. Residents want a very small doctor's office close by. We would have been glad to include a small grocery as similar to Wheeler's carrying milk but gave up on that idea at the request of planning staff. There is clear consensus that the project type is perfectly fine and the development plan is approvable. The only major disagreement is exactly what zoning classification and restriction makes this project possible.
- **#1a** This project will restrict development to compliance with this development plan.
- **#1b** This project supports redevelopment and infill that is acceptable because it uses primarily existing facilities and maintains the same curb appearance as it has had for 30 years. Also, the adjacent ag zoning is a city park. Protecting the zoning of park land and having adjacent properties fully utilize the park go hand in hand.
- **#1c** This existing complex can and should be considered an existing non-residential development node as it has been functioning as a church school for 30 years. It has been the focal point of the community for this long time and our vision is to continue that focal point.
- **#1d** This project will provide the easement necessary and helpful for connection to the park. Having 24-7 site management next to the park is highly valued by the neighbors and is a free benefit to the city-the SAP shows concern about another park being considered unsafe. The seniors and childcare are all expected to utilize the park daily (which is more often than a regular user). The planned community gardening spaces and greenhouses pay homage to the ag land adjacent (which is a park not a farm).
- **#1e** This existing complex can and should be considered an existing non-residential development node as it has been functioning as a church school for 30 years.
- **#2** This site will have less traffic, noise and light pollution than the previous church school use. The existing tree perimeter buffer will remain and be supplemented. We have committed to using quieter HVAC than the current systems which are quite loud, at the suggestion of the neighbors. We are glad to commit to dark sky friendly exterior cut-off fixtures. Elder care communities are known to be quiet neighbors.
- **#3** There are three ways this former church school property can move forward:
  - Re-use existing buildings
  - Tear down and build houses/apartments
  - Sit vacant until one of those happens. The neighborhood wants very badly for this to not happen.
- We commit to addressing any concerns within a period of 24 hours.

### **Planning Commission Items**

#### **Recap:**

This rezoning is in support of the redevelopment and adaptive re-use of the existing church school, which will cease operations at the end of this year due to bankruptcy. This is a substantial economic change in the neighborhood. However, this developer has chosen to work with the school and to adaptively re-use the facility in a way that honors their past good works. The developers have owned the property since the late fall and have allowed the school to finish out the school year rent-free. After a few months of getting the right professionals together, a plan was carefully composed and the name Afton Gardens was chosen.

As a first step, the developer met with the city twice to tweak their intended elder care project. Next, they planned an additional on-site neighborhood meeting with yard signs and letters hand delivered to residents. Attendance sign-in and meeting minutes are also included with this rezoning packet. As the neighborhood was in support of this elder care project, this rezoning is submitted to move the project along. The attached meeting minutes go into greater detail as to the vision and programming of the assisted living facility, community center, child/elder day care, medical office space, gardens, and senior apartments.

The existing perimeter tree buffer is to remain, and the playgrounds will be open to the community during unused hours as has been the custom with the school. A sidewalk connection and related pedestrian easement to the park are shown on the proposed site plan. The developer is glad to restrict the lighting to be Dark Sky friendly or cut-off type fixtures. We expect that 2 detention areas will be required due to keeping the large building and bucking grades (and we understand that costs us more money).

- 1) P-1 is the more appropriate zoning for the medical office portion, as compared to the staff-suggested R-3 or R-4 for the following reasons:
  - a) The site has historically provided neighborhood employment, which is desired by the neighborhood.
  - b) R-3 is a close but not fully adequate zone as the medical office space would not be acceptable as a business entity leasing from a business entity. Even though the rates for the clinic are to be reasonable, they will not be subsidized.
  - c) The single medical office, being of a small size and non-chain proprietorship, is unlikely to cause increased traffic. In fact, including a small medical office would likely keep traffic low, since much of the clientele is likely to come from on-site and within the neighborhood. This clinic is envisioned to be a walk-in type of general practice. This is a trip-reduction type of use, not a type of use that draws clients from across town through the neighborhood. The applicant hopes that staff will better understand the project. This project we are proposing and along with the many restrictions, will come to see that this
  - d) This is a complimentary use to the campus-styled residential development, which is another way of saying Group Residential Project. The developer expects between 50-75% of the medical clients to be from within the complex and the rest from within the neighborhood.
  - e) The medical office as a walk in clinic and support to other parts of the project is absolutely critical because it is a part of the business model financially and philosophically.

