

**1. URBAN COUNTY PLANNING COMMISSION ZONING MAP AMENDMENT & SOUTHEND PARK, SECTION 1, ZONING DEVELOPMENT PLAN**

- a. MARV 2013-12: URBAN COUNTY PLANNING COMMISSION (6/30/13)\* - petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone to a Townhouse Residential (R-1T) zone, for 0.31 net (0.42 gross) acre; and from a Light Industrial (I-1) zone to a Planned Neighborhood Residential (R-3) zone, for 1.57 net (1.64 gross) acres, for properties located at 835, 836, 848, 849, and 856 DeRoode Street; and a former railroad parcel with no address. Dimensional variances are also requested.

**LAND USE PLAN AND PROPOSED USE**

The 2007 Comprehensive Plan, which incorporated the Newtown Pike Extension Corridor Plan, recommends a combination of High Density Residential (HD), Mixed Use (MU), Public Recreation (PR), and Other Public Uses (OPU) future land use for the entire Southend Park area. Specific to the portions of the property that are currently proposed for re-zoning are High Density Residential and Circulation (CIR) (having formerly been right-of-way for the Norfolk-Southern Railroad). The configuration of these future land uses, as depicted by the Comprehensive Plan, is based on the more detailed *Southend Park Urban Village Plan*, approved by the Planning Commission in November 2003. Several variances, as well as a waiver to the Subdivision Regulations, are also requested as part of this zone change request.

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

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

- 1. The rezoning from a Planned Neighborhood Residential (R-3) zone to a Townhouse Residential (R-1T) zone is in agreement with the 2007 Comprehensive Plan for the following reasons:
  - a. The Plan recommends High Density Residential land use for this portion of the subject property, which is defined as 10-25 dwelling units per net acre; or where net area does not equal gross acreage, 6-20 dwelling units per gross acre.
  - b. The four dwelling units proposed for this 0.42-gross acre location (0.31 net) would yield a density of 9.52 units per gross acre.
- 2. The requested Planned Neighborhood Residential (R-3) zone is appropriate, and the existing Light Industrial (I-1) zone is no longer appropriate for the subject property, for the following reasons:
  - a. The Kentucky Transportation Cabinet has acquired some of the former Norfolk-Southern railroad right-of-way as a result of negotiations about the construction of a sizeable noise barrier wall adjacent to the railroad yard immediately west of the Southend Park area.
  - b. The creation of the noise barrier has created a far superior land use boundary between Circulation and Residential land uses, rather than the previous property line, which was relied upon at the time of the adoption of the Newtown Pike Extension Corridor Plan and the 2007 Comprehensive Plan.
  - c. The zone change to R-3 is intended to prevent unintended consequences from split-zoned properties and to accommodate the shifting of the alley that separates the new Southend Park housing from the slope leading up to the noise barrier wall.
  - d. There are no dwelling units proposed on this portion of the subject property, so there is no violation of the Plan with this open space land use.
- 3. This recommendation is made subject to approval and certification of ZDP 2013-45: Southend Park, Section 1 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 side street side yard setback from 20 feet to 6 feet for lots 2, 6, 7, & 14.
- 2. Increase the maximum front yard setback from 15 feet to 20 feet for lots 2 & 3.
- 3. Reduce the required side street side yard setback from 20 feet to 0 feet for the purpose of parking on lot 1.
- 4. Reduce the required rear yard setback along an alley from 10 feet to 0 feet for the purpose of parking on lots 2-14.
- 5. Increase the maximum width of a driveway from 10 feet to 20 feet for the purpose of joint driveways on lots 15-22.
- 6. Eliminate the zone-to-zone screening between an R-3 and I-1 zone on the west boundary (along the railroad).
- 7. Eliminate the zone-to-zone screening between an R-3 and I-1 zone on the south boundary.
- 8. Eliminate the required screening for a double frontage lot adjacent to State-maintained freeway.
- 9. Eliminate the required screening for any property abutting a railroad.

