

AN ORDINANCE CHANGING THE ZONE FROM A PROFESSIONAL OFFICE (P-1) ZONE TO A HIGH RISE APARTMENT (R-5) ZONE FOR 3.05 NET (3.29 GROSS) ACRES, FOR PROPERTY LOCATED AT 353 WALLER AVENUE. (CAPKY BLUEGRASS PROPERTIES, LLC; COUNCIL DISTRICT 3).

WHEREAS, at a Public Hearing held on November 17, 2016, a petition for a zoning ordinance map amendment for property located at 353 Waller Avenue from a Professional Office (P-1) zone to a High Rise Apartment (R-5) zone, for 3.05 net (3.29 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending approval of the zone change by a vote of 9-0; 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:

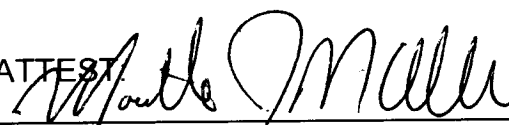
Section 1 - That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 353 Waller Avenue from a Professional Office (P-1) zone to a High Rise Apartment (R-5) zone, for 3.05 net (3.29 gross) acres, being more fully described in 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: January 31, 2017

MAYOR 

ATTEST 
CLERK OF URBAN COUNTY COUNCIL
Published: February 9, 2017-1t
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CAPKY BLUEGRASS PROPERTIES, LLC
353 Waller Avenue
Lexington, Fayette County, Kentucky
Zone Change from P-1 to R-5

A TRACT OF LAND SITUATED NORTH OF AND ADJACENT TO WALLER AVENUE IN LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

BEGINNING AT A POINT in the centerline of Waller Avenue, said point also lying in the extended western property line of Imperial Waller, LLC (347 Waller Avenue); thence with said centerline for the following three (3) calls: North 69 Degrees 19 Minutes 10 Seconds West, 28.98 feet to a point; thence North 65 Degrees 17 Minutes 10 Seconds West, 202.51 feet to a point; thence North 61 Degrees 06 Minutes 10 Seconds West, 69.96 feet to a point; thence leaving said centerline North 30 Degrees 24 Minutes 50 Seconds East, 487.78 feet to a point; thence South 59 Degrees 35 Minutes 10 Seconds East, 300.00 feet to a point; thence South 30 Degrees 24 Minutes 50 Seconds West, 460.91 feet to **THE POINT OF BEGINNING** and containing 3.29 acres (gross) and 3.05 acres (net).

Rec'd by BCM

Date: 12-14-16

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

IN RE: PLN-MAR-16-00002: CAPKY BLUEGRASS PROPERTIES, LLC – a petition for a zone map amendment from a Professional Office (P-1) zone to a High Rise Apartment (R-5) zone for 3.05 net (3.29 gross) acres, for property located at 353 Waller Avenue. (Council District 3)

Having considered the above matter on November 17, 2016, at a Public Hearing, and having voted 9-0 that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend APPROVAL of this matter for the following reasons:

1. The proposed High Rise Apartment (R-5) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The residential zoning and proposed efficiency apartment units will expand housing choices by providing an uncommon dwelling unit type within the immediate area (Theme A, Goal #1). Although dwelling units exist to the north and west, most are single family homes or two bedroom apartment units.
 - b. The renovation of an underutilized structure on the subject property will support infill and redevelopment that is respectful of the area's context and design features (Theme A, Goal #2.a.) since little will be altered on the property, and since this will also support adaptive re-use in the community (Theme D - Improving a Desirable Community).
 - c. The additional dwelling units within the Waller Avenue corridor will allow for employees and students of the University of Kentucky, as well as two nearby hospitals, to live near their jobs, thereby encouraging infill and redevelopment that creates jobs where people live (Theme C).
 - d. The petitioner will provide new sidewalks along a portion of their property frontage and work to create a transit line along Waller Avenue in order to help a viable network and effective transportation system for residents (Theme D) and improve accessibility between neighborhoods and shopping (Accessibility - page 15).
 - e. The proposed R-5 zone is compatible with the adjoining High Density Apartment (R-4) zone to the west and will serve as a transition between the commercial uses along Waller Avenue and the single family residential areas to the north of this location, due to the existing building's low height and profile.
2. This recommendation is made subject to the approval and certification of PLN-MJDP-16-00009: Storey Business Subdivision, Lot 6, 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 12th day of December, 2016.


