

**STAFF REPORT FOR CONDITIONAL USES & VARIANCES REQUESTED FROM  
PLANNING COMMISSION**

**PLN-MAR-17-00016 (AMD): AFTON COMMUNITY DEVELOPMENT, LLC**

**REQUESTED CONDITIONAL USES**

1. Community center
2. Child care and adult day care facility
3. Assisted living/personal care facility

**REQUESTED VARIANCES**

1. Eliminate zone-to-zone landscape screening requirements internal to site
2. Elimination of one interior landscape island of 700 square feet from the vehicular use area (VUA) in the proposed P-1 portion of the property

**ZONING ORDINANCE**

Article 6-4(c) states: "The Planning Commission may hear and act upon requested conditional uses and variances associated with a zone change. If the Planning Commission should choose to hear a conditional use or variance request, the Planning Commission shall have all of the powers and responsibilities of the Board of Adjustment, as defined in Articles 7-6(a) and 7-6(b) of the Zoning Ordinance. All conditional use and variance applications shall be acted upon by the Planning Commission within ninety (90) days of the application, unless postponed further by the applicant."

Article 8-13(d)(1) [per 8-12(d)(3)] lists community centers as a conditional use in the R-4 (High Density Apartment) zone.

Article 8-13(d)(1) [per 8-12(d)5] allows a kindergarten, nursery school or child care facility for four or more children as a conditional use in the R-4 zone.

Article 8-13(d)(1) [per 8-12(d)(9)] provides for assisted living facilities in the R-4 zone as a conditional use.

Article 16-2(c) requires that any off-street parking area having more than 1,800 square feet of area and/or one that is used by five (5) or more vehicles shall be landscaped and screened as required by Article 18: Landscape and Land Use Buffers.

Article 18-3(a)(1)(2) states that, whenever any office or business zone (other than P-2) adjoins any residential zone, a minimum 15-foot buffer area adjacent to all common boundaries behind the building line (except for street frontage) is required. This buffer area, which shall contain one tree per 40 feet of linear boundary (or fraction thereof) from either Group A or Group B of the LFUCG Planting Manual, plus a double row of 6-foot high hedge or a 6-foot high fence, wall or earth mound. It further states that the 15-foot buffer may be reduced to five feet when used in conjunction with a 6-foot high wall or fence.

Article 18-3(b) states: "Any open vehicular use area (excluding loading, unloading, and storage areas in an industrial [I-1 or I-2] zone or warehouse business [B-4] zone) containing 6,000 or more sq. ft. of area, or twenty (20) or more vehicular parking spaces, shall provide interior landscaping in addition to the previously required perimeter landscaping. Interior landscaping shall be peninsular or island types. Where a vehicular use area is altered or expanded to increase the size to 6,000 or more square feet of area, or twenty or more vehicular parking spaces, interior landscaping for the entire vehicular use area shall be provided and not merely to the extent of its alteration or expansion."

Article 18-3(b)(1) states: "For each one hundred (100) square feet, or fraction thereof, of vehicular use area, five (5) square feet of landscaped area shall be provided in all zones except the P-2 zone. In the P-2 zone, ten (10) square feet of landscaped area shall be required for each one hundred (100) square feet of vehicular use area.

### **CASE REVIEW**

This 5.2-acre property, which is located on the south side of Red River Drive between Trent Boulevard and Niagara Drive, is the subject of a zone change request to P-1 (Professional Office for approximately ½ acre) and R-4 (High Density Apartment for a little less than five acres) to allow for a variety of uses. Originally the entire property was proposed for P-1 zoning with the same uses; however, at the strong urging of staff, and after a recommendation of disapproval of that zone change request, the majority of the property is now proposed to be re-zoned to R-4. Accompanying this zone change is a request for three conditional uses: a community center, a child care/adult day care facility, and a 40-room assisted living/personal care facility. New buildings are proposed for the site to accommodate other uses, but the three conditional uses will occupy the two existing buildings on the site.

