



APPEAL OF DECISION

(Please Note: Original application and staff report are made a part of this application.)

Type: ☐ One Year Plan Amendment ☐ Sector Plan Amendment ☐ Rezoning ☐ Variance
☐ Street Name Change ☐ Right-of-Way Closure
☐ Certificate of Appropriateness ☒ Other: ZONING AMENDMENT

Decision by: ☐ Planning Staff ☒ Planning Commission ☐ Other: _____ Date of Decision: 10 Aug 23

Jurisdiction: ☒ City ENITRE Council District ☐ County _____ Commission District

Original Applicant Name: R. Bentley Marlow Original File Number: 8-B-23-OA

Name of Owner of Subject Property: _____

Description of Subject Property (Include city block and parcel number or lot number): _____

☐ Zoning map of all property within 300 feet of the subject property is attached.

DECISION BEING APPEALED

Planning Commission adopted staff recommendation that did not address the substance of the proposed zoning amendment.

REASON FOR THE APPEAL

Attach additional pages, if necessary. Planning Commission adopted staff recommendation that did not address the substance of the proposed zoning amendment.

PETITIONER INFORMATION

Name of Petitioner: R. Bentley Marlow

Petitioner's Interest in the Matter (Include a description of affected property owned by Petitioner): A concerned citizen.

Application Authorization: *I hereby certify that I am the applicant/authorized representative for the above named petitioner.*

Signature: R. Bentley Marlow

All correspondence should be sent to: Name (Print): R. Bentley Marlow

322 Douglas Avenue, Knoxville, Tennessee 37921-4813

Street Address City State Zip

Phone: 865-607-4357 Fax: _____ E-mail: rbentleymarlow@gmail.com

For Planning Staff Use Only

Application Accepted by Planning Staff Member: [Signature]

Appeal Fee Amount: \$ 500.00 Date Appeal Received: 8/15/2023

BODY WHO WILL HEAR THE APPEAL & MEETING DATE OF THE APPEAL

☒ City Council - 6 p.m.

☐ County Commission - 7 p.m.

☐ City BZA - 4 p.m.

☐ Planning Commission - 1:30 p.m.

9/15/23
Month • Date • Year

Month • Date • Year

Month • Date • Year

Month • Date • Year

TO: Knoxville-Knox County Planning Commission
FROM: Lindsay Crockett, AICP | Principal Planner/Design Review Program Manager
DATE: August 2, 2023
SUBJECT: 8-A-23-OA; 8-B-23-OA; 8-C-23-OA; 8-D-23-OA; 8-E-23-OA
Agenda Items #15-19

RECOMMENDATION

Staff recommends zoning code amendments to enable middle housing in the City follow the process of implementation as defined by Opticos Design, Inc. in the September 2022 [Missing Middle Housing \(MMH\) Scan](#) and the *Missing Middle Housing* book (summary provided in Exhibit A).

The staff recommendation applies to agenda items 8-A-23-OA, 8-B-23-OA, 8-C-23-OA, 8-D-23-OA, and 8-E-23-OA, five amendments to the City of Knoxville Zoning Code proposed by Mr. R. Bentley Marlow. Each individual case file contains the exhibits listed below.

The recommended process will include a review of relevant plans to ensure alignment between the code and adopted plans and address discrepancies or errors in the proposed amendments. The process recommended by staff will:

1. focus on a target area naturally supportive to middle housing forms;
2. include dimensional and design standards to guide house-scale buildings which are compatible with the existing neighborhood contexts, and;
3. encourage retention of existing houses via conversions or additions that remain in character with the surrounding neighborhood.

The recommended process will also incorporate public input via workshops, educational opportunities, and/or public meetings.