Secretary, Jim Duncan

WILLIAM WILSON
CHAIR

Note: The corollary development plan, PLN-MJDP-16-00009: STOREY BUSINESS SUBDIVISION, LOT 6 was approved by the Planning Commission on November 17, 2016 and certified on December 1, 2016.

Note: Dimensional variances were approved for open space requirements, front yard requirements, and reductions of required parking for this request, by the Planning Commission at this hearing.

K.R.S. 100.211(7) requires that the Council take action on this request by February 15, 2017.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Richard Hopgood, Attorney.**

OBJECTORS

- None

OBJECTIONS

- None

VOTES WERE AS FOLLOWS:

AYES: (9) Berkley, Cravens, Drake, Mundy, Owens, Plumlee, Richardson, Smith, and Wilson

NAYS: (0)

ABSENT: (2) Brewer and Penn

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL** of **PLN-MAR 16-00002** carried.

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

MAP AMENDMENT REQUEST (MAR) APPLICATION

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

Applicant:

CAPKY Bluegrass Properties, LLC c/o Cory Pence, 9219 US Highway 42, Suite 204, Prospect, KY 40059

Owner(s):

CAPKY BLUEGRASS PROPERTIES LLC 9219 US HIGHWAY 42 STE 204 PROSPECT KY 40059

Attorney:

Richard M. Hopgood, 250 West Main Street, Suite 1600, Lexington, KY 40507

2. ADDRESS OF APPLICANT'S PROPERTY

353 WALLER AVE LEXINGTON KY

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

Zoning	Existing Use	Zoning	Requested Use	Acreage	
				Net	Gross
P-1	Closed Nursing Home	R-5	Residential Units	3.05	3.29

4. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
b. Have any such dwelling units been present on the subject property in the past 12 months?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
c. Are these units currently occupied by households earning under 40% of the median income? If yes, how many units? If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing.	<input type="checkbox"/> YES <input type="checkbox"/> NO

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

Roads:	LFUCG
Storm Sewers:	LFUCG
Sanity Sewers:	LFUCG
Refuse Collection:	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



