

Type: ☐ Plan Amendment ☐ Rezoning ☐ Certificate of Appropriateness

☐ Street Name Change ☒ Other: Middle Housing

Decision By: ☒ Planning Staff ☒ Planning Commission ☐ Other: _____ ☐ Date of Decision: 13 Aug 26

Jurisdiction: ☒ City 6 Council District ☐ County 1 Commission District

IRC-NEW-25-0549 / 8-I-26-OB

R. Bentley Marlow

Original File Number Being Appealed

Marlow Properties, LLC

Original Applicant Name

094FC020

Name of Owner of Subject Property

Middle Housing Denial

Parcel Number of Subject Property

Decision Being Appealed

Reason for the Appeal:
(Attach additional pages,
if necessary.)

Basis is outlined in previously filed Memorandum in Support of Mandamus. Additionally, since the time of that Memorandum four additional MH projects were approved, three featuring nearly identical designs as the present case. See 2-D-26-OB; 3-A-26-OB; 4-F-26-OB; 4-G-26-OB. See also 8-B-25-OB & 8-C-25-OB

PETITIONER INFORMATION

R. Bentley Marlow

Name of Petitioner

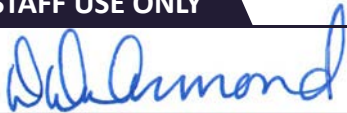

Signature of Petitioner

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

Owner and Developer of Property at Issue.

All correspondence should be sent to:	R. Bentley Marlow	865-607-4357	rbentleymarlow@gmail.com
	Name (Print)	Phone	Email
322 Douglas Avenue	Knoxville	Tennessee	37921-4813
Address	City	State	ZIP

STAFF USE ONLY

	500.00	8/18/2026
Application Accepted by Planning Staff Member	Appeal Fee Amount	Date Appeal Received

APPEAL MEETING INFORMATION

City	9/15/2026	County	Knoxville-Knox
Council - 6 p.m.	Month Date Year	Commission - 5 p.m.	County Planning
			Commission - 1:30 p.m.
		Month Date Year	Month Date Year

TO: Knoxville-Knox County Planning Commission
FROM: Samiul Haque, Planner
DATE: August 6, 2026
SUBJECT: Appeal of an administrative determination for a Middle Housing application
FILE #: 8-I-26-0B; Agenda Item #50

SUMMARY OF RECOMMENDATION

Staff recommends that the Planning Commission evaluate the proposed application based on the Middle Housing Standards (Article 4.6) for the property located at 1409 W Fifth Avenue. The Planning Commission should discuss whether the structure is a Middle Housing Type per Article 4.6.A with a building footprint and overall scale comparable to single-family houses and compatible with existing housing in the surrounding area, and whether the proposal will be injurious to the surrounding neighborhood.

Each application is reviewed on its own merits separately. Land use decisions are considered on a case-by-case basis, and they are not fully bound by precedent. Boards are free to make different decisions even on similar projects, as no two pieces of land are exactly the same. If the Planning Commission makes a different decision on a similar application, the Planning Commission should provide reasoning as to why the decision differs.

APPEAL AND REQUEST SUMMARY

The applicant is appealing Planning staff's comments on a pending Middle Housing application for a proposed 3-unit structure at 1409 W Fifth Avenue (KnoxPlans project # IRC-NEW-25-0549).

The applicable review comments on the project are as follows:

- 10/23/25 - Each review is specific to the case and site. The project, as presented, does not meet the intent of Middle Housing Standards and contradicts Article 4.6, 4.6.E.1, 4.6.E.4, and Article 4.6.G of the Zoning Ordinance. Staff's interpretation can be appealed in accordance with Article 4.6.G.3.
- 8/28/25 - The development proposed is a slot house design. This is not a defined middle housing type and is not found in the immediately surrounding area of the neighborhood. A slot house does not meet the intent of Middle Housing as the buildings are oriented to the side lot line, where the front porches, doors, and windows open into the sides of

neighboring structures, which can cause a reduction in privacy for abutting neighbors on this side of the lot.

- 7/29/25 - Article 4.6.A: The applicant describes the building as a triplex. The application does not propose units that are stacked on top of each other and does not meet the definition of triplex. The building features three units oriented perpendicular to the street with the units separated by party walls/shared side walls, which meets the definition of a Dwelling Townhouse per Article 2.3 and partially meets the definition of Townhouse (small) per Article 4.6.A.
- 7/29/25 - Article 4.6.E.5.c: The proposed design does not meet the requirement that townhouses not be oriented perpendicular to the street. The narrow side of townhouse units must face the street.

The full record of staff review comments and applicant responses is provided in Exhibit B.

