

SUPPLEMENTAL STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-24-00002 ANTHONY HUMPHRESS



STAFF REVIEW

In the period following the March Planning Commission meeting, the applicant submitted a revised development plan and a supplemental letter of justification for their rezoning request. The revised development plan significantly changes the scope of the development by reducing the number of proposed townhomes from 10 units to 3 units, and by retaining the two existing single-family detached dwellings present on the subject properties. Accompanying the reduction in units is the removal of the proposed rear parking and dumpster area. The applicant has indicated that the use will be served by individual garbage roll carts, and parking will be accommodated on-street.

GOALS AND OBJECTIVES

In the initial staff report, staff had identified the following Goals and Objectives of the 2045 Imagine Lexington Comprehensive Plan that the applicant should address:

Minimize disruption of natural features when building new communities (Theme A, Goal #3.c); Identify and assess potential climate change impacts, including but not limited to, temperature, precipitation, extreme weather, agriculture, and human health (Theme B, Goal #2.b).

The changes to the development plan directly address the goals and objectives identified in the staff report. The removal of the rear vehicular use area reduces the amount of impervious surface on-site, and results in no construction within the floodplain. The rear green open space that is currently present on site will be retained, resulting in a larger buffer for the floodplain for the development.

As a result of the applicant's revisions, staff now finds that the proposal is in agreement with the Goals and Objectives of the 2045 Comprehensive Plan.

POLICIES

The initial staff report identified the following Policies of the Comprehensive Plan that required further justification:

Provide development that is sensitive to the surrounding context (Theme A, Design Policy #4); Conserve and protect environmentally sensitive areas, including sensitive natural habitats, greenways, and water bodies (Theme B, Protection Policy #2); Reduce and mitigate negative environmental impacts of impervious surfaces and vehicular use areas (Theme B, Sustainability Policy #4).

The applicant's proposed changes to the development plan directly address these policies. By removing the parking and dumpster within the floodplain, and reducing the encroachment into the floodplain setback with the structures, the request is more harmonious with the adjoining stream and floodplain. The changes provide a greater buffer for the environmentally sensitive areas present on the properties, and reduce the impact of stormwater runoff by reducing the amount of impervious surface on-site. With the changes to the development plan, staff now finds that the request is in agreement with the Policies of the 2045 Comprehensive Plan.

PLACE TYPE, DEVELOPMENT TYPE, AND ZONE

Within the supplemental letter of justification, the applicant makes a case for the appropriateness of the chosen Townhouse Residential (R-1T) zone. The applicant states that while the zone is not recommended within the Placebuilder Element of the Comprehensive Plan, the chosen zone is compatible with the existing single-family residential area, and allows for the low-density residential development that is recommended in Enhanced Neighborhood contexts. Staff finds that the R-1T zone could be appropriate at this location.

DEVELOPMENT CRITERIA

1. Land Use

Staff finds that the request meets the requirements for Land Use, as the request increases density by increasing the number of dwelling units present on the property (A-DN2-1), while providing for a more compact single family attached housing type (A-DN4-1).

2. Transportation, Connectivity, and Walkability

Staff finds that this request meets the requirements for Transportation, Connectivity, and Walkability, as the proposed development provides sidewalk facilities that are not currently present (D-CO2-1), connects to the larger pedestrian network within the Golfview neighborhood (A-DS4-1), and uses the townhomes to reinforce the streetscape (A-DS5-2). Additional sidewalk improvements along Garrison Avenue will also benefit the site and meet the Subdivision Regulations.

3. Environmental Sustainability and Resiliency

The applicant has provided further information on how they are meeting the following criteria:

B-PR2-1: Impact on environmentally sensitive areas should be minimized within and adjacent to the proposed development site; B-RE5-1: Dividing floodplains into privately owned parcels with flood insurance should be avoided; B-PR9-1: Minimize grading and topsoil disturbance by utilizing the existing topography to the greatest extent possible and preserving key natural features; B-SU4-1: Development should minimize or mitigate impervious surfaces; B-RE5-3: Floodplains should be incorporated into accessible greenspace, and additional protection should be provided to areas around them

The applicant opines that the revised plan will not negatively impact the environmentally sensitive areas to the rear of the site as they have removed the vehicular use area and dumpster that were originally proposed for this area. The applicant further opines that the changes to the proposal result in a reduction in the number of parcels requiring flood insurance from 10 parcels to 5 parcels. No grading is proposed for the areas around the floodplain, and these areas are being retained as greenspace.

4. Site Design

The request meets the requirements for Site Design, as the request provides for clearly delineated private open space for each individual unit (A-EQ9-2), and increases connectivity by expanding the sidewalk network (A-EQ9-2).

5. Building Form

The request meets the requirements for Building Form, as the orientation of the structure maximizes connections to the surrounding area (A-DS5-3), and provides variety from the single-family detached residential development that characterizes this portion of Golfview Drive (A-DS8-1).

STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASONS:



1. The proposed Townhouse Residential (R-1T) zone is in agreement with the Imagine Lexington 2045 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The request will increase the residential density of the area, and introduce a new housing type in an area predominantly characterized with single-family detached development (Theme A, Goal #1.b; Theme A, Goal #2.b).
 - b. The proposal creates a better connected development that will encourage safe social interactions by providing sidewalks and orienting the structures toward the roadway on Golfview Drive (Theme A, Goal #3.c).
 - c. By retaining greenspace and limiting development to the rear of the sites, the request minimizes the disruption of natural features (Theme A, Goal #3.c).
 - d. The request minimizes impervious surface near the floodplain in an attempt to mitigate the impact of extreme weather events (Theme B, Goal #2.b).
2. The proposal is in agreement with the Policies of the 2045 Comprehensive Plan for the following reasons:
 - a. The request replaces the existing garages with dwelling units, enhancing the streetscape and creating a more walkable environment (Theme A, Design Policy #5).
 - b. The request will provide additional variety in housing choice (Theme A, Design Policy #8), that will increase the density of the area in a context-sensitive manner (Theme A, Density Policy #2).
 - c. The proposal improves the pedestrian system within the neighborhood by adding sidewalk facilities to the Golfview road frontage (Theme A, Design Policy #1).
 - d. The request respects the surrounding natural context by eliminating the rear vehicular use areas and dumpster within the floodplain (*Theme A, Design Policy #4; Theme B, Protection Policy #2; Theme B, Sustainability Policy #4*).
3. The justification and corollary development plan are in agreement with the Development Criteria of the 2018 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Land Use, as the request increases density by increasing the number of dwelling units present on the property (A-DN2-1), while providing for a more compact single family attached housing type (A-DN4-1).
 - b. The proposed rezoning addresses the Transportation and Pedestrian Connectivity Development Criteria, as the proposed development provides sidewalk facilities that are not currently present (D-CO2-1), connects to the larger pedestrian network within the Golfview neighborhood (A-DS4-1), and uses the townhomes to reinforce the streetscape (A-DS5-2). Additional sidewalk improvements along Garrison Avenue will also benefit the site and meet the Subdivision Regulations.
 - c. The proposed rezoning meets the criteria for Environmental Sustainability and Resiliency, as the development does not impact environmentally sensitive areas (B-PR2-1), provides greenspace buffer around the floodplain (B-RE5-3), and minimizes the amount of impervious surface on-site (B-SU4-1).
 - d. The request meets the requirements for Site Design, as it provides for clearly delineated private open space for each individual unit (A-EQ9-2), and increases connectivity by expanding the sidewalk network (A-EQ9-2).
 - e. The request meets the criteria for Building Form, as the orientation of the structures maximizes connections to the surrounding area (A-DS5-3), and provides variety from the single-family detached residential development that characterizes this portion of Golfview Drive (A-DS8-1).
4. This recommendation is made subject to approval and certification of PLN-MJDP Kidwell & Otis Property (Golf View Estates) prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

SUPPLEMENTAL STAFF REPORT ON VARIANCE REQUEST



Along with the revisions to the proposed development plan, the petitioner has also chosen to modify their initial variance request. The applicant originally sought a dimensional variance to reduce the required building setback from the floodplain from twenty five (25) feet to five (5) feet. As a result of the new plan, the applicant is reducing the scope of the variance, requesting a setback reduction from twenty five (25) to fifteen (15) feet.

Before any variance is granted, the Planning Commission must find the following:

- a. The granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Planning Commission shall consider whether:
 1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone.
 2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
 3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
- b. The Planning Commission shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

ZONING ORDINANCE

Article 6-4(c) states that the Planning Commission may hear and act upon requested variances associated with a zone change. In such cases, they may assume all of the powers and responsibilities of the Board of Adjustment, as defined in Article 7-6(b) of the Zoning Ordinance.

Article 19-7(g)4b states: “all lots which contain or adjoin a floodplain shall have a minimum building setback from the floodplain of twenty-five (25) feet depicted on the final record plan and on the final development plan. This building setback shall be measured horizontally from the edge of the floodplain and shall be applicable to all principal and accessory buildings on the lot.”

Article 15-5(a) states that covered porches, stairways, terraces or other similar features, the floor level of which is not over three (3) feet above the established grade and does not extend above the level of the first floor of the building, when open and unenclosed, may project into a required front, side or rear yard no more than eight (8) feet, provided that such covered porches, stairways, terraces, or other similar features conform to the provisions of Subsection (d) of this section.

CASE REVIEW

The revised preliminary development plan submitted by the applicant abandons the initial 10 townhome proposal in lieu of retaining the two existing detached single-family residences, and providing three new townhome units between the homes. The applicant intends to maintain the initial townhouse design, with attached units that three stories tall, with cantilevered rear decks provided on the second and third floors. Under the revised plan, no part of the actual townhome foundation will be located within the floodplain, and the only encroachment will be the cantilevered rear decks. These cantilevered decks will extend up to 15-feet from the edge of the floodplain. The applicant opines that as no part of the decks will be touching the ground within the setback, they should not pose any risk to the floodplain or its setback. The applicant is not proposing any modifications to the existing single-family detached residences, which are located further into the required floodplain setback.

Overall, staff is supportive of the 15-foot variance. The floodplain and its associated setback significantly limit the ability to utilize the property. As the townhomes’ foundations will be located outside of the 25-foot floodplain setback, allowing the cantilevered porches to extend into the setback will not have any impact on the floodplain.

STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASONS:



1. Approval of the 15-foot floodplain setback variance should not adversely affect the public health, safety, or welfare, nor should it create a hazard or nuisance to the public. The only portions of the new construction that are proposed to encroach into the floodplain setback are the rear cantilevered porches, which will not impact the floodplain.
2. The significant portions of floodplain to the rear of the properties are special circumstances that justify the need for the variance.
3. Meeting the full floodplain setback would significantly limit the applicant's ability to provide additional residential and density at this location.
4. The circumstances of this variance are not a result of actions taken by the applicant subsequent to the adoption of the Zoning Ordinance.

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

- a. Provided the Planning Commission and Urban County Council approve the requested zone change to the R-1T zone, otherwise the requested variances shall be null and void.
- b. The rear decks shall be cantilevered.
- c. The development shall be constructed in accordance with the approved Final Development Plan, or as amended by the Planning Commission.
- d. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
- e. Action of the Planning Commission shall be noted on the Development Plan for the subject property.