RECEIVED
OCT 31 2016

**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.

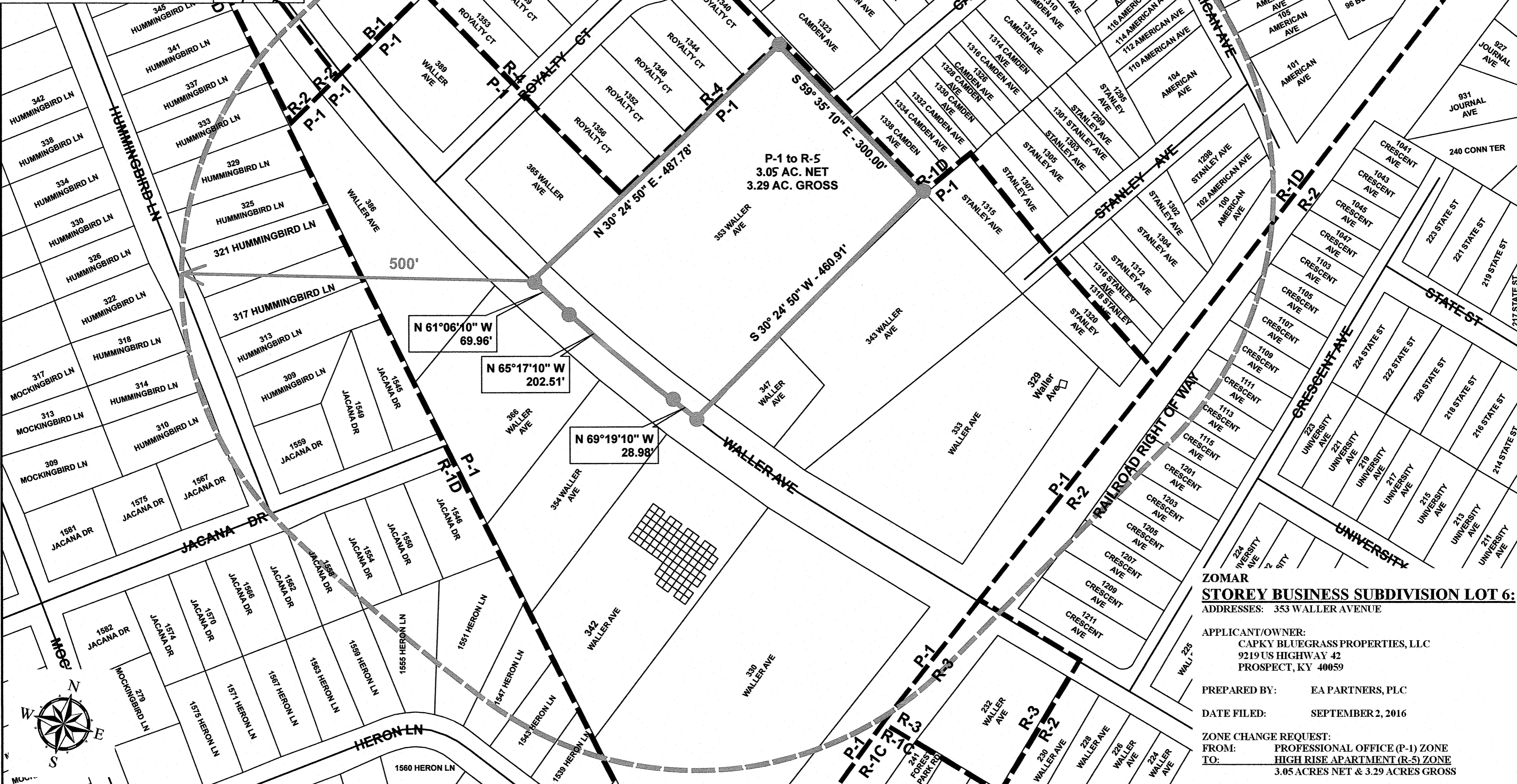
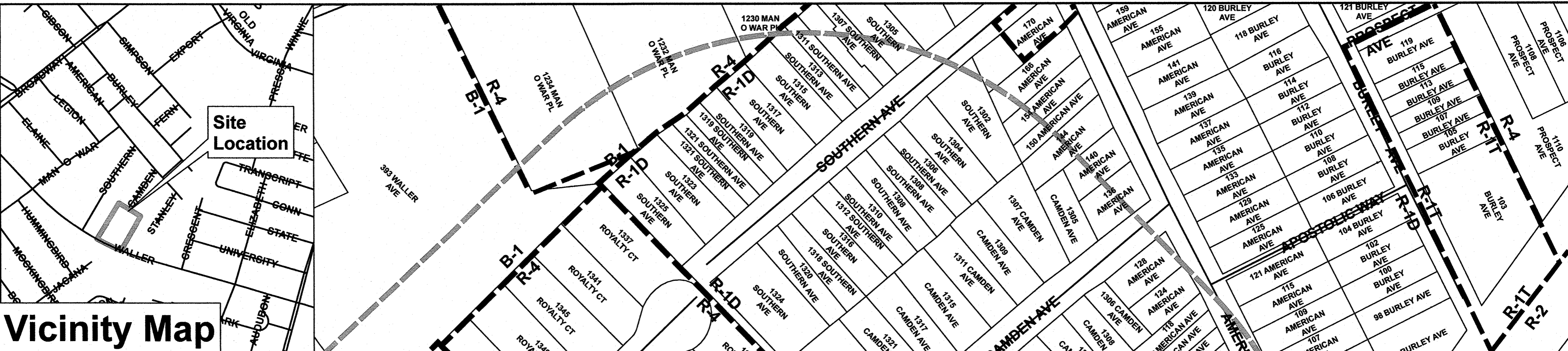
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CAPKY BLUEGRASS PROPERTIES, LLC
353 Waller Avenue
Lexington, Fayette County, Kentucky
Zone Change from P-1 to R-5

