

**STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT**

**MAR 2016-12: DR. JAMES WILHITE**

**DESCRIPTION**

|                     |                       |                  |                       |                     |
|---------------------|-----------------------|------------------|-----------------------|---------------------|
| <b>Zone Change:</b> | <b><u>REQUEST</u></b> |                  | <b><u>ACREAGE</u></b> |                     |
|                     | <b><u>FROM</u></b>    | <b><u>TO</u></b> | <b><u>NET</u></b>     | <b><u>GROSS</u></b> |
|                     | R-1T                  | P-1              | 5.08                  | 6.16                |
|                     | R-3                   | P-1              | 0.40                  | 0.40                |
|                     | TOTAL                 |                  | 5.48                  | 6.56                |

**Location:** 3500 Arbor Drive (a portion of)

**EXISTING ZONING & LAND USE**

|                   |               |   |
|-------------------|---------------|---|
| <u>Properties</u> | <u>Zoning</u> | <u>Existing Land Use</u>                |
| Subject Property  | R-1T & R-3    | Child Care/Gymnastics Facility & Vacant |
| To North          | R-1T          | Residential                             |
| To East           | R-3           | Residential                             |
| To South          | R-3           | Residential                             |
| To West           | R-1D          | Residential                             |

**URBAN SERVICES REPORT**

Roads – Arbor Drive is a local cul-de-sac street that provides access to the subject property, and to a number of single family dwellings. Its intersection with Trent Boulevard is approximately 1,000 feet to the west of the subject property. Trent Boulevard, which is a collector street, extends from Kenesaw Drive in the Hartland area, continues to the west across Man o’ War Boulevard and terminates at Appian Way, just east of Tates Creek Road. Access to the property is not proposed to be modified and no road improvements are either needed or proposed to adaptively re-use the property.

Curb/Gutter/Sidewalks – All urban road improvements exist on Arbor Drive, which is primarily a residential street. The street terminates at the subject property and provides access to the parking area, with curbing, gutters and sidewalks continuing from the public street into the parking lot on the property. There are also sidewalks interior to the property.

Storm Sewers – The subject property is located within the West Hickman watershed. The nearest stream is Mill Creek, just a short distance to the west of the property. A stormwater detention basin exists to serve the property, as well as a storm sewer easement that crosses a portion of the property and should need no improvements. However, further evaluation may be necessary by the Urban County Engineer. All storm sewer and/or detention facilities must be in compliance with the Engineering Storm Water Manual.

Sanitary Sewers – The subject property is in the West Hickman sewershed, which is served by the West Hickman Wastewater Treatment Plant. A pump station is located just to the south of the property, with a force main, as well as a gravity main, in the immediate vicinity. A sanitary sewer easement is located on the northwestern portion of the property, in the same general area as the storm sewer easement. There is no development proposed for that area.

Refuse – The Urban County Government serves this portion of the Urban Service Area with collection on Fridays. Commercial developments sometimes contract with private waste haulers for more frequent service.

Police – The nearest police station is located a little less than one mile to the northwest, at the East Sector Roll Call Center (Police Sector 3) on Centre Parkway.

Fire/Ambulance – The nearest fire station to the subject property is Station #16, located approximately ¼ mile to the northeast on Man o’ War Boulevard, directly across from Bold Bidder Drive.

Utilities – Natural gas, telephone service, electric, water, and cable television are all available to 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 2015 Armstrong Mill Road West Small Area Plan (AMWSAP) is a plan for the revitalization of the 1900<sup>±</sup> acre area that recommends six goals. Eight designated neighborhood associations are included in the area encompassed by the Small Area Plan. The goals focus on improving safety; improving connectivity; promoting livable neighborhoods with housing choices (while maintaining the neighborhood form) and promoting green infrastructure; improving the quality of life and health including access to affordable and healthy food; and enhancing the sense of place by creating community spaces that foster social interaction and a sense of identity.

The petitioner proposes a Professional Office (P-1) zone for the subject property in order to adaptively re-use the existing 30,000+ square-foot building on this site for offices. The R-3 zoned portion of the property will be used as a storm water detention area.

### **CASE REVIEW**

The applicant wishes to rezone the subject property from a combination of a Townhouse Residential (R-1T) zone and a Planned Neighborhood Residential (R-3) zone to a Professional Office (P-1) zone. At this time, no specific user has been identified for this property, but the applicant suggests that offices, churches, private or church related schools for academic instruction, libraries, museums, business colleges, private clubs, athletic clubs, elder day centers and other such uses would be appropriate at this site.

The subject property is located on the west side of Man o' War Boulevard, just south of Armstrong Mill Road intersection. Access to the property is via Arbor Drive, which connects to Trent Boulevard about ¼ mile southwest of the subject property. The site is located in the River Park neighborhood, and was included in the 2015 Armstrong Mill West Small Area Plan, an adopted amendment to the 2013 Comprehensive Plan that makes additional recommendations for this vicinity of the Urban Service Area.

The 5.5-acre subject property is the current location of the National Academy, which is a private club and child care facility that offers gymnastics, cheerleading, and childcare services for up to 200 children, although the current enrollment is only about 125 students. The 30,000+ square-foot facility has about 75 available parking spaces. If the zoning is approved, the applicant intends to install a new parking area to the rear of the lot (generally where an existing playground area exists), which would bring the total off-street parking up to 158 spaces.

