

AN ORDINANCE CHANGING THE ZONE FROM A PROFESSIONAL OFFICE (P-1) ZONE TO A TOWNHOUSE RESIDENTIAL (R-1T) ZONE, FOR 0.26 NET AND GROSS ACRE, FOR PROPERTY LOCATED AT 3500 AND 3520 ARBOR DRIVE (A PORTION OF EACH). (BOTTS & CRAVENS HOMEBUILDERS, LLC; COUNCIL DISTRICT 8).

WHEREAS, at a Public Hearing held on April 27, 2017, a petition for a zoning ordinance map amendment for property located at 3500 and 3520 Arbor Drive from a Professional Office (P-1) zone to a Townhouse Residential (R-1T) zone, for 0.26 net and gross acre, 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 3500 and 3520 Arbor Drive from a Professional Office (P-1) zone to a Townhouse Residential (R-1T) zone, for 0.26 net and gross acre, 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: June 15, 2017

ATTEST:


CLERK OF URBAN COUNTY COUNCIL

Published: June 22, 2017- 1t

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MAYOR



3500 and 3520 Arbor Drive (a portion of each)

Zone Change from P-1 to R-1T
Lexington, Fayette County, Kentucky

A TRACT OR PARCEL OF LAND SITUATED AT THE NORTHERN END OF ARBOR DRIVE IN LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

BEGINNING AT A POINT in the southwest corner of Lot 1, Plat Cabinet R, Slide 236 as recorded in of Office of the County Clerk of Fayette County, Kentucky, said point lying in the northern right of way of Arbor Drive; thence with the said right of way along an arc 3.35 feet to the left, having a radius of 50.00 feet, the chord of which is North 52 Degrees 24 Minutes 29 Seconds West for a distance of 3.35 feet to a point in the proposed zone line; thence leaving said right of way and with the proposed zone line for the following seven (7) calls: North 28 Degrees 49 Minutes 13 Seconds East a distance of 166.79 feet to a point; thence North 61 Degrees 10 Minutes 47 Seconds West a distance of 75.00 feet to a point; thence North 28 Degrees 49 Minutes 13 Seconds East a distance of 20.00 feet to a point; thence North 61 Degrees 10 Minutes 47 Seconds West a distance of 22.93 feet to a point; thence North 29 Degrees 40 Minutes 07 Seconds East a distance of 35.34 feet to a point; thence South 52 Degrees 25 Minutes 24 Seconds East a distance of 105.00 feet to a point; thence South 29 Degrees 40 Minutes 07 Seconds West a distance of 206.68 feet **TO THE POINT OF BEGINNING.**

The above described parcel contains 0.120 acres (5,222 sq. ft.)

3520 Arbor Drive (a portion of)

Zone Change from P-1 to R-1T
Lexington, Fayette County, Kentucky

A TRACT OR PARCEL OF LAND SITUATED AT THE NORTHERN END OF ARBOR DRIVE IN LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

BEGINNING AT A POINT in the western property line of Lot 2, Plat Cabinet R, Slide 236 as recorded in of Office of the County Clerk of Fayette County, Kentucky; thence with the said property line North 00 Degrees 56 Minutes 57 Seconds East a distance of 75.75 feet to a point in the northern property line of Lot 2; thence with the northern property line South 69 Degrees 56 Minutes 04 Seconds East a distance of 98.36 feet to a point in the proposed zone line; thence with the proposed zone line South 28 Degrees 49 Minutes 13 Seconds West a distance of 99.50 feet to a point in the western property line; thence with the said property line for the following two (2) calls: North 00 Degrees 56 Minutes 55 Seconds East a distance of 21.76 feet to a point; thence North 63 Degrees 02 Minutes 00 Seconds West a distance of 51.66 feet **TO THE POINT OF BEGINNING.**

The above described parcel contains 0.140 acres (6,090 sq. ft.).