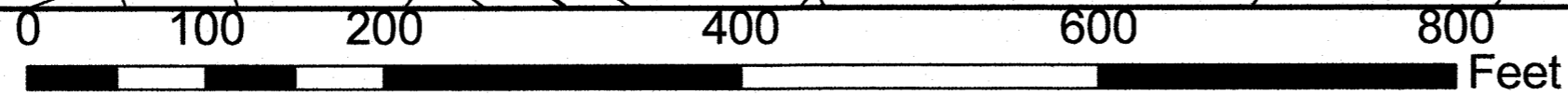
A TRACT OF LAND SITUATED NORTH OF AND ADJACENT TO WALLER AVENUE IN LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

BEGINNING AT A POINT in the centerline of Waller Avenue, said point also lying in the extended western property line of Imperial Waller, LLC (347 Waller Avenue); thence with said centerline for the following three (3) calls: North 69 Degrees 19 Minutes 10 Seconds West, 28.98 feet to a point; thence North 65 Degrees 17 Minutes 10 Seconds West, 202.51 feet to a point; thence North 61 Degrees 06 Minutes 10 Seconds West, 69.96 feet to a point; thence leaving said centerline North 30 Degrees 24 Minutes 50 Seconds East, 487.78 feet to a point; thence South 59 Degrees 35 Minutes 10 Seconds East, 300.00 feet to a point; thence South 30 Degrees 24 Minutes 50 Seconds West, 460.91 feet to **THE POINT OF BEGINNING** and containing 3.29 acres (gross) and 3.05 acres (net).

Vicinity Map



Notification Map



ZOMAR
STOREY BUSINESS SUBDIVISION LOT 6:
 ADDRESSES: 353 WALLER AVENUE

APPLICANT/OWNER:
 CAPKY BLUEGRASS PROPERTIES, LLC
 9219 US HIGHWAY 42
 PROSPECT, KY 40059

PREPARED BY: EA PARTNERS, PLC

DATE FILED: SEPTEMBER 2, 2016

ZONE CHANGE REQUEST:
 FROM: PROFESSIONAL OFFICE (P-1) ZONE
 TO: HIGH RISE APARTMENT (R-5) ZONE
 3.05 ACRES NET & 3.29 ACRES GROSS



STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

PLN-MAR-16-00002: CAPKY BLUEGRASS PROPERTIES, LLC

DESCRIPTION

Zone Change: From a Professional Office (P-1) zone
To a High Rise Apartment (R-5) zone

Acreeage: 3.05 net (3.29 gross) acres

Location: 353 Waller Avenue

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	P-1	Vacant (formerly a nursing home)
To North	R-1C	Single-family Residential
To East	P-1	Professional Office
To South	P-1	Professional Office & Service Business
To West	R-4 & P-1	Multi-family Residential & Professional Offices

URBAN SERVICES REPORT

Roads – Waller Avenue is a two-lane, minor arterial roadway with approximately 18,000 average daily vehicle trips at this location. The subject property is less than ½ mile from the signalized intersection of Harrodsburg Road/South Broadway (US 68) and Waller Avenue. Two access points on Waller Avenue exist for the subject site, and no modifications are proposed.