Exhibit A: Summary, Recommended Process to Address Missing Middle Housing
Exhibit B: Memos, City of Knoxville Office of the Mayor; City of Knoxville Law Department
Exhibit C: Individual Case Files
Proposed Amendment Text
Planning Staff Summary and Analysis
City of Knoxville Plans Review and Inspections Analysis

Exhibit A: Summary, Recommended Processes to Address Missing Middle Housing

Opticos Design, Inc, *MMH Scan: Analysis + Definition of Barriers to Missing Middle Housing*, Prepared for the City of Knoxville, TN (Berkeley, CA: September 2022).

Daniel Parolek and Arthur C. Nelson, *Missing Middle Housing: Thinking Big and Building Small to Respond to Today's Housing Crisis* (Washington, DC: 2020).

- Definition of Missing Middle Housing: “house-scale buildings with multiple units in walkable neighborhoods”
 - Addressing MMH in Knoxville requires updates to the zoning code to:
 - Accommodate multiple units
 - Ensure house-scale buildings compatible with the context
 - Work within existing and potential walkable neighborhoods

Recommended process

1. Identify MMH-ready neighborhoods: “MMH types are most successful when located in an existing or newly built walkable context.”
 - Report identifies MMH-ready neighborhoods in Knoxville, characterized by smaller block sizes, access to bicycle routes, access to mixed-use areas, small-to-medium lot sizes, proximity to amenities
2. Identify and address existing barriers to MMH
 - Recommendations 1-11 focus on small area plans and sector plans
 - Recommendations 13-25 analyze the current zoning code
 - Recommendations discourage blanket regulation of density or minimum lot area by zoning district
 - Recommendations 16 and 17: regulate minimum lot width, maximum building footprint, height, and parking, “according to the needs of the different MMH types.”
 - Recommendation 17: “For MMH developments, do not regulate density. Instead, regulate maximum building footprint, height, and parking.”
 - Recommendation 25: “For MMH development, **allow all MMH types by right if clear standards are applied to control building height, footprint, parking and parking location, building entry/frontage, and streetscapes**. Development that does not use these standards would be required to go through the special use process.”
3. Implement MMH
 - Identify a target area defined by existing and potential walkable centers; prioritize MMH within the 5 to 10-minute walkable environments around the walkable centers
 - Apply the findings of the MMH Scan to the target areas
 - Prioritize fitting the desired MMH types to the actual lot sizes in specific walkable environments; identify additional changes or standards needed
 - Use design standards to ensure “house-scale” buildings
 - “If changing the standards of the RN-2, RN-3, RN-4, and RN-5 zones *only where MMH developments are expected* is not practical, enable MMH through a new MMH zone and standards, or through a set of overlay standards.”

CITY OF KNOXVILLE

INDYA KINCANNON, MAYOR



Erin Gill
Chief Policy Officer
Deputy to the Mayor

July 19, 2023

Amy Brooks
Executive Director
Knoxville-Knox County Planning
400 Main Street, #403
Knoxville, TN 37902

Re: Planning Files 8-A-23-OA through 8-E-23-OA

Dear Ms. Brooks:

Knoxville-Knox County Planning asked several City departments to review the aforementioned files, which contain proposed amendments to the City Zoning Code to promote the development of "missing middle" housing.

As you know, the City has been actively working to compile and propose amendments to the Zoning Code to support middle housing since March 2023. To ensure our proposal is thorough and comprehensive, we have engaged a cross-departmental team with staff from Knoxville-Knox County Planning, Plans Review & Inspections, Engineering, Law, Zoning, Policy, the Fire Marshall, Economic Development, and Housing and Neighborhood Development. We hope to bring proposed amendments to Knoxville-Knox County Planning Commission in October 2023.

We are concerned that the amendments proposed in 8-A-23-OA through 8-E-23-OA may ultimately create points of conflict within the existing code that complicate, rather than streamline, the process of developing middle housing. We are designing our forthcoming proposal to avoid these conflicts, as well as to be more comprehensive in scope, taking into consideration the impact and needs of all areas of Knoxville, as well as recommendations from the Opticos Design scan in the fall of 2022.

We look forward to sharing more about our plans in the coming weeks.