Rec'd by Bm

Date: 5-12-17

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

IN RE: **PLN-MAR-17-00013: BOTTS & CRAVENS HOMEBUILDERS, LLC** – a petition for a zone map amendment from a Professional Office (P-1) zone to a Townhouse Residential (R-1T) zone, for 0.26 net and gross acre, for property located at 3500 and 3520 Arbor Drive (a portion of each). (Council District 8)

Having considered the above matter on **April 27, 2017**, 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. There has been an unanticipated change of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in 2013, and since the Armstrong Mill Road West Small Area Plan was adopted in 2015, which supports the requested rezoning to a Townhouse Residential (R-1T) zone. The change is the 2016 zone change to a Professional Office (P-1) zone that had the unintended consequence of impacting the existing R-1T zoning on the rest of the property. The result is that other provisions of the zoning Ordinance now apply – namely landscape and screening requirements established by Article 18 and the yard requirements when adjoining a more restrictive zone established by Article 15-3. These two provisions, as a result of the recent zone change, result in the developer losing 10-20% of the project's allowable density.
2. This recommendation is made subject to the approval and certification of **PLN-MJDP-17-00031: WILHITE PARK, UNIT 1B, SEC 1, LOTS 1 & 2**, 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 May, 2017.


Secretary, Jim Duncan

WILLIAM WILSON
CHAIR

Note: The corollary development plan, **PLN-MJDP-17-00031: WILHITE PARK, UNIT 1B, SEC 1, LOTS 1 & 2** was approved by the Planning Commission on April 27, 2017 and certified on May 11, 2017.

K.R.S. 100.211(7) requires that the Council take action on this request by July 26, 2017.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Rory Kahly, landscape architect.**

OBJECTORS

- None

OBJECTIONS

- None

VOTES WERE AS FOLLOWS:

AYES: (9) Brewer, Berkley, Mundy, Owens, Penn, Plumlee, Richardson, Smith, and Wilson

NAYS: (0)

ABSENT: (1) Drake

ABSTAINED: (0)

DISQUALIFIED: (1) Cravens

Motion for **CONDITIONAL APPROVAL** of **PLN-MAR-17-00013** 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: BOTTTS & CRAVENS HOMEBUILDERS, LLC, 301 United Court, #1, Lexington, KY 40509
Owner(s): NATIONAL ACADEMY INC 3500 ARBOR DR LEXINGTON KY 40517 BOTTTS & CRAVENS HOMEBUILDERS, LLC, 301 UNITED COURT, #1, LEXINGTON, KY 40509
Attorney:

2. ADDRESS OF APPLICANT'S PROPERTY

3500 ARBOR DR LEXINGTON KY (a portion of) 3520 ARBOR DR LEXINGTON KY (a portion of)
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3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY

Zoning	Existing		Requested		Acreage	
	Zoning	Use	Zoning	Use	Net	Gross
P-1		Vacant	R-1T	Townhouse Residential	0.26	0.26

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



EA Partners, PLLC

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March 13, 2017

Ms. Traci Wade
Division of Planning
Lexington-Fayette Urban County Government
101 East Vine Street
Lexington, Kentucky 40507

RE: Wilhite Park
(MAR-17-00013)

Traci:

In response to your request for justification of the requested zone change correction we submit the following.

Expansion of the R-1T zone and reduction of the P-1 zone brings the properties more in-line with staff's recommendations to the original zone change (MAR-2016-12). This request is based upon an unanticipated change and hardship. The unanticipated change is the previous developer is no longer involved. A new developer has an approved Final Development Plan with a different townhome unit and layout. This is causing the hardship. A Final Record Plat and Final Development Plan were both approved with the zone line shown incorrectly. That adversely affects the buildability of a portion of the approved Final Development Plan. This request will correct the zoning category of 3520 Arbor Drive and permit construction of all of the approved townhome units.

Your consideration is appreciated.