Curb/Gutter/Sidewalks – Curb, gutter and sidewalks do not exist along the subject property’s frontage along Waller Avenue. These standard urban improvements are ordinarily required to be constructed by the developer at the time the development nears completion.

Storm Sewers – The subject property is located within the Wolf Run watershed. Currently, a small detention basin exists at the front of the property, parallel to the right-of-way of Waller Avenue, to accommodate the site’s stormwater. Additional assessment will be necessary to verify that the existing basin is adequate to serve the proposed re-use and to address water quality requirements of the LFUCG Stormwater Manuals. No FEMA special flood hazard area exists on the property or in the general vicinity.

Sanitary Sewers – The subject property is located in the Wolf Run sewershed and is served by the Town Branch Sewage Treatment Facility, located on Lisle Industrial Avenue, inside of New Circle Road. Since the use of the property is proposed for a change in land use, the petitioner will need to secure Capacity Assurance Program approval prior to the final development plan being certified.

Refuse – The Urban County Government serves the adjoining residential neighborhood with refuse collection on Mondays; however, apartment developments often contract with a private collection service to address their specific needs.

Police – The subject property is located within the Division of Police’s West Sector; however, the closest police station is the headquarters, located approximately 1½ miles to the northeast, on East Main Street.

Fire/Ambulance – Fire Station #11 is located less than ½ mile to the southwest on Harrodsburg Road, near its intersection with Clays Mill Road.

Utilities – All utilities, including gas, electric, water, phone, and cable TV currently serve the existing buildings and could be reconfigured or improved to serve the subject property.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that 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 2013 Plan's Goals and Objectives emphasize the importance of growing successful neighborhoods (Theme A), protecting the environment (Theme B), creating jobs and prosperity (Theme C), improving a desirable community (Theme D) and maintaining a balance between planning for urban uses and safeguarding rural land (Theme E).

The petitioner proposes to re-use the existing structure (former nursing home facility) for a multi-family residential development. The petitioner proposes to renovate the structure to accommodate 100 dwelling units, with the intention of marketing such units to students and faculty at the University of Kentucky. Dimensional variances are also requested with the zone change application.

CASE REVIEW

The petitioner has requested a zone change from a Professional Office (P-1) zone to a High Rise Apartment (R-5) zone for slightly more than three acres of property, located at 353 Waller Avenue.

The site is located on the north side of Waller Avenue, between the signalized intersection at Harrodsburg Road/South Broadway and the CSX Railroad line. The subject property is the former location of the Kenton Healthcare nursing home facility, which was closed about seven years ago, as well as the location of a zone change that was reviewed by the Planning Commission last year. The immediate area along Waller Avenue is characterized by professional office and services (P-1 zoning), and multi-family residential (R-4 zoning). A small shopping center is located to the west of the subject property, which includes convenience retail and restaurants (B-1 zoning). The property also borders an established single-family residential neighborhood (Simpson, Burley, American, Prospect, Southern and Camden Avenues), which has experienced some recent redevelopment pressures due to its proximity to the University of Kentucky campus.

The petitioner requests a rezoning to R-5, and to renovate the existing 43,000 square-foot building in order to accommodate 100 efficiency dwelling units, and associate off-street parking. Dimensional variances are also being requested with the zone change application, and will be addressed in a separate staff report.

The property was the subject of a zone change in 1993 from a High Density Apartment (R-4) zone to the current P-1 zone in order for the nursing home facility to expand, and prior to that it had been zoned R-4 during the 1969 comprehensive update to the City's and County's Zoning Atlas. Last year, the property was the subject of another zone change request from the existing P-1 zone to a Wholesale and Warehouse Business (B-4) zone (MAR 2015-17: CAPKY BLUEGRASS PROPERTIES, LLC), which was recommended for disapproval by the staff and the Planning Commission. The application was subsequently withdrawn prior to any review by the Urban County Council.