Sincerely,



Erin Gill
Chief Policy Officer, Deputy to the Mayor

CITY OF KNOXVILLE

**Law Department**

Charles W. Swanson
Law Director

July 17, 2023

Amy Brooks
Executive Director
Knoxville-Knox County Planning
400 Main St. #403
Knoxville, TN 37902

Re: Planning Files 8-A-23-OA through 8-E-23-OA

Dear Ms. Brooks,

Knoxville-Knox County Planning asked the City Law Department to review files 8-A-23-OA through 8-E-23-OA, which contain proposed amendments to the City Zoning Code to promote the development of “missing middle” housing.

The City prioritizes changes to the Zoning Code to promote the development of missing middle housing. For that purpose, City staff members are working actively to compile and propose various amendments to the Zoning Code. The working group includes members from the departments of Planning, Law, Zoning, Building, Engineering, Policy, and Economic Development. While working on what will be the City’s proposal, the working group is taking into consideration the impact and needs of all areas of Knoxville.

The working group anticipates bringing proposed amendments to the Knoxville-Knox County Planning Commission in October.

Sincerely,

Christina Magráns-Tillery
Staff Attorney
City of Knoxville Law Department

8-B-23-OA

ARTICLE 5.3 Table 5-1 [See Missing Middle Housing Report, Section 3.2, Recommendations Nos. 21-24, pages 63-65]

Minimum Corner Side Setback C-N

~~15'~~, None, unless sight (visibility) triangle is adversely impacted, Department of Engineering shall set the setback, no greater than FIFTEEN FEET (15').

Minimum Rear Setback C-N

~~20'~~ TEN FEET (10'), unless abutting a residential district, then ~~30'~~ TWENTY FEET (20') or 20% of lot depth, whichever is less. When C-N is exclusively residential setback abutting residential district is TEN FEET (10'), or 20% of lot depth, whichever is less.

TO: Knoxville-Knox County Planning Commission
FROM: Lindsay Crockett, AICP | Principal Planner
DATE: August 2, 2023
SUBJECT: 8-B-23-OA Agenda Item #16

This is the next in a series of amendments proposed by Mr. R. Bentley Marlow. Below is a summary of the changes proposed for Article 5, followed by Planning staff analysis.

SUMMARY OF PROPOSED CHANGES

Article 5.3, Table 5-1, Commercial and Office Districts Dimensional Standards:

1. Eliminate the minimum corner side setback in the C-N zone except for sight distance cannot be achieved, in which case, the minimum would be 15 ft.
2. Reduce the minimum rear setback from 20 ft to 10 ft unless the property abuts a residential district, in which case the rear setback would be 20 ft or 20% of the lot depth, whichever is less.
3. Establishes a new setback standard in cases where the C-N zone directly abuts residential districts along all lot lines, in which case the minimum setback along all shared lot lines with residential districts would be 10 ft or 20% of the lot depth, whichever is less.

STAFF ANALYSIS

Article 5.3, Table 5-1

- The MMH Scan did not evaluate the C-N district. The cited MMH recommendations do not refer to the proposed amendments of the C-N dimensional standards. For example, the cited MMH recommendations refer to parking standards, lot coverage, maximum building footprint, and building height, while the proposed amendments revise setbacks for properties abutting residential districts.
- It is unclear if the proposed setback reductions apply to all uses in the C-N district, or just residential uses.
- Reducing minimum corner side and minimum rear setbacks could result in the construction of buildings which are out of scale with the surrounding neighborhood.
- Allowing the City Engineering Department to “set the setback” during permitting could cause delays in issuing permits and possible modifications to site plans.
- Additional language would be required to specify “when C-N is exclusively residential.”



8-B-23-OA

Article 5.3 Table 5-1

- I don't have any concern with the proposed reduction in the minimum corner side setback or the rear setback for C-N.
- Reducing the corner side setback from 15 to zero feet conflicts with the utility and drainage easement requirements in the subdivision regulations.

