

1. **GIVENS INVESTMENTS, LTD., ZONING MAP AMENDMENT & EASTLAND PARK, UNIT 1-L, ZONING DEVELOPMENT PLAN**

- a. **MARV 2012-18: GIVENS INVESTMENTS, LTD. (2/13/13)*** - petition for a zone map amendment from a Two Family Residential (R-2) zone to a High Density Apartment (R-4) zone, for 0.144 net (0.173 gross) acre, for property located at 1577 Martha Court (a portion of). A dimensional variance is also requested with this zone change.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 8) recommends Greenspace/Open Space (GS) land use for the subject property. The applicant proposes developing 15 dwelling units in a multi-family residential structure, as an expansion of the adjoining apartment complex. A dimensional variance is also being requested with this zone change.

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

The Staff Recommends: Approval, for the following reason:

1. The existing Two Family Residential (R-2) zoning is inappropriate and the proposed R-4 zoning is appropriate for several reasons:
 - a. The zoning on the subject parcel is split between R-2 and R-4 zoning, and the subject property is the only R-2 zoned property with frontage on Martha Court. Developing a duplex on the lot, while possible, would be out of character with the rest of the street.
 - b. The proposed R-4 zoning is more compatible with the existing land uses and zoning along Martha Court. All other properties along Martha Court, north of Eastland Parkway, are zoned R-4, and have been developed with multi-family residential land uses.
 - c. The western property boundary is adjacent to the Yates Elementary School property, and this area of the school property is being used as a large detention basin that is serving multiple properties. Because of the stormwater improvements, it is highly unlikely that this portion of the school lot will ever be sold for development.
 - d. The Northridge Apartments, located to the southeast, are also zoned R-4 and the proposed re-zoning will allow for the subject property to be integrated into the apartment complex on a unified development plan.
 - e. The proposed rezoning to R-4 will allow infill development of 15 dwelling units of affordable housing in the area, which is supported by the 2007 Comprehensive Plan goals of creating strategies that enable and encourage appropriate infill and redevelopment of established developments and neighborhoods (Goal #8) and providing housing opportunities to meet the needs of all citizens (Goal #13). This rezoning and development is also supported by the 2012 Comprehensive Plan Goals and Objectives of planning for safe, affordable, and accessible housing to meet the needs of older and/or disadvantaged residents (Theme A.1.c.), and identifying areas of opportunity for infill, redevelopment, and adaptive reuse that respect the area's context and design features whenever possible (Theme A.2.a.).
2. This recommendation is made subject to approval and certification of **ZDP 2012-109: Eastland Park, Unit 1-L**, 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 VARIANCE**

1. Reduce the project exterior yard requirement for a Group Residential Project from twenty (20) feet to five (5) feet along the northwestern property line.

The Zoning Committee Recommended: Approval of the requested variance, for the reasons provided by staff.

The Staff Recommends: Approval of the requested setback variance from 20 feet to 5 feet, for the following reasons:

- a. Granting the requested variance should not adversely affect the public health, safety or welfare, nor alter the character of the general vicinity, as this Group Residential Project will be immediately adjacent to the open space on the adjacent school property.
- b. Approval of the variance will not result in an unreasonable circumvention of the Zoning Ordinance. The applicant's proposal for a 15-unit apartment building will be comparable to other apartment buildings existing on Martha Court.
- c. The unique circumstance that applies to this property is the large overhead utility easement, which necessitates the relocation of this apartment building.
- d. Strict application of the requirements of the Zoning Ordinance would create an unnecessary hardship to the applicant (loss of units), an apartment building that would be atypical and out of character for this area, and would likely result in an incompatible development proposal.
- e. The circumstances surrounding this request are not the result of actions taken by the applicant, but rather by the presence of a large utility easement on the subject property.

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

1. Provided the Urban County Council rezones the property R-4; otherwise, any Commission action of approval of this

* - Denotes date by which Commission must either approve or disapprove request.

- 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 variance that the Planning Commission has approved for this property (under Article 6-4(c) of the Zoning Ordinance).
 4. Prior to any construction, the applicant shall obtain a Zoning Compliance Permit, and a building permit.
- c. ZDP 2012-109: EASTLAND PARK, UNIT L (2/13/13)* - located at 1577 Martha Court.
(2020 Land Surveying)

The Subdivision Committee Recommended: Postponement. There were some questions whether the new development can meet the required off-street parking.

Should this plan be approved, the following conditions should be considered:

1. Provided the Urban County Council rezones the property R-4; 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. Urban Forester's approval of tree inventory map.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
8. Addition of written scale.
9. Denote record plat designation.
10. Dimension walkways, parking and buildings.
11. Dimension access points.
12. Denote number of stories and height of building.
13. Correct note #1 in reference to Chapter 16 of the Code of Ordinances.
14. Discuss property boundary line conflict with buildings.
15. Discuss compliance with required parking.
16. Discuss possible need for height-to-yard variance.