Sincerely,

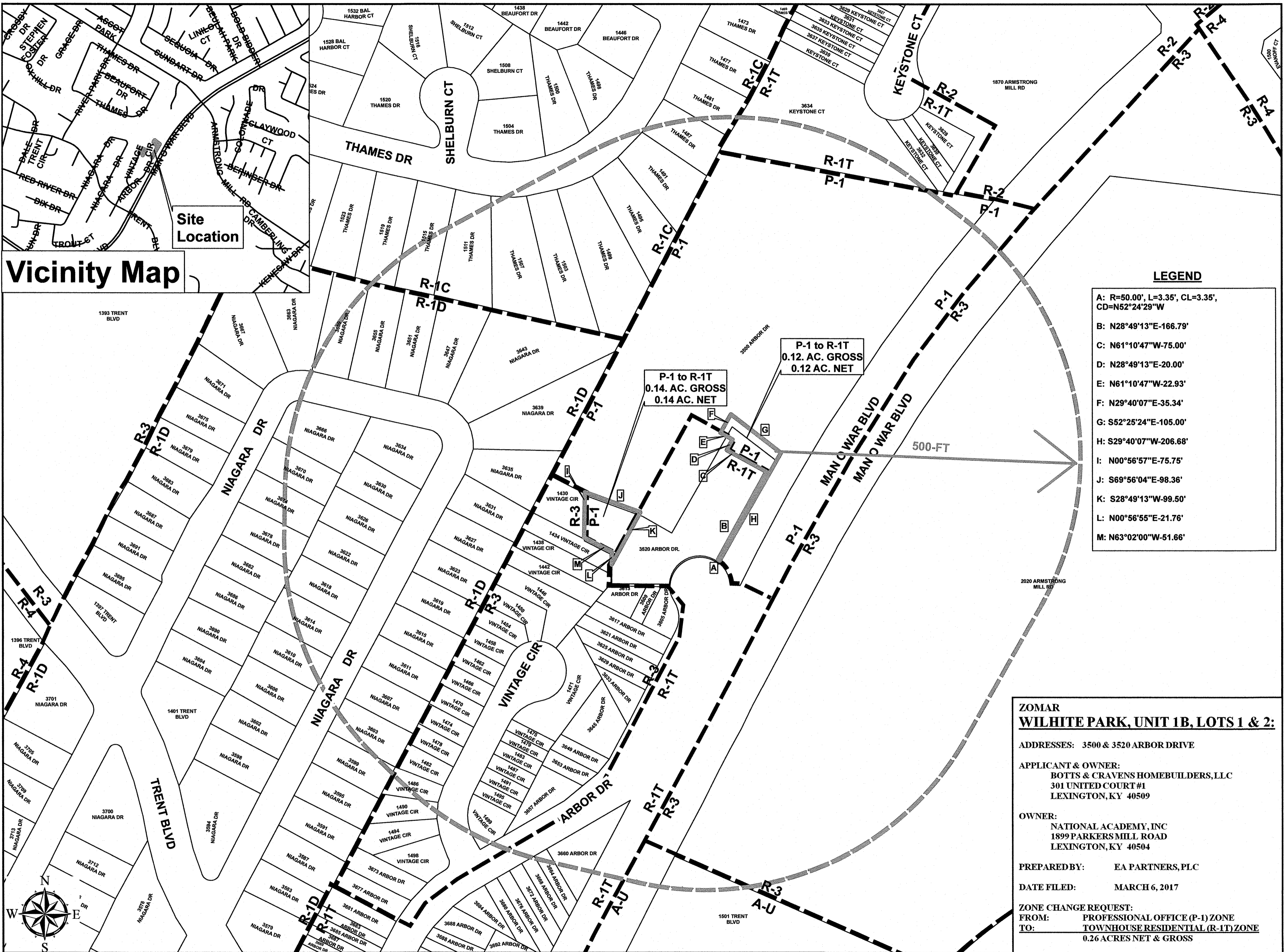
E A PARTNERS, PLLC



Rory A. Kahly

RAK:mtw

cc: Mike Cravens



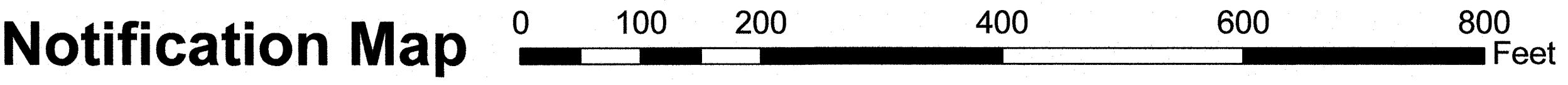
Site Location

Vicinity Map

LEGEND

- A: R=50.00', L=3.35', CL=3.35', CD=N52°24'29"W
- B: N28°49'13"E-166.79'
- C: N61°10'47"W-75.00'
- D: N28°49'13"E-20.00'
- E: N61°10'47"W-22.93'
- F: N29°40'07"E-35.34'
- G: S52°25'24"E-105.00'
- H: S29°40'07"W-206.68'
- I: N00°56'57"E-75.75'
- J: S69°56'04"E-98.36'
- K: S28°49'13"W-99.50'
- L: N00°56'55"E-21.76'
- M: N63°02'00"W-51.66'

ZOMAR
WILHITE PARK, UNIT 1B, LOTS 1 & 2:
 ADDRESSES: 3500 & 3520 ARBOR DRIVE
 APPLICANT & OWNER:
 BOTTIS & CRAVENS HOMEBUILDERS, LLC
 301 UNITED COURT #1
 LEXINGTON, KY 40509
 OWNER:
 NATIONAL ACADEMY, INC
 1899 PARKERSMILL ROAD
 LEXINGTON, KY 40504
 PREPARED BY: EA PARTNERS, PLC
 DATE FILED: MARCH 6, 2017
 ZONE CHANGE REQUEST:
 FROM: PROFESSIONAL OFFICE (P-1) ZONE
 TO: TOWNHOUSE RESIDENTIAL (R-1T) ZONE
 0.26 ACRES NET & GROSS



Notification Map

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

PLN-MAR-17-00013: BOTTS & CRAVENS HOMEBUILDERS, LLC

DESCRIPTION

Zone Change: From a Professional Office (P-1) zone
To a Townhouse Residential (R-1T) zone

Acres: 0.26 net and gross acre

Location: 3500 and 3520 Arbor Drive (a portion of each)

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	P-1	Vacant & Child Care/Gymnastics Facility
To North	R-1T	Residential
To East	R-3	Residential
To South	R-3	Residential
To West	R-1C & 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, to the west across Man o’ War Boulevard and terminates at Appian Way, just east of Tates Creek Road. Access to the subject property is not proposed to be modified since a final development plan was approved for this location in late 2016.

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 four of the proposed driveways and an access easement to the remaining eight driveways for the proposed dwelling units. The sidewalks continue from the public street along the access easement to the National Academy’s parking lot.

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 the rear of the site and should need no improvements. 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 line crosses the rear of the subject property; easement is, in the same general area as the storm sewer easement.