August 10, 2023

Planning Commission meeting

Public Comments

9 Comments for 8-B-23-OA

John (37931), July 25, 2023 at 5:38 PM

I am fully in support of these changes. Far too often variances are required to rebuild identically to the surrounding houses and neighborhood. The current zoning ordinance is designed for larger .25 acre lots and is not consistent with the fact that most older neighborhoods have 50' widths. There has been substantial investment and vetting of these changes through the "missing middle study", but unfortunately none of them have been implemented yet. Building more homes is the only solution to the housing crisis we face.

Finbarr (37919), July 31, 2023 at 11:17 AM

this recommendation seems reasonable.

Christina (37921), August 2, 2023 at 8:15 PM

If I have a C-N lot next to RN and want to build a single family house (permissible in C-N), I'm subject to a residential abutment setback of 20'. A single family in RN only needs 5' / 15' combined. That is a pretty absurd discrepancy, especially problematic for an average city lot 50' wide.

This application raises an important question: what is the purpose of residential abutment setbacks? Not just for C-N but for other zones too (I-MU, C-G, etc). If the setback is intended for larger developments, why are these rules broadly applied for all uses? And for medium density developments, if you can build townhouses in RN-7 with 15' combined setback, why 20' residential abutment setback for townhouses in C-N, I-MU, or anywhere?

Needless to say, I support this amendment and would actually support an expansion of the amendment to include consideration of other zones as well. Maybe address the use matrix while you're at it (e.g. why is SF permissible in commercial districts?).

Ron (37919), August 3, 2023 at 3:30 PM

We're dealing with 75 years of urban sprawl planning that no longer serves the needs of this city. In the midst of a terrible housing crisis that seems like he just keeps getting worse and worse and more and more expensive it's time to rethink how we use our small lots in the CN zoned property. With this revision as I understand it it would allow townhomes and condos and other medium density housing options to be built. This seems like a reasonable revision in the current zoning laws to address our crisis state of housing in Knoxville.

George (37932), August 7, 2023 at 12:08 PM

Agenda items (8A230A,8B230A,8C230A,8D230A,8E230A)all relate to defining ADU's and relaxing set backs, buffers and the like. These requests can be construed to introduce ADU's to Knoxville. However, may also be construed as method to simply increase building density way tighter than current standards. They also can allow a rental property be added to nearly any lot/location.

I am against each of these agenda items.

And I think the County, the Planning Commission and residents need A LOT more conversations about introducing and controlling ADU's (like the ADU must be occupied by an immediate family member) prior to introduction of this

concept.

Following this research, the concept should be trialed in one district to learn impact and control, and NOT just open the floodgates in all districts!

Aaron (37917), August 8, 2023 at 9:14 PM

I support this amendment on grounds that historical "neighborhood commercial" buildings and nodes often often had minimal setback. Staff makes a point that resonates with me that if engineering has to set setbacks based on sightline distance in the permitting process, that will create delays. For something standard like this and other typical sightline considerations (like when there are existing nonconforming structures on adjacent lot), I think it would be ideal to add a sightline diagram to the zoning ordinance.

Dustin (37917), August 8, 2023 at 10:05 PM

See attached for my full comments supporting Ordinance Amendment 8-B-23-OA.

[View Attachment](#)

Drew (37917), August 9, 2023 at 12:17 PM

Please see attached PDF.

[View Attachment](#)

R. Bentley (37921), August 10, 2023 at 12:17 PM

Please see attached...

[View Attachment](#)

The Planning Commission met in regular session on August 10, 2023 at 1:30 p.m. in the Main Assembly room of the City County Building.

Item No.

File No.