The 2013 Comprehensive Plan no longer includes a parcel-based land use element; rather, it encourages land use decisions to be made based upon small area plan recommendations, Comprehensive plan policy statements and the Goals and Objectives of the Plan. The petitioner opines that this request is consistent with the Comprehensive Plan, and also that the proposed High Rise Apartment (R-5) zone is appropriate and that the Professional Office (P-1) zone is inappropriate at this this location.

As the staff has done, the Planning Commission must look to the Comprehensive Plan for guidance as to whether the proposed R-5 zone is supported by the Plan at this location. The petitioner contends that the

proposed zone change meets several of the Goals and Objectives of the Comprehensive Plan, including: expand housing choices (Theme A, Goal #1), support infill and redevelopment that is respectful of the area's context and design features (Theme A, Goal #2.a.), encourage infill and redevelopment that creates jobs where people live (Theme C), and develop a viable network and effective transportation system for residents (Theme D). The petitioner's project will provide efficiency dwelling units, which are uncommon in the immediate area, primarily to meet demand from the University of Kentucky (both students and faculty). This housing option will be located very near the University of Kentucky's campus and between two hospitals, creating an opportunity for more individuals to live near their jobs or school. The petitioner is also working to improve transit in the Waller Avenue corridor for use by their future residents and others.

Beyond the goals and objectives, the Plan sets forth a policy for greater accessibility between neighborhoods and shopping (Accessibility - page 15). The petitioner will install some new sidewalks to improve connectivity to the nearby commercial developments along Waller Avenue. Lastly, the petitioner states that the property and its large structure are underutilized, and their project will take advantage of this situation to renovate the structure and put it to a good use (Improving a Desirable Community – page 97).

The proposed zone change is also compatible with the adjoining High Density Apartment (R-4) zone to the west and will provide a transition between the commercial and office uses along Waller Avenue and the single family residential neighborhood to the north. For these reasons, the staff finds that the requested rezoning is, in fact, in agreement with the 2013 Comprehensive Plan.

The Staff Recommends: **Approval**, for the following reasons:

1. The proposed High Rise Apartment (R-5) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The residential zoning and proposed efficiency apartment units will expand housing choices by providing an uncommon dwelling unit type within the immediate area (Theme A, Goal #1). Although dwelling units exist to the north and west, most are single family homes or two bedroom apartment units.
 - b. The renovation of an underutilized structure on the subject property will support infill and redevelopment that is respectful of the area's context and design features (Theme A, Goal #2.a.) since little will be altered on the property, and since this will also support adaptive re-use in the community (Theme D - Improving a Desirable Community).
 - c. The additional dwelling units within the Waller Avenue corridor will allow for employees and students of the University of Kentucky, as well as two nearby hospitals, to live near their jobs, thereby encouraging infill and redevelopment that creates jobs where people live (Theme C).
 - d. The petitioner will provide new sidewalks along a portion of their property frontage and work to create a transit line along Waller Avenue in order to help a viable network and effective transportation system for residents (Theme D) and improve accessibility between neighborhoods and shopping (Accessibility - page 15).
 - e. The proposed R-5 zone is compatible with the adjoining High Density Apartment (R-4) zone to the west and will serve as a transition between the commercial uses along Waller Avenue and the single family residential areas to the north of this location, due to the existing building's low height and profile.
2. This recommendation is made subject to the approval and certification of PLN-MJDP-16-00009: Storey Business Subdivision, Lot 6, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

1. CAPKY BLUEGRASS PROPERTIES, LLC, ZONING MAP AMENDMENT & STOREY BUSINESS SUBDIVISION, LOT 6

- a. PLN-MAR-16-00002: CAPKY BLUEGRASS PROPERTIES, LLC (11/17/16)* – a petition for a zone map amendment from a Professional Office (P-1) zone to a High Rise Apartment (R-5) zone for 3.05 net (3.29 gross) acres, for property located at 353 Waller Avenue. Dimensional variances are also requested.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that 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 2013 Plan's Goals and Objectives emphasize the importance of growing successful neighborhoods (Theme A), protecting the environment (Theme B), creating jobs and prosperity (Theme C), improving a desirable community (Theme D) and maintaining a balance between planning for urban uses and safeguarding rural land (Theme E).