Refuse – The Urban County Government serves this portion of the Urban Service Area with collection on Fridays.

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

Fire/Ambulance – Fire Station #16 is the nearest station to the subject property, located approximately ½ 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± 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 rezoning about one-quarter of an acre in order to correct a split-zoning condition that was not of their creation.

CASE REVIEW

The applicant wishes to rezone the subject property from a Professional Office (P-1) zone to a Townhouse Residential (R-1T) zone, for about one-quarter of an acre of property on Arbor Drive.

The subject property is comprised of two small pieces of land that are each a portion of a much larger tract of land. Generally, 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.

In 2013, a townhouse development/subdivision was proposed for 19 dwelling units (DP 2013-67: Wilhite Park Unit 1-B). The plan was approved by the Planning Commission and certified in 2014. Although the development was approved, no further development activity occurred and no constructions permits were ever issued. The land remained a part of the larger tract, 3500 Arbor Drive.

In June of 2016, a majority of 3500 Arbor Drive was rezoned to a Professional Office (P-1) zone to allow for the re-use of the existing National Academy building, which houses a child care center and private club for gymnastics (MAR 2016-12: Dr. James Wilhite). The proposed rezoning included all of the property owner's land that was not planned for the previously approved 19 townhomes, about 5.5 acres.

Since the original plan for townhomes never materialized, a new developer was sought for the existing R-1T zoned land. A new development plan was submitted and approved in November, 2016 for 12 townhouse dwelling units in a different configuration. The new plan utilized less land, and did not require any new private streets, which resulted in a slightly different subdivision configuration, and one that did not align with the recently approved P-1 zone change by the previous property owner.