STANDARD OF REVIEW

The application was submitted prior to the recent amendments to the City of Knoxville Zoning Code, Article 4.6, Middle Housing, which amended the appeal body to the Design Review Board, and is therefore subject to the previous zoning ordinance requirements, in which Middle Housing appeals were heard by the Knoxville-Knox County Planning Commission.

In accordance with Article 16.12.A.4.b under the applicable code, the Planning Commission must evaluate the application based upon the evidence presented at the public hearing. The Commission may affirm, modify, impose restrictions, or overrule the Planning staff determination.

Type: ☐ Plan Amendment ☐ Rezoning ☐ Certificate of Appropriateness

☐ Street Name Change ☒ Other: MH Denial

Decision By: ☒ Planning Staff ☐ Planning Commission ☐ Other: _____ ☐ Date of Decision: _____

Jurisdiction: ☐ City 6 Council District ☐ County _____ Commission District _____

IRC-NEW-25-0543

R. Bentley Marlow

Original File Number Being Appealed

Original Applicant Name

Marlow Properties, LLC

094CK018

Name of Owner of Subject Property

Parcel Number of Subject Property

MH Denial

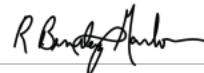
Decision Being Appealed

Reason for the Appeal:
(Attach additional pages,
if necessary.)

Staff arbitrarily and capriciously ignores Planning Commission's prior holdings interpreting "intent" and the definition of "triplex." See 8C25OB (vote 8-3) & 3A26OB (Vote 11-1).

PETITIONER INFORMATION

R. Bentley Marlow



Name of Petitioner

Signature of Petitioner

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

Property Owner, General Contractor of Record

All correspondence
should be sent to:

R. Bentley Marlow

865-607-4357

Name (Print)

