

1. PATRICIA DONOGHUE ZONING MAP AMENDMENT & ETHINGTON AND ETHINGTON PROPERTY (BOWMAN HOUSE) (AMD.) ZONING DEVELOPMENT PLAN

- a. **MARV 2013-3: PATRICIA DONOGHUE (AMD.) (4/25/13)*** - an amended petition for a zone map amendment from a Single Family Residential (R-1D) zone to a Townhouse Residential (R-1T) zone, for 0.95 net (1.28 gross) acres, for property located at 4145 Harrodsburg Road (a portion of). Dimensional variances are also requested with this zone change.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 11) recommends Low Density Residential future land use for the subject property. The petitioner proposes to remove the existing residence and construct three townhouse units, for a density of 3.16 dwelling units per net acre.

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

The Staff Recommended: Approval, for the following reason:

- 1. The requested Townhouse Residential (R-1T) zone is in agreement with the 2007 Comprehensive Plan, for the following reasons:
 - a. The Plan recommends Low Density Residential (LD) future land use for the subject property, defined as 0-5 dwelling units per net acre. This would suggest a maximum of 4 dwelling units for the subject property.
 - b. The applicant proposes 3 townhouse dwelling units on the 0.95-acre subject property, at an overall residential density of 3.16 units per net acre.
- 2. This recommendation is made subject to approval and certification of **ZDP 2013-15: Ethington & Ethington Property (Bowman House) (Amd.)**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- 3. **Under the provisions of Article 6-7 of the Zoning Ordinance, the property shall be subject to the following use and buffering restrictions via conditional zoning:**
 - a. Existing trees shall be preserved for the area within thirty (30) feet of the southern and eastern property lines in the R-1T zone.
 - b. Within these areas, only damaged or diseased trees may be removed, but only with the permission of the Urban Forester. If removed, they shall be replaced in equal number to preserve the existing tree canopy and buffer.

These conditional zoning restrictions are appropriate and necessary for the following reasons:

- 1. Preservation of the existing tree canopy located adjacent to the Ethington & Ethington property will be ensured.
- 2. These conditions will minimize the impacts of new development on the remaining agricultural use adjacent to the subject property.

b. REQUESTED VARIANCES

- 1. Reduce the required rear setback from 25 feet to 10 feet along the northwestern edge of the property.
- 2. Reduce the required side setback from 25 feet to 15 feet along the southwestern edge of the property for Lot 8.
- 3. Reduce the required front setback from 30 feet to 10 feet for Lot 9.

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

The Staff Recommended: Approval, 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 front yard variance for Lot 9 will allow the character to be consistent between the single family home and the surrounding townhouses. Adequate vegetative buffers will remain to mitigate the need for an increased setback along the northwestern and southwestern property lines.
- b. Granting these requests will not allow an unreasonable circumvention of the Zoning Ordinance, but rather a design response to the existing site characteristics, such as the existing tree line along the shared property boundary.
- c. The special circumstances that apply to the subject property that serve to justify the variances are the existing trees and the fact that the one detached unit will be of similar size and layout as the surrounding townhomes, except that it will not share a common wall with another dwelling unit.
- d. Strict application of the requirements of the Zoning Ordinance would create an unnecessary hardship to the applicant, and would not likely lead to a better design of the property. Approval of the requested variances will actually lessen the impact on the adjoining agricultural property by eliminating the approved driveways which were originally proposed at the rear of the new structures.
- e. The circumstances surrounding this request are not the result of actions taken by the applicant since the adoption of the Zoning Ordinance, as both the subject and surrounding properties are currently vacant in this vicinity.

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

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

1. Provided the Urban County Council rezones the property R-1T; 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 2013-15: ETHINGTON & ETHINGTON PROPERTY (BOWMAN HOUSE) (AMD) (4/25/13)* - located at 4145 Harrodsburg Road.
(Wheat & Ladenburger)

Note: The Planning Commission postponed this plan at their February 28 and March 28, 2013, meetings. The purpose of this amendment is to rezone the property and add six additional townhouse units.

The Subdivision Committee Recommended: Postponement. There were questions regarding the detached dwelling unit proposed in the R-1T zone.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Division of Fire, Water Control Office's approval of fire hydrants, fire department connections and fire service features locations.
7. Division of Waste Management's approval of refuse collection.
8. Correct notes #6 and #7.
9. Indicate that this is an amended plan in the title block.
10. Add purpose of amendment note.
11. Denote variances approved by the Commission, as necessary, prior to plan certification.
12. Clarify existing and provided tree canopy information and calculations.
13. Addition of conditional zoning restrictions, as necessary.
14. Discuss proposed driveway widths.
15. Discuss proposed screening along R-1D property line.
16. Discuss sidewalks and possible need for waiver.