1. ROLL CALL, INVOCATION AND PLEDGE OF ALLEGIANCE

Ms. Karyn Adams	Ms. Nancy Barger	Mr. Miles Biggs
Ms. Tamara Boyer	Mr. Louis Browning	Mr. Logan Higgins
Mr. Tim Hill, Chair	Mr. John Huber	Mr. Richard Levenson
Ms. Amy Midis	** Mr. Chris Ooten, Vice Chair	Ms. Marité Pérez
Mr. Nathaniel Shelso	A Mr. Eddie Smith	Open

* Arrived late to the meeting, ** Left early in the meeting, A – Absent from the meeting

16. R. BENTLEY MARLOW

8-B-23-OA

Consideration of an amendment to the Knoxville City Code, Appendix B, Zoning Code, Article 5.3, Table 5-1 Commercial and Office Districts Dimensional Standards, to amend minimum corner side and rear setbacks in the C-N zoning district. All Council Districts.

1. STAFF RECOMMENDATION

Staff recommends zoning code amendments to enable middle housing in the City follow the process of implementation as defined by Opticos Design, Inc. in the September 2022 Missing Middle Housing (MMH) Scan and the Missing Middle Housing book (summary provided in Exhibit A).

2. MOTION (OOTEN) AND SECOND (ADAMS) WERE MADE TO APPROVE PER STAFF RECOMMENDATION.

MOTION CARRIED UNANIMOUSLY 13-0. APPROVED



Development Request

DEVELOPMENT

- ☐ Development Plan
☐ Planned Development
☐ Use on Review / Special Use
☐ Hillside Protection COA

SUBDIVISION

- ☐ Concept Plan
☐ Final Plat

ZONING

- ☐ Plan Amendment
☐ SP ☐ OYP
☐ Rezoning

R. Bentley Marlow

Applicant Name

Affiliation

22 June 2023

10 August 2023

Date Filed

Meeting Date (if applicable)

File Number(s)

8-A-23-OA,
8-B-23-OA,
8-C-23-OA,
8-D-23-OA,
8-E-23-OA

CORRESPONDENCE

All correspondence related to this application should be directed to the approved contact listed below.

- ☒ Applicant ☒ Property Owner ☐ Option Holder ☐ Project Surveyor ☐ Engineer ☐ Architect/Landscape Architect

R. Bentley Marlow

Name

Company

322 Douglas Avenue

Knoxville

Tenn.

37921

Address

City

State

ZIP

865-607-4357

rbentleymarlow@gmail.com

Phone

Email

CURRENT PROPERTY INFO

Marlow Properties, LLC

322 Douglas Avenue

865-607-4357

Property Owner Name (if different)

Property Owner Address

Property Owner Phone

Property Address

Parcel ID

KUB

KUB

N

Sewer Provider

Water Provider

Septic (Y/N)

STAFF USE ONLY

General Location

Tract Size

☒ City ☐ County

District

Zoning District

Existing Land Use

Planning Sector

Sector Plan Land Use Classification

Growth Policy Plan Designation

May 1, 2023

DEVELOPMENT REQUEST

- ☐ Development Plan ☐ Use on Review / Special Use ☐ Hillside Protection COA
☐ Residential ☐ Non-Residential

Home Occupation (specify) _____

Other (specify) _____

Related City Permit Number(s)

SUBDIVISION REQUEST

Proposed Subdivision Name _____

Unit / Phase Number ☐ Combine Parcels ☐ Divide Parcel Total Number of Lots Created _____

☐ Other (specify) _____☐ Attachments / Additional Requirements

Related Rezoning File Number

ZONING REQUEST☐ Zoning Change

Proposed Zoning _____

☐ Plan Amendment Change

Proposed Plan Designation(s) _____

Pending Plat File Number

Proposed Density (units/acre) _____

Previous Rezoning Requests _____

☒ Other (specify) Ordinance Amendment (change zoning text) - Proposed changes attached.**STAFF USE ONLY****PLAT TYPE**

- ☒ Staff Review ☐ Planning Commission

ATTACHMENTS

- ☐ Property Owners / Option Holders ☐ Variance Request

ADDITIONAL REQUIREMENTS


- ☐ Design Plan Certification (*Final Plat*)
☐ Use on Review / Special Use (*Concept Plan*)
☐ Traffic Impact Study
☐ COA Checklist (*Hillside Protection*)