- f) **Precedent is also in favor of limited P-1 zoning within a 2 mile radius of this property. A similar project was recently approved by the Planning Commission this general area.**
  - g) **The applicant is agreeable to a long list of restrictions to maintain the small footprint nature of this part of the development.**
- 2) **Project agrees with Comp Plan in Goal #1, A, B, C and D.**
- a) **“Pursue incentives and regulatory approaches that encourage creativity and sustainability in housing development” – This project creatively re-develops an existing school and church into something new for middle income persons at various life stages. This project has Redevelopment Opportunities of the Comp Plan on page 72 by reusing the existing school and gym facilities for assisted living and day care. This element also agrees with the Infill Strategy of the Comp Plan on page 99 and the**
  - b) **The residential project is the very definition of Group Residential Projects within the Zoning Ordinance. That portion of the project is under 5 acres. (A public hearing is still required for the zoning however.)**
  - c) **“Plan for housing that addresses the market needs for all of Lexington-Fayette County’s residents, including, but not limited to, mixed-use and housing near employment and commercial areas.” – This project will provide middle-income rental units for different life stages near housing units where someone could be close to an aging parent. An integrated medical office is a necessary part of providing this type of care. By having varied housing choices, this project meets the Comp Plan as described on page 40.**
  - d) **“Plan for safe, affordable, and accessible housing to meet the needs of older and/or disadvantaged residents.” – This project directly addresses this need in middle-income elderly housing for assisted living and apartments as well as day care. The family-minded perspective of the facility will be far better than other institutional facilities without being a high priced option many cannot afford. This project also agrees with the Affordable Child Care of the Comp Plan on page 65 for the day care portion of this project.**
  - e) **“Create and implement housing incentives that strengthen the opportunity for economic development, new business, and jobs, including, but not limited to higher density and housing affordability.” – This project will create jobs where some have been lost by the closing of the church and school. By maintaining a neighborhood employer, there will continue to be an anchor for economic stability in the neighborhood. Project agrees with the Local Assets for Job Creation of the Comp Plan on page 61 and Adaptive Reuse, and Live where you work of the Comp Plan on page 74, 97.**
- 3) **The Armstrong Mill West Small Area Plan coordinates with the vision of this project in the following ways and on the pages listed:**
- a) **Pg 12: “Lastly, the baby boomer generation (ages 50 to 69) also remains a large population and would prefer to age in place.” This development provides precisely this goal.**
  - b) **Pg 14 “There are very few resources and services such as grocery stores and medical offices in close proximity to neighbors”. Our project includes the medical office. We removed the grocery component we desired in our early meetings with the city. It is**

interesting that small grocery stores are highly desired by everyone but considered mini-marts in the existing code, which are unacceptable to most zones. The graph on this page shows that most residents own one vehicle, which highlights the importance of having a in-neighborhood medical office as a walkable option for medical care.

- c) Pg 30-31 Shows the need for low to middle income housing mix. This is a middle to low income development
- d) Pg 32 "Nearly 28 percent of the current population is 65 or older almost 10 percent live alone), and in the next decade another 10 percent of the population will turn 65. Over half (54 percent) of the population has a disability, with seniors accounting for a large portion. Both an aging and disabled population present issues of accessibility, as many units may not have the facilities to accommodate their mobility needs." This directly speaks to the need for this development.
- e) Pg 47 Suggests that we should celebrate assets, which In this case is the church school (Rather than tear down and build all new R3 R4)
- f) Pg 49 Poor access to healthcare, which will be provided by the medical office.
- g) Pg 50 Need healthcare/medical, community garden, community garden, and desire to reduce crime around the park. Our project includes all of these items, especially by having 24/7 employment with eyes on the ground in the neighborhood.
- h) Pg 53 84% of respondents travel 1-10 miles for healthcare (including basic)
- i) Pg 54 Summary is completely in line with our vision:
  - A safe, modernized, progressive neighborhood that presents attractive opportunities for businesses and families to grow and flourish and instill community pride.*
  - A more walkable neighborhood that is safe by design with interconnected parks and green areas.*
  - Our neighborhood will be easy and safe to travel by car, bike and foot. It will be well connected, well lit and safe at night, well-kept with quiet and friendly neighbors. The neighborhood will have safe activities for kids and teens. It will be green and visually appealing, convenient for shopping, medical services and healthy food.*

The developer has done many things that are above and beyond the city's arduous requirements to prove this project is good for the community. Furthermore, the developer's team has met with staff many times to try to come to agreement for the many unique parts of this project. The development team has convinced the actual neighbors and looks forward to showing the same to those who will vote on this case.