The petitioner opines that the requested zone change is appropriate because there has been a major change of a physical, social or economic nature that was not anticipated by the 2013 Comprehensive Plan. This change is the recently approved zone change for the National Academy last year. The change to a professional office zone had the unintended consequence of impacting the existing R-1T zoning on the property more significantly than originally thought. The result is that new provisions of the zoning Ordinance now apply – namely landscape and screening requirements established by Article 18 (zone-to-zone screening between an office and residential zone) and the yard requirements when adjoining a more restrictive zone (Article 15-3). These two provisions, as a result of the recent zone change, result in the developer losing at least one dwelling unit to their approved plan. In light of this situation, and the fact that the subject lot is split between the P-1 and R-1T zones, the elimination of the P-1 zone from their parcel as well as a portion of an adjacent driveway.

The staff agrees that the recently zone change has had an unintended negative impact on the subject property and reduces its development potential. This creates a significant economic change that was not anticipated when the 2013 Comprehensive Plan was adopted, nor when the Small Area Plan was either.

The Staff Recommends: Approval, for the following reasons:

1. There has been an unanticipated change of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in 2013, and since the Armstrong Mill Road West Small Area Plan was adopted in 2015, which supports the requested rezoning to a Townhouse Residential (R-1T) zone. The change is the 2016 zone change to a Professional Office (P-1) zone that had the unintended consequence of impacting the existing R-1T zoning on the rest of the property. The result is that other provisions of the zoning Ordinance now apply – namely landscape and screening requirements established by Article 18 and the yard requirements when adjoining a more restrictive zone established by Article 15-3. These two provisions, as a result of the recent zone change, result in the developer losing 10-20% of the project's allowable density.

TLW/WLS
4/4/2017
Planning Services\Staff Reports\MAR\2017\PLN-MAR-1700013.doc

4. **BOTTS & CRAVENS HOMEBUILDERS, LLC ZONING MAP AMENDMENT & WILHITE PARK, UNIT 1B, SEC 1, LOTS 1 & 2 SUBDIVISION ZONING DEVELOPMENT PLAN**

Note: Mr. Cravens recused himself, and left the hearing at this time.

- a. PLN-MAR-17-00013: BOTTS & CRAVENS HOMEBUILDERS, LLC (6/4/17)*- petition for a zone map amendment from a Professional Office (P-1) zone to a Townhouse Residential (R-1T) zone, for 0.26 net and gross acre, for property located at 3500 and 3520 Arbor Drive (a portion of each).

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[±] 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 rezoning about one-quarter of an acre in order to correct a split-zoning condition that was not of their creation.

The Zoning Committee made no recommendation, due to lack of a quorum.

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

1. There has been an unanticipated change of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in 2013, and since the Armstrong Mill Road West Small Area Plan was adopted in 2015, which supports the requested rezoning to a Townhouse Residential (R-1T) zone. The change is the 2016 zone change to a Professional Office (P-1) zone that had the unintended consequence of impacting the existing R-1T zoning on the rest of the property. The result is that other provisions of the zoning Ordinance now apply – namely landscape and screening requirements established by Article 18 and the yard requirements when adjoining a more restrictive zone established by Article 15-3. These two provisions, as a result of the recent zone change, result in the developer losing 10-20% of the project's allowable density.
 2. This recommendation is made subject to the approval and certification of PLN-MJDP-17-00031: WILHITE PARK, UNIT 1B, SEC 1, LOTS 1 & 2, 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. PLN-MJDP-17-00031: WILHITE PARK, UNIT 1B, SEC 1, LOTS 1 & 2 (6/4/17)* - located at 3500 and 3520 Arbor Drive.
(EA Partners)

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

1. Provided the Urban County Council rezones the property R-1T; 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. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Correct spelling on "Tree Inventory Map" and "Roll Curb".
8. Delete note #12.
9. Denote proposed lot size in site statistics.
10. Denote open space proposed per lot.
11. Provided the Planning Commission makes a finding on the access easement per Article 6-8.

