

V. RECONSIDERATION OF ZONING ITEM1. URBAN COUNTY PLANNING COMMISSION ZONING MAP AMENDMENT

Note: The Planning Commission considered this request at its public hearing on November 15, 2012, and a motion for approval received a tie vote of 4-4. Under the requirements of KRS 100.211(1), the Planning Commission's tie vote "shall be subject to further consideration" within 30 days.

- a. MAR 2012-17: URBAN COUNTY PLANNING COMMISSION - petition for a zone map amendment to a Neighborhood Design Character Overlay (ND-1) zone for 52.68± net (59.72± gross) acres, for properties located at 1200-1280 Colonial Drive; 4009-4021 John Alden Lane; 4004-4025 Mayflower Lane; 1228-1273 and 1290 Standish Way; and 2492-2516 Versailles Road (even addresses only).

Proposed Design Standards:

1. One new accessory structure, not exceeding a maximum of 180 sq. ft. with a 12 ft. maximum roof height limitation, shall be permitted to be located and constructed in the rear yard area of each home.

(Note: All existing accessory structures shall be deemed approved and permitted to remain. Said existing structures may be improved and/or replaced by new structures so long as the improvements do not exceed the existing footprint or alter the general character of the existing structures.)

2. No new front yard fencing shall be permitted with the exception of those homes fronting on Versailles Road.

(Note: "Front Yard" shall be deemed to mean all that yard area located between the nearest points of the front of the house to its frontage roadway's right-of-way line. New and existing side and rear fencing shall continue to be approved in accordance with existing zoning restrictions.)

3. Floor area to lot size ratio shall be limited to 25% maximum.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 4) recommends Low Density Residential (LD) land use for the neighborhood. The Planning Commission has initiated a zone change request to add a Neighborhood Design Character Overlay (ND-1) zone in order to regulate accessory structures, fencing and floor area ratio (FAR) regardless of the underlying zoning.

The Zoning Committee made no recommendation on this item.

The Staff Recommends: Approval of the ND-1 overlay zone with the Staff Alternative Design Standards, for the following reason:

1. The requested Neighborhood Design Character (ND-1) overlay zone is in agreement with the 2007 Comprehensive Plan and the Goals and Objectives of the 2012 Comprehensive Plan for the following reasons:
 - a. The Goals and Objectives of the 2007 Plan identify eight overriding themes, one of which is "preserving, protecting, and maintaining existing residential neighborhoods in a manner that ensures stability and the highest quality of life for all residents." This will be enhanced with this zoning overlay for The Old Colony neighborhood. Further, Goal 15, Objective I states that neighborhood protection overlay zoning provisions should be implemented for establishing stability and protection in existing and, especially, older neighborhoods.
 - b. The Goals and Objectives of the 2012 Comprehensive Plan support the development of ND-1 Overlay zones to enable neighborhoods to flourish (Theme A.3.a).
 - c. The implementation of a Neighborhood Design Character (ND-1) Overlay zone is in agreement with the Comprehensive Plan's Goals & Objectives by providing specific standards that will maintain the existing character of the neighborhood, independent of the underlying zoning.
 - d. The Old Colony neighborhood has completed a design character study, defined the existing character of the neighborhood, developed preservation goals, and proposed appropriate neighborhood design standards (in need of only slight modification), thus meeting the requirements of the ND-1 zone.
2. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are proposed for the subject property via conditional zoning:

Alternative Design Standards (Additions are identified by an underline, and deletions to the original proposal are identified by a ~~strikethrough~~.)

1. One new accessory structure, not exceeding a maximum of 180 sq. ft. with a 12 ft. maximum roof height limitation, shall be permitted to be located and constructed in the rear yard area of each home.

(Note: ~~All existing accessory structures shall be deemed approved and permitted to remain. Said existing structures may be improved and/or replaced by new structures so long as the improvements do not exceed the existing footprint or alter the general character of the existing structures.~~)

2. No new front yard fencing or freestanding walls shall be permitted, with the exception of those homes fronting on Versailles Road.

- i. Retaining walls shall be permitted on all properties, subject to a maximum height of 18 inches above the unbalanced fill in the front yard.

(Note: "Front Yard" shall be deemed to mean all that yard area located between the nearest points of the front of the house to its frontage roadway's right-of-way line. New and existing side and rear fencing shall continue to be approved in accordance with existing zoning restrictions.)

3. Floor area to lot size ratio Lot coverage shall be limited to a maximum of 25% maximum.

These restrictions are appropriate, given the study undertaken to identify the existing neighborhood character by The Colony Neighborhood Association (Residents, Inc.), and are necessary to maintain that existing character of the neighborhood in the future.

Chairman Comments: Mr. Owens stated that, at their November 15th meeting and after a lengthy hearing, a motion was made on this request which resulted in a tie vote of 4-4. He said that KRS 100.211 states, "A tie vote shall be subject to further consideration by the Planning Commission for a period not to exceed 30 days, at the end of which, if the tie vote has not been broken, the application shall be forwarded to the fiscal court or legislative body without a recommendation of approval or disapproval." Mr. Owens stated that, at this time, the Commission would conduct the reconsideration, and that no new testimony would be heard. He noted that only the Commission members present at the November 15th hearing will be eligible to vote on the reconsideration, unless any of the three members who were absent have watched the entire hearing and reviewed all of the documents presented. If any of those members have done so and wish to vote, a statement will be needed from those members that they have done so; otherwise, they will be asked to abstain from the vote.

Mr. Owens stated that any of the following motions can be entertained for the reconsideration: approval, which was the original motion, with findings of fact as presented at the November 15th hearing; disapproval, with findings of fact to support the motion; approval, with alternative findings of fact to support the motion; or withdrawal. If there is no motion for reconsideration, the tie vote will be forwarded to the Council.

Mr. Owens stated that none of the three members who were absent on November 15th had reviewed the video of that meeting, so they would not be able to vote. He said that the staff's recommendation at that hearing was for approval, with the three Alternative Design Standards as listed on the agenda. The Zoning Committee made no recommendation on this request. He opened the floor for a motion of reconsideration.

Motion: A motion was made by Mr. Penn and seconded by Ms. Plumlee for a reconsideration of the original motion for approval of MAR 2012-17, for the reasons provided by staff.

Action: Mr. Penn's motion carried, 9-2 (Brewer and Cravens opposed; Berkley, Blanton, and Mundy abstained).