Zoning Presentation: Ms. Wade presented the staff's zoning report, briefly orienting the Commission to the location of the subject property on the north side of Harrodsburg Road, across from the Higbee Mill Reserve apartment complex and near Stedman Drive and Palomar Boulevard. To the west of the subject property is the Palomar subdivision, with an existing A-U zone to the south and west, and R-4 zoning across Harrodsburg Road for the apartment complex. With the exception of the agricultural tract, all of the zoning in the immediate vicinity of the property is residential.

Ms. Wade stated that the subject property is approximately one acre in size, and it was part of a 2007 zone change to R-1D and R-1T for the larger three-acre parcel. At that time, part of the property was rezoned to R-1T; that existing R-1T area flanks the subject parcel to the west and north. The remainder of the property was rezoned to R-1D at that time in order to maintain an existing residence on the property. Since that time, the subject property has not been developed, and now the petitioner is proposing to rezone a majority of the R-1D portion to R-1T in order to construct a residential development made up of mostly townhouses. Ms. Wade said that the petitioner is proposing a total of 19 townhouses and one single-family residence for the entire three-acre tract. On the subject property, the petitioner is proposing to construct three new townhouses, with access from Syringa Drive, rather than from Harrodsburg Road. Displaying an aerial photograph of the subject property, Ms. Wade noted the location of the residential structure on the property, with its driveway access to Harrodsburg Road, and the adjoining A-U parcel.

Ms. Wade stated that the 2007 Comprehensive Plan recommends Low Density Residential land use, or 0 – 5 dwelling units per acre, for the subject property. The petitioner's proposed three units on the one-acre property would result in a residential density of 3.16 units per acre, which does fall within the recommended range. Therefore, the staff is recommending approval of this request, for the reasons as listed in the staff report and on the agenda.

Ms. Wade said that there are existing conditional zoning restrictions along the boundary of the Ethington property, which is zoned A-U, as well as along the southern property line. With the proposed rezoning to R-1T, some of that conditional zoning restriction language would be removed. The staff, however, would like to ensure that those restrictions are maintained, so they are proposing two new conditional zoning restrictions, as listed in the staff report and

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on the agenda. Those restrictions are proposed to protect the view from Harrodsburg Road of the existing trees on the property, and protect the trees along the Ethington property line.

Development Plan Presentation: Mr. Martin presented the corollary amended preliminary subdivision plan and zoning development plan, further orienting the Commission to the location of the subject property. Using a rendered copy of the development plan, he noted the location of the proposed extension of Syringa Drive, which would terminate in a cul-de-sac similar to the layout depicted on the previously approved plan for the property. This amended plan also depicts the proposed 19 townhouses and one single-family residence. Mr. Martin also noted the location of a large, park-like area on the property, where most of the existing significant trees are located. The petitioner is also proposing an area of stormwater detention, and private open space to the rear of the townhouse units.

Waiver Presentation: Mr. Martin stated that the petitioner has also requested a waiver of the Land Subdivision Regulations, to eliminate the requirement for sidewalks near the cul-de-sac area.

Mr. Martin stated that the staff is recommending approval of the development plan and waiver request, subject to the following 16 revised conditions, which were distributed to the Commission members prior to the start of the hearing:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Division of Fire, Water Control Office's approval of fire hydrants, fire department connections and fire service features locations.
7. Division of Waste Management's approval of refuse collection.
8. Correct notes #6 and #7.
9. Indicate that this is an amended plan in the title block.
10. Add purpose of amendment note.
11. Denote variances approved by the Commission, as necessary, prior to plan certification.
12. Clarify existing and provided tree canopy information and calculations.
13. Addition of conditional zoning restrictions, as necessary.
14. ~~Discuss proposed driveway widths~~ Revise driveways on Lots 12, 19 & 20 to meet Article 1-11 and Article 16-4(b)(2) requirement.
15. ~~Discuss proposed screening along R-1D property line~~ Revise Unit 1 to meet required building setback requirements.
16. ~~Discuss sidewalks and possible need for~~ Provided the Planning Commission grants the requested waiver to Article 6-8(n)(1).

Mr. Martin said that the staff would like for the petitioner to clarify the tree canopy calculation, since there are a number of significant trees on the property. Condition #14 relates to a considerable discussion at the Subdivision Committee meeting about the large driveway areas proposed for the townhouse units. Condition #15 would require a slight adjustment to one of the building setbacks in order to meet the Zoning Ordinance requirements.

With regard to condition #15, Mr. Martin stated that one of the requested waivers to the Land Subdivision Regulations would allow the petitioner to construct the sidewalks at a width of four feet, to the back of the curb, in most of the proposed development. Typically, sidewalks constructed to the back of the curb are six feet in width.