Staff Zoning Presentation – Ms. Wade presented and summarized the staff report and recommendations for this zone change. She displayed several photographs of the subject property and the general area. She said that the subject property is within the River Park Neighborhood and the boundary of the 2015 Armstrong Mills Small Area Plan. She reviewed the past zoning history for this site, and the applicable recommendations of the 2013 Comprehensive Plan. She

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

said that there has been a significant physical, economic, or social change in the immediate area that wasn't anticipated. That was the P-1 zone change for the adjacent National Academy site. She also said that rezoning these two pieces to make their parcel all one zone is reasonable and the staff is recommending approval of this zone change.

Development Plan Presentation – Mr. Martin presented a rendering of this development plan, which was displayed, and he also handed out an updated staff report to the Commission with revised conditions, as follows:

The Subdivision Committee Recommended: **Approval**, subject to the conditions listed on today's agenda.

On April 14th, the applicant provided a revised submission to the staff addressing several conditions identified by the Subdivision Committee at their April 6th meeting. The staff can now offer the Planning Commission a revised recommendation for the conditions associated with this zoning development plan.

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

1. Provided the Urban County Council rezones the property R-1T; 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. Department of Environmental Quality's approval of environmentally sensitive areas.
- ~~6. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.~~
- ~~7. Correct spelling on "Tree Inventory Map" and "Roll Curb".~~
- ~~8. Delete note #12.~~
- ~~9. Denote proposed lot size in site statistics.~~
- ~~6. 10. Denote Addition of open space provided on each proposed per lot in table.~~
7. 44. Provided the Planning Commission makes a finding on the use of an access easement, per Article 6-8 of the Subdivision Regulations.

Mr. Martin said this is a revised plan and he identified the access and drainage easements. He said that the required and provided open space (per lot) needs to be delineated on the plan. He also said that findings for the access easement had been distributed to the Planning Commission regarding the frontage for the subject property, as follows:

Proposed Finding relating to the revised access easement for PLN-MJDP-17-00031: Wilhite Park, Unit 1B, Section 1, Lot 1 & 2 (2nd AMD.)

Pursuant to Section 6-8(m) of the Subdivision Regulations relating to access easement standards, this Planning Commission finds that the application of requirements for public or private streets would be excessive due to existing site development and other reasons. The area covered by this development plan is a 2nd revision to a larger townhome development (DP 2013-67) that was approved with access easement use. Vehicular access is via an existing access easement, which functions as a driveway to lots 5-12. These units are already approved on a Certified Final Development Plan (MJDP-16-00038). The current Development Plan deals only with revising the zoning line. No further setback from the access easement is required. Requiring the existing access easement be converted into public or private street would be excessive.

Petitioner Presentation – Rory Kahly, representing the petitioner. He said the applicant is in agreement with the staff's recommendations.

Citizen Comment – There were no citizens present to speak to this application.

Zoning Action – A motion was made by Mr. Berkley, seconded by Mr. Smith, and carried 9-0 (Drake absent; Cravens disqualified) to approve PLN-MAR-17-00013: BOTTS & CRAVENS HOMEBUILDERS, LLC, for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Berkley, seconded by Mr. Smith, carried 9-0 (Drake absent; Cravens disqualified) to approve PLN-MJDP-17-00031: WILHITE PARK, UNIT 1B, SEC 1, LOTS 1 & 2, for the revised conditions provided by the staff along with findings:

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

1. Provided the Urban County Council rezones the property R-1T; 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. Department of Environmental Quality's approval of environmentally sensitive areas.

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

- ~~6. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.~~
- ~~7. Correct spelling on "Tree Inventory Map" and "Roll Curb".~~
- ~~8. Delete note #12.~~
- ~~9. Denote proposed lot size in site statistics.~~
- ~~6. 10. Denote Addition of open space provided on each proposed per lot in table.~~
- ~~7. 14. Provided the Planning Commission makes a finding on the use of an access easement, per Article 6-8 of the Subdivision Regulations.~~

Note: Chairman Wilson stated that Mr. Cravens has an interest in this case and that he recused himself for this discussion, and also did so at the Zoning Committee meeting held earlier this month.