**Board of Adjustment and Landscaping Committee Items**

Conditional Use#1 personal care/assisted living facility greater than 8 persons

The facility will operate as following:

- Personal care home as defined by Certificate of Need
- No kitchenettes, 3 meals per day provided
- Rooms have bath and bedroom
- There is a med tech who administers medication. That is only difference with assisted living.

Conditional Use #2 community center

The existing gym will function as a community center. Activities for the day care program and the neighborhood will take place in this space.

Conditional Use#3 child/adult day care center greater than 4 children

The applicant desires to do a mix adult-child day care program centered around gardening. This program would start in existing space inside the large school building and move to the gym as it outgrows the allocated existing classroom spaces. The size requested is smaller than what the full usage of the gym building would potentially permit. We want to keep the sizes manageable but viable.

Dimensional Variance:

Eliminate internal zone to zone Landscape buffer and instead have a more dense perimeter buffer the existing neighborhood. We believe having a larger exterior property buffer is more important and desirable than internal buffering for a split zone property. The developer is agreeable to an dimensionally described (ie 5' or 7' or such) buffer extension but would prefer that it be addressed graphically on the Development Plan (on a map) to be more clear.

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Utilities:

Existing on-site and in right of way utilities include water, sewer, storm, power, and cable. These utilities have adequate capacity as-is for the existing church and school property. Detention will be required in 2 pieces because of both project phasing and existing site topography. We wish it was possible in one area because it would be cheaper, however, these are two real world restrictions. The short term planning staff has had more concern over these issues than the utility company representatives, Water Quality, or Engineering staff, who actually approve these design features.

Site features:

There are no environmentally sensitive or geologically sensitive areas on the property. We are maintaining existing large perimeter tree buffers with the park and residential. The existing character of the land for the past nearly 40 years has been a church school property with a gym. The character of the site would remain very similar to it's historic use. The 2 large vacant lawns on the property are proposed to have scale appropriate infill.

**Justification:**

We request these items because the granting of the variance will not adversely affect the public health for reasons:

- 1) special circumstances-the existing gym building and internal parking lot are the proposed boundaries for the split zoning. It is difficult and perhaps not useful to screen part of an internal parking lot from another aisle. It is more beneficial to have larger site perimeter buffers than internal zone to zone landscape buffers in these two areas. the additional landscape buffer on the site perimeter property more than makes up for the reduction of the one parking lot island and inability to screen zone to zone within the center of the property due to the split zone line going through a parking lot and along an existing building. Having extra landscaping on the property perimeter is more useful to the single family neighborhood.
- 2) Special circumstances-the re-use of the existing school building for assisted living/personal care and the gym/existing school building for child/adult day care are a unique feature of this proposed development. By having existing buildings that we propose to be re-used, on a considerably large piece of property, the facilities are size appropriate for more than 8 beds or 4 children. The site has historically accommodated more than 200 children and up to 30 staff through a previous conditional use permit for the church school. The purpose of this entire development is to re-use existing structures rather than tearing them all down to create a large amount of singlefamily dwellings. This re-use and additional housing types are supported by the small area plan and land use regulations. The maximum capacities requested on the face of the Development Plan are very reasonable for the sizes of the existing buildings.
- 3) Special circumstances- No hazard or nuisance will be created by having a child/adult care center of combined use up to 100 capacity or an assisted/personal care facility of up to 40 bedrooms and additional apartments. This will remain less than nuisance than a 250 person capacity school plus staff for noise and has the benefit of being staffed 24-7 rather than just during school hours. Elderly residents are known to be very low-key, quiet neighbors. These specific C.O. capacity restrictions we propose are shown on the DP.
- 4) No hazards will be created by having an elderly campus larger than 8 units. Adequate staffing and meeting of all required life safety codes and healthcare regulations will be followed completely. A security system will also be a part of the development.