The subject property is within a much larger area that was studied for a small area plan in 2013. The resulting plan with recommendations was adopted as the *2015 Armstrong Mill Road West Small Area Plan* (AMWSAP) and contains several goals that focus on improving the neighborhoods making up the Armstrong Mill Road area. Two of the issues identified in the Small Area Plan are programming/activities for children and housing availability, affordability and accessibility for all demographics. Three of the resulting goals that were adopted by the Planning Commission as part of the Small Area Plan are: promoting livable neighborhoods with housing choices for all ages (while maintaining the neighborhood form); improving the quality of life and health; and enhancing the sense of place by creating community spaces that foster social interaction and a sense of identity. The conditional uses proposed for the site address issues identified in the study and are appropriate to and fit within these three particular goals.

This property was formerly the location of the Blue Grass Baptist School, a private school for academic instruction. The school no longer occupies the site; and the applicant for this zone change proposes to re-purpose the property with the requested uses, in addition to multi-family apartments for senior citizens and a medical facility, both of which will occupy newly constructed buildings. Provided the property is re-zoned as proposed, the medical facility and its associated parking will be located in the P-1 portion of the property, where such a facility is principally permitted; and the senior apartments, along with greenhouses and gardens (principally permitted as well, although the greenhouses and gardens are accessory uses), will be located in the R-4 portion of the property. The greenhouses and gardens will be used in conjunction with the adult/child day care facility as a joint learning/interaction activity. The community center, child/adult day care facility and assisted living facility will also be located within the R-4 area; and as conditional uses in that zone, they must be acted on by either the Planning Commission (with this zone change application) or later by the Board of Adjustment as a separate application.

Two variances have also been requested with this zone change request. The first is to eliminate the zone-to-zone screening between the P-1 zone and the R-4 zone, but only as it relates to the interior of the property. Generally, when a commercial zone adjoins a residential zone, there is a 15-foot landscape buffer area required between the zones. The 15-foot buffer can be reduced to five feet if a 6-foot fence, wall or earth mound is provided in conjunction with the plant material required by Article 18 of the Zoning Ordinance. More often than not, this situation occurs along a property line, where it is logical to require buffering. Occasionally, however, a zone line will be interior to a property, where it would be either illogical or impossible to provide the buffer. In this case, the P-1/R-4 zone line falls within the parking lot for the proposed medical facility and extends between one of the existing buildings (to be used for the community center and child/adult day care facility) and that parking lot. While it might be possible to provide some screening between the parking lot and the building, a 15-foot (or even a 5-foot) buffer would serve no purpose and would severely limit the functionality of the site. Additional perimeter landscaping will be provided along the property line, between the proposed P-1 zone and the existing R-1T zone to the east where the perimeter zone-to-zone screening is required, and where it will serve a functional purpose.

It was stated by the applicant that the additional landscaping along that property line is more critical than would be landscaping interior to the property between the proposed parking lot and the existing building. The staff cannot disagree with that assessment, as there are existing residences that adjoin the subject property in that location. The Zoning Ordinance requires that the landscape buffer along the eastern property line be at least 15 feet in width, unless a privacy fence or wall is implemented in conjunction with the trees that are proposed. In that case, it can be reduced to five feet; however, the applicant has offered to maintain a 15-foot buffer as part of the preliminary development plan and as a conditional zoning restriction.

The second variance is a request to eliminate one interior landscape island (700 square feet) within the vehicular use area in the P-1 portion of the property. The medical building that is proposed will contain 3,000 square feet, which requires 15 parking spaces (1 space for each 200 square feet of floor area). In order to provide all of the required 15 spaces on the P-1 portion of the property; and in order to re-zone as little as possible to P-1, responding to concerns previously expressed by the staff, eliminating the one required landscape island is necessary. Not requiring that 700 square feet of landscaping will have no negative and little overall effect to the development of this portion of the property, as the entire parking area in front of the proposed medical building will have two other, larger landscaped islands, each containing two trees.

Although it would be desirable for all of the parking areas on the site to be landscaped, it is only the parking area in front of the medical building that requires landscaping because it is the only new parking that is proposed. The other two areas that contain the majority of the parking are existing and may have been put in place prior to current requirements.

The *2015 Armstrong Mill West Small Area Plan* advocates providing housing for a diverse population, services for the elderly, and facilities to accommodate activities for children and youth, all of which will be accommodated with what is proposed for the property. The staff believes that granting approval of the requested conditional uses is appropriate and should not negatively affect the subject property or other properties in the general vicinity. A school was previously located on the property, and traffic from the proposed conditional uses should not be much (if any) more than was experienced with the school.