The petitioner proposes to re-use the existing structure (former nursing home facility) for a multi-family residential development. The petitioner proposes to renovate the structure to accommodate 100 dwelling units, with the intention of marketing such units to students and faculty at the University of Kentucky. Dimensional variances are also requested with the zone change application.

The Zoning Committee Recommended: **Approval.**

The Staff Recommends: **Approval**, for the following reasons:

1. The proposed High Rise Apartment (R-5) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The residential zoning and proposed efficiency apartment units will expand housing choices by providing an uncommon dwelling unit type within the immediate area (Theme A, Goal #1). Although dwelling units exist to the north and west, most are single family homes or two bedroom apartment units.
 - b. The renovation of an underutilized structure on the subject property will support infill and redevelopment that is respectful of the area's context and design features (Theme A, Goal #2.a.) since little will be altered on the property, and since this will also support adaptive re-use in the community (Theme D - Improving a Desirable Community).
 - c. The additional dwelling units within the Waller Avenue corridor will allow for employees and students of the University of Kentucky, as well as two nearby hospitals, to live near their jobs, thereby encouraging infill and redevelopment that creates jobs where people live (Theme C).
 - d. The petitioner will provide new sidewalks along a portion of their property frontage and work to create a transit line along Waller Avenue in order to help a viable network and effective transportation system for residents (Theme D) and improve accessibility between neighborhoods and shopping (Accessibility - page 15).
 - e. The proposed R-5 zone is compatible with the adjoining High Density Apartment (R-4) zone to the west and will serve as a transition between the commercial uses along Waller Avenue and the single family residential areas to the north of this location, due to the existing building's low height and profile.
2. This recommendation is made subject to the approval and certification of PLN-MJDP-16-00009: Storey Business Subdivision, Lot 6, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

b. REQUESTED VARIANCES

1. Reduce the required open space from 20% to 15%.
2. Reduce the required front yard from 20 feet to 8 feet.
3. Reduce the minimum required parking from 150 spaces to either 123 or 112 spaces (depending upon #2).

The Zoning Committee Recommended: **Approval.**

The Staff Recommends: **Approval of the requested variances, and a reduction in off-street parking to 123 spaces**, for the following reasons:

- a. Granting these requested variances will not adversely affect the public health, safety or welfare; will not alter the character of the general vicinity; and will not cause a hazard or nuisance to the public. In fact, granting the variance will help to maintain the existing character of the entire subject property, as only limited physical improvements or changes are contemplated or required, other than possibly some additional vehicular use area landscaping and a small number of parking spaces.
- b. Granting these requested variances will not result in an unreasonable circumvention of the Zoning Ordinance, because the existing setbacks and off-street parking areas for the building are to be maintained, generally "as is," which should serve to maintain the existing character of the property, and fit into the existing neighborhood.
- c. The existing parking arrangement along the frontage of the subject site, and the close proximity of its pavement to the

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- right-of-way of Waller Avenue, are special circumstance that applies to this site that do not generally apply to other land in the R-5 zone. These conditions are more common to P-1 and B-1 properties along this corridor.
- d. In this instance, a strict application of the requirements of the Zoning Ordinance would pose a hardship to the applicant, because it would either require the removal of existing off-street parking on the site, require a reduction in residential density, or require the need for building demolitions in order to meet the more routine off-street parking or open space requirements for this proposed site redevelopment.
 - e. The circumstances surrounding the requested variance are not the result of actions taken by this applicant. The applicant has not started construction on the project, and is requesting these variances prior to any construction activities commencing on the subject site.
- c. PLN-MJDP-16-00009: STOREY BUSINESS SUBDIVISION, LOT 6 (11/17/16)* - located at 353 Waller Avenue.
(EA Partners)

The Subdivision Committee Recommended: Postponement. There were some questions regarding the transit stop parking reduction, the required open space, parking in the front yard and lack of tree canopy information.