Mr. Martin said that the petitioner is also requesting waivers to the sidewalk requirements near the heavily treed open space area in order to help reduce the impacts of construction on the existing trees. The petitioner is proposing to construct trails to serve as a pedestrian system in that area. In addition, the petitioner is requesting a waiver to the sidewalk requirements on the northern side of the property, in order to minimize the impact of sidewalk construction on the adjoining property. Mr. Martin stated that the staff is recommending approval of one portion of the waiver request, and disapproval of the other portion, for the following reasons:

The Staff Recommended: Approval of a portion of the requested waiver (Josie Trace), for the following reasons:

1. Not granting the waiver would constitute an exceptional hardship for the applicant due the significant trees on the property, the topography and small area of the proposed development.
2. Granting the waiver will not negatively impact public health and safety, as the applicant is constructing a pedestrian system consistent with the intent of the Land Subdivision Regulations.

This recommendation is subject to the following condition:

- a. Prior to the issuance of a building permit, the pedestrian system will be designed to the approval of the Pedestrian Planner, the Division of Traffic Engineering and the Division of Engineering.

on the agenda. Those restrictions are proposed to protect the view from Harrodsburg Road of the existing trees on the property, and protect the trees along the Ethington property line.

Development Plan Presentation: Mr. Martin presented the corollary amended preliminary subdivision plan and zoning development plan, further orienting the Commission to the location of the subject property. Using a rendered copy of the development plan, he noted the location of the proposed extension of Syringa Drive, which would terminate in a cul-de-sac similar to the layout depicted on the previously approved plan for the property. This amended plan also depicts the proposed 19 townhouses and one single-family residence. Mr. Martin also noted the location of a large, park-like area on the property, where most of the existing significant trees are located. The petitioner is also proposing an area of stormwater detention, and private open space to the rear of the townhouse units.

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1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
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6. Division of Fire, Water Control Office's approval of fire hydrants, fire department connections and fire service features locations.
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15. ~~Discuss proposed screening along R-1D property line~~ Revise Unit 1 to meet required building setback requirements.
16. ~~Discuss sidewalks and possible need for~~ Provided the Planning Commission grants the requested waiver to Article 6-8(n)(1).

Mr. Martin said that the staff would like for the petitioner to clarify the tree canopy calculation, since there are a number of significant trees on the property. Condition #14 relates to a considerable discussion at the Subdivision Committee meeting about the large driveway areas proposed for the townhouse units. Condition #15 would require a slight adjustment to one of the building setbacks in order to meet the Zoning Ordinance requirements.

With regard to condition #15, Mr. Martin stated that one of the requested waivers to the Land Subdivision Regulations would allow the petitioner to construct the sidewalks at a width of four feet, to the back of the curb, in most of the proposed development. Typically, sidewalks constructed to the back of the curb are six feet in width.

Mr. Martin said that the petitioner is also requesting waivers to the sidewalk requirements near the heavily treed open space area in order to help reduce the impacts of construction on the existing trees. The petitioner is proposing to construct trails to serve as a pedestrian system in that area. In addition, the petitioner is requesting a waiver to the sidewalk requirements on the northern side of the property, in order to minimize the impact of sidewalk construction on the adjoining property. Mr. Martin stated that the staff is recommending approval of one portion of the waiver request, and disapproval of the other portion, for the following reasons:

The Staff Recommended: Approval of a portion of the requested waiver (Josie Trace), for the following reasons:

1. Not granting the waiver would constitute an exceptional hardship for the applicant due the significant trees on the property, the topography and small area of the proposed development.
2. Granting the waiver will not negatively impact public health and safety, as the applicant is constructing a pedestrian system consistent with the intent of the Land Subdivision Regulations.

This recommendation is subject to the following condition:

- a. Prior to the issuance of a building permit, the pedestrian system will be designed to the approval of the Pedestrian Planner, the Division of Traffic Engineering and the Division of Engineering.

the significant trees. He said that there are a couple of trees very near to the location of the proposed townhomes that will need to be removed because they would be severely impacted, but they are not significant trees. Mr. Leonard explained that, using modern practices, the petitioner should be able to completely preserve the root zone of one of the two most significant trees, and only slightly impact the root zone of the other tree.

Zoning Action: A motion was made by Mr. Cravens, seconded by Mr. Penn, and carried 9-0 (Berkley and Blanton absent) to approve MARV 2013-3, for the reasons provided by staff, including the conditional zoning restrictions as recommended by staff.

Variance Action: A motion was made by Mr. Cravens, seconded by Mr. Wilson, and carried 9-0 (Berkley and Blanton absent) to approve the requested variances, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Cravens, seconded by Ms. Mundy, and carried 9-0 (Berkley and Blanton absent) to approve ZDP 2013-15, including the 12 conditions as listed in the revised staff recommendation, approving the requested waiver for sidewalk construction along the proposed Josie Trace.