Granting the requested variances will allow a more cohesive development and will allow the entirety of the parking required for the proposed medical building to be located within the P-1 zoned portion of the property, while keeping the P-1 zoning at a minimum. The two requested variances should have little to no negative effect on the development of the property and, in fact, will allow a more cohesive development. Additional screening along the eastern property line is proposed and is appropriate for this development in order to provide reasonable protection for the adjoining residential properties to the east of the site.

The requested variances are logical, will likely improve the overall development of the property, and can therefore be supported by the staff. The Landscape Review Committee reviewed the variances at their regularly scheduled meeting on August 15 and agreed with the staff's assessment that the variances are justifiable and will allow a more cohesive development. After a brief discussion, they made a recommendation of approval of the applicant's request. There were no conditions attached to their recommendation, as the applicant has stated that additional perimeter screening will be provided.

**The Staff Recommends: Approval of the requested conditional uses**, for the following reasons:

- a. Granting the requested conditional uses should not adversely affect the subject or surrounding properties. The uses proposed are, in general, advocated by the Armstrong Mill West Small Area Plan, and will coincide with and help to facilitate the adopted goals of the Plan. Additionally, the property was previously occupied by a school for academic instruction. Traffic from the proposed three conditional uses, even with the other uses proposed, should not be much (if any) more than was experienced when it was used as a school.
- b. All necessary public services and facilities are available to and either are or will be adequate to serve the subject property, in part because the two existing buildings will be adaptively re-used as part of the proposed redevelopment of the property.

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

- a. Granting the requested variances will not adversely affect the public health, safety or welfare; will not alter the character of the general vicinity; and will not cause a hazard or nuisance to the public. Granting the variances will help to maintain a cohesive redevelopment of the property and will allow the proposed P-1 zoning to remain minimal with regard to the overall size of the property, thereby helping to maintain the existing character of the area.
- b. Granting the requested variances will not result in an unreasonable circumvention of the Zoning Ordinance. The subject property has historically been used as a school for academic instruction and is being redeveloped to generally correspond to the *2015 Armstrong Mill West Small Area Plan* recommendations. The two requested variances work together to provide as efficient and safe of a parking layout as possible. Additional landscaping will be provided by the developer along the eastern property line to take the place of what would otherwise be required by Article 18 for interior landscaping.
- c. One special circumstance that applies to this site that does not generally apply to land in the general vicinity is its former use as a school in the middle of a residential neighborhood. Although new buildings are proposed, the presence and layout of the existing buildings and parking will facilitate the redevelopment/adaptive reuse of the property, which is encouraged by the Comprehensive Plan.
- d. Strict application of the requirements of the Zoning Ordinance would prevent the most efficient layout of the parking area. Additionally, it might necessitate an increase in the amount of P-1 zoning on the property. The variances are requested in order to keep the required number of parking spaces for the medical building proposed for this project on the P-1 portion of the property.
- e. Although the circumstances surrounding the requested variance are associated with the proposed zone change, the variances are requested in an effort to accomplish an efficient design of the off-street parking area. Landscaping will be placed in a more appropriate location on the property to provide screening for residential properties.

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

1. Should the subject property be rezoned to R-4 and P-1, it shall be developed according to the approved Development Plan, or as further amended by the Planning Commission. A minimum 15-foot landscape buffer, as required by Article 18 of the Zoning Ordinance, shall be implemented along the eastern property line where it adjoins residential properties/zoning.
2. All necessary permits, including a Zoning Compliance Permit, Building and Paving permits and a Certificate of Occupancy, shall be obtained from the Divisions of Planning and Building Inspection prior to any construction, and prior to occupancy of the facilities.
3. Provided the landscape variances for the elimination of the interior zone-to-zone screening and the elimination of the 700 square-foot landscape island are granted, the new parking lot and driveway shall be paved, with spaces delineated, and landscaped/screened in accordance with Articles 16 and 18 of the Zoning Ordinance.
4. The final design of the parking lot, access drive and internal circulation shall be subject to review and approval by the Division of Traffic Engineering.
5. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
6. 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].
7. The final Landscaping Plan, submitted to the Division of Building Inspection for review, shall also be submitted to the Division of Planning to be placed in the appropriate file(s).

BJR/TLW

8/6/2017 (revised 8/21/2017)

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