Fee 1		Total \$5,000.00
1203	\$5,000.00	
Fee 2		
Fee 3		

AUTHORIZATION

☒ I declare under penalty of perjury the foregoing is true and correct:

1) He/she/it is the owner of the property AND 2) The application and all associated materials are being submitted with his/her/its consent


Applicant Signature

R. Bentley Marlow

26 June 2023

Please Print

Date

865-607-4357

rbentleymarlow@gmail.com

Phone Number

Email


Property Owner Signature

R. Bentley Marlow / Marlow Properties, LLC

SG,07/07/2023

Please Print

Date Paid



KNOX CTY METRO PLAN COMMIS
400 W MAIN ST # 403
KNOXVILLE TN 37902--242

<u>Account</u>	<u>AD#</u>	<u>Order</u> <u>Amount</u>	<u>Tax Amount</u>	<u>Total Order</u> <u>Amount</u>	<u>Payment Method</u>	<u>Order Payment</u> <u>Amount</u>	<u>Order Amount</u> <u>Due</u>
1317419	0005801008	\$172.80	\$0.00	\$172.80	Invoice	\$0.00	\$172.80

Sales Rep: CWendricks Order Taker: CWendricks Order Created 08/15/2023

<u>Product</u>	<u># Ins</u>	<u>Start Date</u>	<u>End Date</u>
KNS-knoxnews.com	1	08/18/2023	08/18/2023
KNS-Knoxville News Sentinel	1	08/18/2023	08/18/2023

* ALL TRANSACTIONS CONSIDERED PAID IN FULL UPON CLEARANCE OF FINANCIAL INSTITUTION

PUBLIC NOTICE

The following items will be considered by the Knoxville City Council on September 5, 2023 at 6:00 p.m. in the Main Assembly Room, City County Bldg., 400 Main St., Knoxville, TN. For information related to these items, visit KnoxPlanning.org/agenda. If you need assistance or accommodation for a disability, please contact the City ADA coordinator at (865) 215-2104.

APPEAL OF DECISION

Appeal by R. Bentley Marlow of the Knoxville-Knox County Planning Commission's adoption of staff recommendation that zoning code amendments to enable middle housing in the City follow the process of implementation as defined by Opticos Design, Inc. in the September 2022 Missing Middle Housing (MMH) Scan and the Missing Middle Housing book, in response to the applicant's submittal of proposed ordinance amendments to the Knoxville City Code, Appendix B, Zoning Code, Article 2.3 Definitions, Article 4.1 Purpose Statements, Article 4.3 Dimensional Standards, and Article 4.3, Table 4-1 Residential Districts Dimensional Standards, All Districts. Planning Commission File. No. 8-A-23-OA.

APPEAL OF DECISION

Appeal by R. Bentley Marlow of the Knoxville-Knox County Planning Commission's adoption of staff recommendation that zoning code amendments to enable middle housing in the City follow the process of implementation as defined by Opticos Design, Inc. in the September 2022 Missing Middle Housing (MMH) Scan and the Missing Middle Housing book, in response to the applicant's submittal of proposed ordinance amendments to the Knoxville City Code, Appendix B, Zoning Code, Article 5.3, Table 5-1 Commercial and Office Districts Dimensional Standards, All Districts. Planning Commission File. No. 8-B-23-OA.

APPEAL OF DECISION

Appeal by R. Bentley Marlow of the Knoxville-Knox County Planning Commission's adoption of staff recommendation that zoning code amendments to enable middle housing in the City follow the process of implementation as defined by Opticos Design, Inc. in the September 2022 Missing Middle Housing (MMH) Scan and the Missing Middle Housing book, in response to the applicant's submittal of proposed ordinance amendments to the Knoxville City Code, Appendix B, Zoning Code, Article 11.3 Location and Setbacks, Article 11.4, Table 11-2 Required Off-street Parking, and Article 11.4.B, Exemptions and Flexibilities, All Districts. Planning Commission File. No. 8-D-23-OA.