Phone

Email

322 Douglas Avenue

Knoxville

Tennessee 37921-4813

Address

City

State

ZIP

STAFF USE ONLY



250.00

7/3/2026

Application Accepted by Planning Staff Member

Appeal Fee Amount

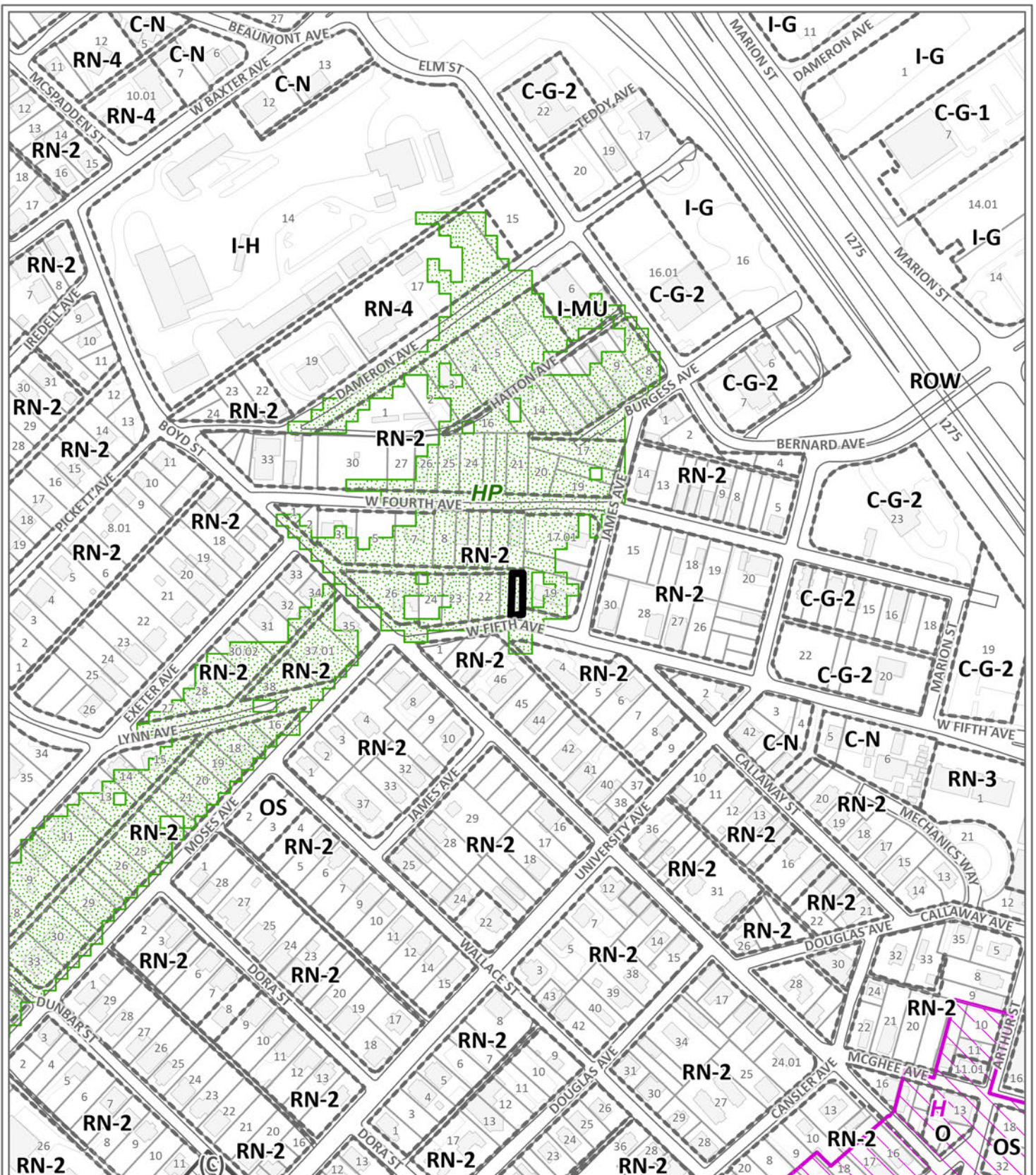
Date Appeal Received

APPEAL MEETING INFORMATION

City
Council - 6 p.m. _____
Month | Date | Year

County
Commission - 5 p.m. _____
Month | Date | Year

Knoxville-Knox
County Planning
Commission - 1:30 p.m. **8/13/2026**
Month | Date | Year



OTHER BUSINESS

8-I-26-OB

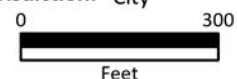
Petitioner: R. Bentley Marlow



Purpose of Request: Appeal of an administrative determination for a Middle Housing application. (1409 W Fifth Ave / Parcel 094FC020)