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

The Staff Recommended: **Approval of the requested variances**, for the following reasons:

- a. Granting the requested variances should not adversely affect the public health, safety or welfare, nor alter the character of the general vicinity. In particular, granting the requested variances will allow the character to be consistent with the design character for the Southend Park neighborhood area. Adequate buffers will remain to

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- mitigate the need for an increased setback along the railroad and southern property lines.
- b. Granting these requests will not allow an unreasonable circumvention of the Zoning Ordinance, but rather will provide a design response to the existing site characteristics, such as the existing 24' tall sound barrier wall.
  - c. The special circumstances that apply to the subject properties that serve to justify the variances are the existing 24' tall sound barrier wall, topographic constraints, and the fact that the proposed townhouse units will be of similar size and layout as the surrounding 4-plexes and single family homes in the planned redevelopment of this neighborhood.
  - d. Strict application of the requirements of the Zoning Ordinance would create an unnecessary hardship to the Community Land Trust, the entity established to manage the new residential housing units, and would not likely lead to a better design for the property.
  - e. The circumstances surrounding this request are not the result of any willful actions since the adoption of the Zoning Ordinance, as both the subject and surrounding properties are currently vacant in this vicinity.

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

1. Provided the Urban County Council rezones the properties R-1T and R-3; 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).
- c. ZDP 2013-45: SOUTHEND PARK, SECTION 1 (6/30/13)\* - located on De Roode Street.  
(Hall-Harmon Engineers)

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Provided the Urban County Council rezones the property R-1T & R-3; 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. Building Inspection's approval of landscaping and landscape buffers.
5. Correct notes #4 & #9.
6. Delete notes #13, #15 & #19.
7. Add erosion control note per Article 16 of the Code of Ordinances.
8. Re-label "2-plexes" as "townhouses," or "two-unit townhouses."
9. Provided the Planning Commission grants the variances requested.

Zoning Presentation: Mr. Sallee presented the staff's report on this requested zone change from R-3 to R-1T and I-1 to R-3. He noted that the subject properties are just over two gross acres in size, are located along De Roode Street, and include a parcel that was formerly used as railroad right-of-way.

Using a rendered graphic of the subject property, Mr. Sallee noted for the Commission the location of the parcel that is proposed for rezoning from I-1 to R-3, which is also the zoning of the adjacent parcels. New housing is proposed on the subject properties as part of the ongoing Newtown Pike Extension project; this proposed zone change will extend the ability to develop that housing, which could possibly begin by the end of 2013.

Mr. Sallee also noted for the Commission the location of the second part of this request, which proposes a rezoning from R-3 to R-1T. This portion of the request was included at the behest of the Community Land Trust, which hopes to manage six of the dwelling units that are to be constructed on the northern area of the property. The duplex units that the Community Land Trust originally proposed were to be located more toward the southern portion of the property, closer to McKinley Street. However, the proposed lots would not meet the minimum lot size requirement for the existing R-3 zone, which is the purpose for this portion of the rezoning request.

Mr. Sallee stated that the 2007 Comprehensive Plan recommends High Density Residential land use between De Roode Street and the railroad. The former railroad right-of-way is depicted by the Plan as an area of Circulation land use, referencing the fact that, in 2007, that area was part of the railroad right-of-way. As part of the process of constructing a noise barrier wall between the housing and the rail line, the railroad required the purchase of the subject property so that the wall would not be easemented on their property. That portion of the property makes up the bulk of the requested R-3 zone. Mr. Sallee explained that there are no dwelling units proposed for this portion of the subject property, so that part of the requested rezoning is in alignment with the Comprehensive Plan's open space recommendation for the former railroad land. He said that the density proposed for the change from R-3 to R-1T involves four dwelling units on the 0.42-acre subject property, for a residential density of 9.52 dwelling units per acre. That is in agreement with the High Density Residential recommendation of the 2007 Comprehensive Plan. Therefore, the staff and Zoning Committee are recommending approval of this request, for the reasons as listed in the staff report and on the agenda.

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Development Plan Presentation: Mr. Martin presented a rendering of the corollary preliminary development plan, noting the location of the subject property in relation to the railroad, newly constructed noise barrier wall, and future Oliver Lewis Way and Scott Street extension rights-of-way. He explained that this development plan is identical to the preliminary subdivision plan the Commission recently approved for the property, which also depicted 22 lots and the proposed street system.