Zoning Presentation: Ms. Wade presented the staff report, briefly orienting the Commission to the location of the subject property at the terminus of Martha Court, off of Eastland Parkway. She noted that the right-of-way shown on the zoning map for the subject property depicts a cul-de-sac at this location. However, the aerial photograph shows that the cul-de-sac was never constructed, because Martha Court stubs into and serves the Yates Elementary School property. The subject property is bounded to the north and northwest by R-2 zoning, for the school and duplexes along Hisle Way; Martha Court and Meade Court are developed with multi-family uses; and Cantrill Drive, to the rear of the subject property, contains single-family residences.

Displaying an aerial photograph of the subject property, Ms. Wade explained that the subject property is currently vacant. It was formerly part of the Yates Elementary School property, but it was subdivided several decades ago. There is an easement that crosses the property, which might be the reason for its current split zoning; the portion to the south/southeast is currently zoned R-4, and the northern portion is zoned R-2. There are several mature trees on the subject property, mostly near the existing easement. There are multiple apartment buildings along Martha Court, some of which, along the west side of the street, are part of the Northridge Apartment complex. She said that the petitioner is requesting the R-4 zone in order to add one more building to that apartment development, to include 15 dwelling units.

Ms. Wade stated that the 2007 Comprehensive Plan recommends Greenspace/Open Space use for the subject property. Although the proposed R-4 zone is not in agreement with that recommendation, the staff agrees with the petitioner's assertion that the proposed R-4 zone is more appropriate than the existing R-2 zoning in this location, for the reasons as listed in the staff report and on the agenda. Ms. Wade added that, since there is a large stormwater detention area on the Yates property near the subject property, the staff believes that it is unlikely that that area will ever be developed. Therefore, including it in the Northridge Apartments development is appropriate. In addition, the petitioner noted in their justification that the Northridge Apartments include both low-income and elderly housing units, both of which are supported and encouraged by Goals 8 and 13 of the 2007 Comprehensive Plan, and Themes A.1.c and A.2.a of the 2012 Comprehensive Plan Goals & Objectives. Ms. Wade stated that the staff is recommending approval of this request, for those reasons.

Development Plan Presentation: Ms. Gallt presented the corollary preliminary development plan, noting that the Subdivision Committee originally recommended postponement of this plan due to concerns about the petitioner's ability

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to meet the parking requirements on the property. At that Subdivision Committee meeting, the petitioner submitted a revised plan, which the staff later reviewed. After reviewing the revised plan, the staff was now recommending approval, subject to the following conditions:

1. Provided the Urban County Council rezones the property R-4; 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. Urban Forester's approval of tree inventory map.
- ~~6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.~~
- ~~6.7. Denote:~~ No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
- ~~8. Addition of written scale.~~
- ~~9. Denote record plat designation.~~
- ~~7.10. Dimension walkways, parking and buildings depths.~~
- ~~11. Dimension access points.~~
- ~~8.12. Denote number of stories and height of building.~~
- ~~13. Correct note #1 in reference to Chapter 16 of the Code of Ordinances.~~
- ~~14. Discuss property boundary line conflict with buildings.~~
- ~~15. Discuss compliance with required parking.~~
- ~~9.16. Discuss possible need for Provided the Planning Commission grants the requested height-to-yard variance.~~
10. Clarify that elderly housing in each building are "elderly units" (rather than bedrooms).

Ms. Gallt stated that condition #10 refers to the need for the petitioner to specifically label the elderly units on the plan, rather than bedrooms.

Variance Presentation: Mr. Martin presented the variance report, using the rendered development plan to note the location of the proposed new building and associated parking. He said that the building is proposed to be 40' by 90' in size, and located near the zone line on the property. The petitioner is requesting a variance for the height-to-yard ratio due to the two existing utility easements on the property, one of which is 40' wide; and the other, which is 12' wide. Since the proposed building cannot encroach on either of those easements, a setback is required for each easement. In addition, a 20' exterior yard setback is required since the proposed building will be part of a Group Residential Project. The combination of those setbacks would only permit a building of 28' or less in width, which could compromise the economic feasibility of the development. Mr. Martin noted that the easements were platted in the 1960s, so the difficult situation on the property is not a situation of the applicant's creation. He said that the staff is recommending approval of the requested variance, for the reasons as listed in the staff report and on the agenda, and subject to the four conditions as listed.

Petitioner Representation: Christine Westover, attorney, was present representing the petitioner. She stated that the petitioner is in agreement with the staff's recommendations, and she requested approval.

Zoning Action: A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 8-0 (Beatty, Brewer, and Penn absent) to approve MARV 2012-18, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 8-0 (Beatty, Brewer, and Penn absent) to approve ZDP 2012-109, subject to the 10 conditions as listed in the revised staff recommendation.

Variance Action: A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 8-0 (Beatty, Brewer, and Penn absent) to approve the requested variance, for the reasons provided by staff, and subject to the four conditions as recommended by staff.