

REVISED FINDINGS FOR VARIANCES REQUESTED FROM PLANNING COMMISSION

PLN-MAR-16-00019: COWGILL PARTNERS, LP

The Staff Recommends: ~~Postponement~~ Disapproval of the requested front yard variance from 20' to 5', and for a reduction of required open space from 20% to 15%, for the following reasons:

- a. The open space areas proposed are not defined as to their purpose or usability, which is needed prior to a substantive recommendation on the granting of a variance to this minimum requirement of the R-5 zone.
- b. The proposed building near the corner of West Fourth Street and Blackburn Avenue might be able to provide some balconies or a small rooftop area, which could permit the development to meet the minimum 20% requirement for useable open space. Required open space also provides room for the 30% required tree canopy for the site.
- c. The new Building, as proposed, can be redesigned on the site to meet a 10' front yard along Blackburn Avenue.

The Staff Recommends: Approval of a height variance to 50', approval of a front yard variance from 20' to 10', and approval of the requested side yard variance from 10' to 5', for the following reasons:

- a. There will be no adverse health, safety or welfare impact to the adjoining neighborhood from these variances. The height variance is reasonable, given the applicant's hope to maximize the provision of off-street parking for their 72-unit development.
- b. The unusual circumstance surrounding the proposed R-5 property is that it is bordered by an open space parcel, formerly a railroad spur, now controlled by Transylvania University. That open space lot requires no meaningful separation from the proposed residential building on the subject site.
- c. Strict application of the Zoning Ordinance would deprive the applicant from a reasonable use of this formerly industrial site, since the former railroad spur separating this location from West Fourth Street results in a much greater setback from the street. The applicant believes that this project is infeasible without the granting of these variances.
- d. Approval of these variances would not result in an unreasonable circumvention of the Zoning Ordinance, as the height and orientation of this building will not be unlike the Blue Grass Grain building located one block to the west of this location on Henry Street.
- e. The variances have been requested prior to construction and development of the property, and thus, there is no willful violation of any existing zoning regulation by the applicant.

This recommendation of approval is made subject to the following conditions:

1. Provided the Urban County Council rezones the property R-5; otherwise, any Commission action of approval of this variance is null and void.
2. Should the property be rezoned, it shall be developed in accordance with the approved Development Plan, as amended by a future Development Plan approved by the Commission, or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.
3. A note shall be placed on the Zoning Development Plan indicating the variances that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].
4. The parking lot shall be screened and landscaped as required by Article 18 of the Zoning Ordinance.