Mr. Martin stated that, at their meeting three weeks prior to this hearing, the Subdivision Committee recommended approval of this plan, subject to several basic sign-off conditions and "clean-up" items. He noted that there are several constraints on the subject property, including the noise barrier wall and the existing street system, which led to several variance requests for the property, which would be addressed by a separate staff report.

Variance Presentation: Mr. Emmons presented the staff's report on the nine requested variances, five of which relate to setbacks, and four which involve landscaping. He displayed a photograph of the subject property, noting the location of the 24' noise barrier wall, which is constructed on a steep berm.

Mr. Emmons stated that the first variances requested are to the side yards of the corner lots that are proposed to be served by a rear alley. The requested variances would permit those lots to be constructed closer to the alley than would normally be allowed.

Mr. Emmons said that a variance is also requested to the two-unit townhouses that are included with the proposed rezoning to R-1T. He explained that, in the Infill & Redevelopment area, townhouses in the R-1T zone have a maximum setback, which, when constructed, would be less than the setback of the other houses along the same street. Granting this variance would allow those townhouses to be constructed at the same setback as the rest of the proposed development.

Mr. Emmons noted that a side yard variance is also requested for a four-plex that is proposed to occupy a corner lot, in order to allow parking to come directly off the rear alley.

Variance request #4, Mr. Emmons said, would affect all of the properties that are proposed to be served by the rear alleyway system. It would allow for a setback off of the alleyway in order to provide parking directly off of the alley. The parking spaces themselves do not require a variance; however, should the Community Land Trust choose to construct carports in that area, this variance would be required.

Mr. Emmons stated that variance request #5 involves the single-family residences that are proposed to be constructed off of a hammerhead cul-de-sac. In the defined Infill & Redevelopment area, maximum driveway width allowed is 10'. The single-family residences are proposed to have 20'-wide driveways, each of which would be shared by two residences.

Mr. Emmons said that variances #6 through #9 all relate to landscaping. Variance #6 would allow the elimination of the required zone-to-zone screening between the I-1 zoned area (the railroad tracks) and the R-3 zoning of the residential development. Since the large noise barrier wall has been constructed there, the staff does not believe that landscaping would be necessary in that location, and it would be difficult and impractical to install planting materials due to the steep berm upon which the wall is constructed.

Variance request #7 also relates to zone-to-zone screening between the I-1 and R-3 zones, Mr. Emmons noted. He said that Phase I of the proposed development is currently zoned R-3, while the area proposed for Phase II still has the original I-1 zoning. Since the I-1 area will eventually be rezoned to R-3 as well, the staff agrees that zone-to-zone screening should not be necessary in that location.

Mr. Emmons stated that variance #8 refers to the landscaping required when a lot is located next to an arterial roadway. Referring to the aerial photograph of the subject property, he said that the lot in question, which would be located in the corner of the proposed development, would be required to be screened from the Versailles Road viaduct. However, the viaduct is approximately 35' higher than the subject property, so the staff does not believe that any amount of landscaping would be able to effectively screen the property.

Mr. Emmons said that variance #9 would eliminate the requirement for fencing and landscaping between the proposed residential area and the existing railroad tracks. The staff believes that the existing large noise barrier wall could provide a much more effective buffer for the residential uses than that required by the Zoning Ordinance.

Mr. Emmons stated that the staff is recommending approval of all of the requested variances, for the reasons as listed in the staff report and on the agenda, subject to the three conditions as listed. He noted that the Landscape Review Committee met one week ago. There was no quorum of the Committee present; but the members in attendance did review the requested landscape variances, and they agreed with the staff's recommendation of approval for all four of

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the landscape variances.

Citizen Comment: There were no citizens present to speak to this request.

Zoning Action: A motion was made by Mr. Penn, seconded by Ms. Blanton, and carried 8-0 (Beatty, Brewer, and Plumlee absent) to approve MARV 2013-12, for the reasons provided by staff.

Variance Action: A motion was made by Mr. Penn, seconded by Ms. Blanton, and carried 8-0 (Beatty, Brewer, and Plumlee absent) to approve the nine requested variances, for the reasons provided by staff, subject to the conditions as listed on the agenda.

Development Plan Action: A motion was made by Mr. Penn, seconded by Ms. Blanton, and carried 8-0 (Beatty, Brewer, and Plumlee absent) to approve ZDP 2013-45, subject to the nine conditions as listed on the agenda.