The history of the existing conditional uses on this property spans a time frame of about 30 years. A private club (the gymnastics and cheerleading portion of the use) and child care facility were originally approved by the Board of Adjustment in 1986 (C-86-70: Dr. James G. Wilhite) in the existing R-1T zone. An expansion was approved in 2000, which authorized the construction of an additional building, an increase in enrollment (up to 476 children) and an additional parking lot on the south side of the new building (C-2000-28: National Academy). The additional building has been constructed as permitted. In 2008, additional parking lots and bus areas were approved (C-2008-3: National Academy). Most recently, in 2013, the Planning Commission approved a 19-lot subdivision for townhouses on a portion of the property, which is not proposed to be rezoned by the applicant (DP 2013-67: Wilhite Park Unit 1-B). Subsequently, and as a result of the approval of the townhouses, the applicant submitted the latest BOA case to remove the parking approved in 2008 and reduce the total number of children to 200 for the combined uses in order to ensure adequate on-site parking (C-2013-54: Jim Wilhite).

The applicant has not provided any justification that the proposed zone is in agreement with either the 2013 Comprehensive Plan or the 2015 Armstrong Mill West Small Area Plan. However, the applicant does contend that the existing zoning is no longer appropriate and the proposed zoning is appropriate. This site has been utilized as the National Academy for three decades; and, according to the applicant, public schools now regularly provide athletic, after-school, and childcare programs. This has led to a decrease in the enrollment to the point that it is no longer sustainable for the National Academy to continue to operate.

It is true that in the R-1T zone, there are only three realistic conditional uses that would likely be interested in the existing building as developed: another private club, a religious assembly use, or a private school for academic instruction. The Staff would note that in the R-1T zone, a child care facility was only allowed because it was considered accessory to the private club use; otherwise, a free-standing child care center is not a permitted use in this zone. While the staff can agree with the applicant that there are only a limited number of conditional uses possible in this zone, it should be stated that the R-1T zone for the subject property could still be a viable zone for any of the allowable conditional uses or the re-development of this property - especially considering the upcoming

development of the 19 new townhouses that are proposed to be built on a portion of this property, which is not subject to this zone change request.

The requested P-1 zone, however, is inappropriate for this site. Although this site has frontage on, and is visible from Man o' War Boulevard, it is only accessed by a local residential cul-de-sac, Arbor Drive. Approving a non-residential zone on this property would force commercial traffic through a residential neighborhood, commonly accepted as a poor planning practice. The applicant briefly addressed traffic concerns in their justification, stating that an office redevelopment would have less of an impact on the traffic than a 476-student child care, but there are two important points that were not addressed: 1) although this site was approved for up to 476 children in 2000, the maximum number of children allowed under the current conditional use permit from 2013 limits this use to a total of 200 children; and 2) if the property were rezoned to P-1, child care facilities, along with many other higher traffic uses such as banks and medical offices, would become permitted uses and would not have the protection of the review process that the current conditional uses on this site have. Other than traffic, the Board of Adjustment can also consider typical nuisance factors of non-residential uses such as noise and light pollution that would not be reviewed if the uses were allowed as principal permitted uses in the P-1 zone. Additionally, this site would be the only commercially zoned property within nearly a mile of the subject property and could easily be considered "spot zoning." This could potentially lead to other requests for zone changes in the area if it were deemed an unanticipated change in the basic character of the neighborhood.

Should the applicant continue to seek a zone change for this property, the staff would suggest that a Planned Neighborhood Residential (R-3) zone, or possibly a High Density Apartment (R-4) zone, is a more appropriate zone for this property, and that could be considered in agreement with both the 2013 Comprehensive Plan and the recently adopted 2015 Armstrong Mill West Small Area Plan. This would particularly apply to those recommendations that encourage a safe and livable community with a diversity of housing choices, and maintaining the character of the neighborhood form. A more intense residential zone would allow a higher density residential development, should this building be adaptively reused for residences or if the site were to completely redevelop, which would provide additional housing choices and the potential for more affordable housing in this area. These higher density residential zones would also grant the owner a larger array of potential conditional uses that might be interested in re-using the existing building and its site improvements. In addition to the potential conditional uses allowed in the R-1T zone, R-3 & R-4 residential zones would allow nursing homes, assisted living facilities, community centers (like a YMCA), child care centers, and athletic club facilities (when accessory to another permitted or accessory use). The applicant suggests in this application that many of these uses would be well suited for the existing structure on this site.

Lastly, there has not been an unanticipated significant change of physical, social or economic nature within the immediate area since the 2013 Comprehensive Plan was adopted. Furthermore, as proposed, this zoned change would likely be detrimental to the protection of the adjacent neighborhood due to the likelihood of increased traffic on a local residential street, and would be contrary to the Goals and Objectives of the 2013 Comprehensive Plan and the 2015 Armstrong Mill West Small Area Plan that promote well designed neighborhoods and communities.

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

1. The applicant has not provided any justification that the Professional Office (P-1) zone is in agreement with either the 2013 Comprehensive Plan or the 2015 Armstrong Mill West Small Area Plan, an adopted element of the Plan.
2. As proposed, re-zoning this location to a P-1 zone may significantly impact the nearby neighborhood with the potential for increased traffic, noise and light pollution - especially for those properties on Arbor Drive and those immediately adjoining the subject property. It is therefore inappropriate.
3. The existing Townhouse Residential (R-1T) zone and Planned Neighborhood Residential (R-3) zone remain appropriate for the subject property because they can more fully support the 2013 Comprehensive Plan goals and policies, including the 2015 Armstrong Mill West Small Area Plan.
4. There have been no unanticipated changes of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in 2013, or since the Armstrong Mill West Small Area Plan was adopted in 2015, that would support the requested P-1 zoning for the subject property.