Should this plan be approved, the following requirements should be considered:

1. Provided the Urban County Council rezones the property R-5; 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. Dimension compact parking spaces.
6. Dimension building.
7. Dimension court yards.
8. Dimension all walkways.
9. Document compliance with interior landscape and tree canopy requirements.
10. Delete the transit stop parking reduction and revise parking.
11. Discuss emergency access at rear of property.
12. Discuss water quality requirements, per the Engineering Manuals.
13. Discuss the open space provided versus what is required.
14. Discuss parking proposed in the required front yard, and overall compliance with off-street parking requirements.
15. Discuss plan status.

Staff Zoning Presentation – Ms. Wade presented the staff report on this zone change. She displayed aerial photographs of the subject property. She summarized the staff recommendations of the proposed zone change and stated that the Zoning Committee recommended Approval.

Development Plan Presentation – Mr. Martin presented the updated staff report on this development plan, which was handed out to the Commission with 12 total conditions, as follows:

The Staff Recommends: Approval, subject to the following revised conditions:

1. Provided the Urban County Council rezones the property R-5; 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. Dimension compact parking spaces if proposed.
6. Dimension building.
7. Dimension court yards.
8. Dimension all walkways.
9. Document compliance with interior landscape and tree canopy requirements of the Zoning Ordinance, prior to certification.
10. Delete note #13.
11. Provided the Planning Commission grants the requested variance for the open space.
12. Provided the Planning Commission grants the requested variance for the off-street parking.

Dimensional Variance – Mr. Sallee presented the staff report on the variances for this development and discussed the three requested variances.

Petitioner Presentation – Richard Hoppood, Wyatt Tarrant & Combs, LLP, was present representing the petitioner and said that they agree with the staff's recommendations. He stated that they had several discussions with Mr. Walbourn who represents the neighbor to the west and also the property owner across the street from the subject property. Mr.

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Hopgood submitted an agreement stating three conditional uses that the petitioner agreed to not pursue, should the property be rezoned to R-5.

Citizen Comment - Mr. Walbourn, attorney representing some area property owners, said in regard to the agreement submitted, that his clients do agree to the zone change and the conditional approval of the variances.

Commission Comments – There was concern expressed in regard to the legal terms of the conditions submitted by Mr. Hopgood; should these conditions be specified as prohibited uses. Ms. Jones replied that the language may need to be changed to read “prohibited uses” in a conditional zoning context.

Ms. Wade said that there is a finding proposed with the conditional zoning restriction, and this finding shall read:

3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be prohibited on the subject property:
 - a. Community centers;
 - b. Boarding or lodging houses, assisted living facility, hospitality house, or rehabilitation homes;
 - c. Day shelters.

These restrictions are necessary and appropriate in order to ensure compatibility of the property with the adjoining residential land use to the west and north of this location.

Zoning Action – A motion was made by Mr. Berkley, seconded by Mr. Owens, and carried 9-0 (Brewer and Penn absent) to approve PLN-MAR-16-00002: CAPKY BLUEGRASS PROPERTIES, LLC, for the reasons provided by the staff, including the additional conditional zoning restrictions and its findings.

Development Plan Action – A motion was made by Mr. Berkley, seconded by Mr. Smith, carried 9-0 (Brewer and Penn absent) to approve PLN-MJDP-16-00009: STOREY BUSINESS SUBDIVISION, LOT 6, for the reasons provided by the staff.

Requested Variance Action – A motion was made by Mr. Berkley, seconded by Mr. Smith, carried 9-0 (Brewer and Penn absent) to approve the requested variances, for the reasons provided by the staff, and noting the reduction of required parking spaces to 123.