Map No: 94

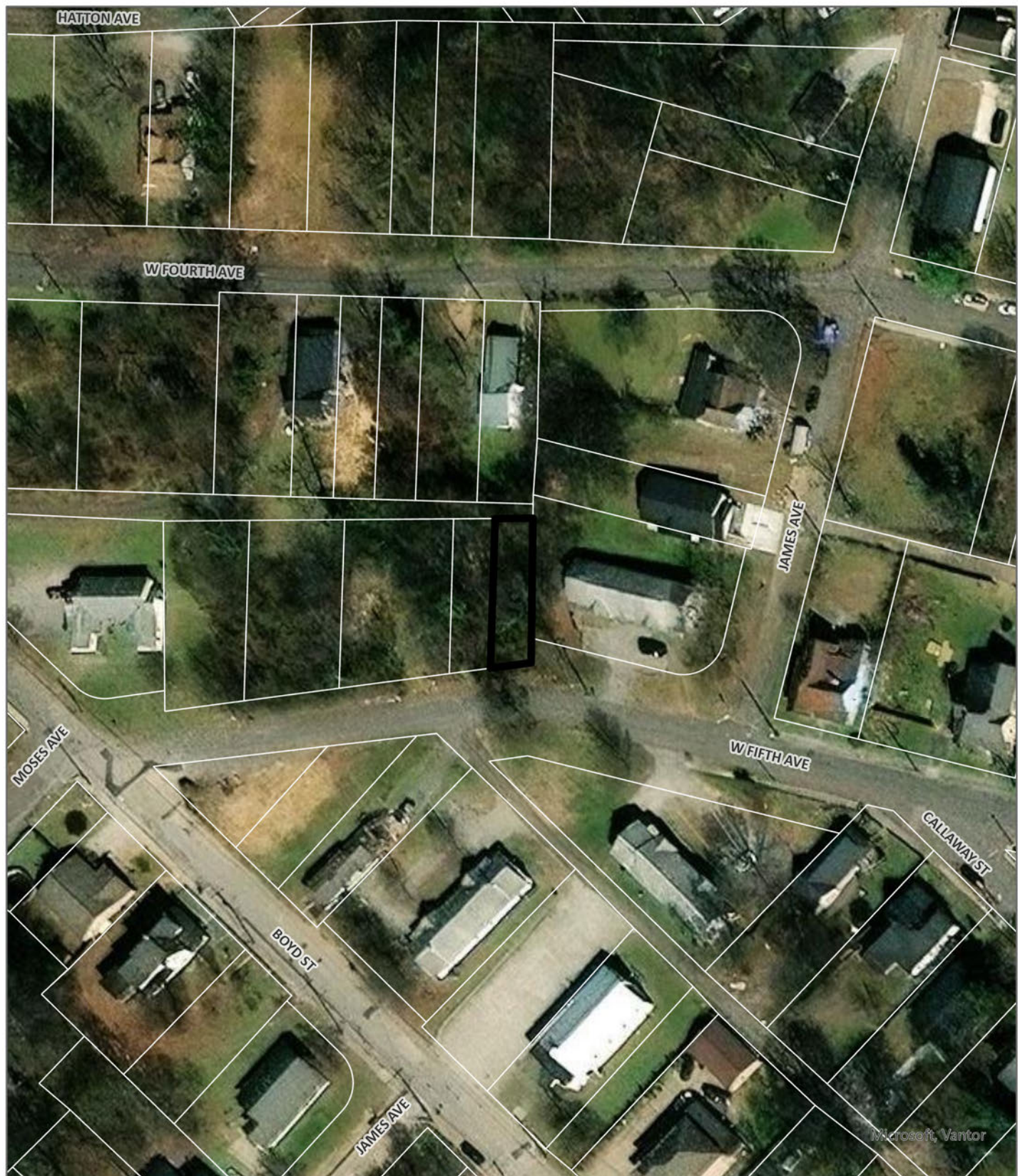
Jurisdiction: City



Original Print Date: 7/31/2026

Knoxville - Knox County Planning Commission * City / County Building * Knoxville, TN 37902

Exhibit A. Contextual Images



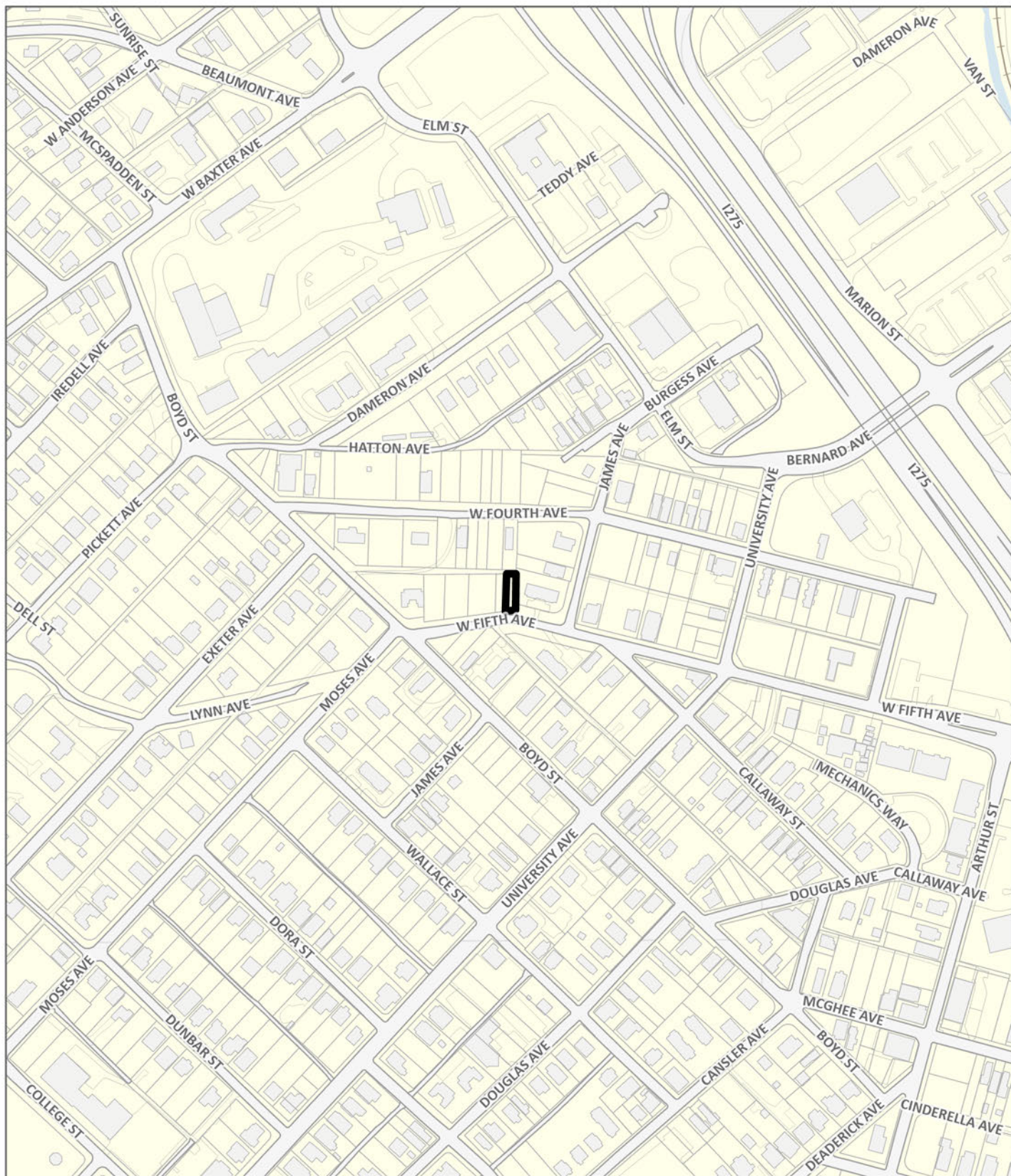
AERIAL MAP



Case boundary



Exhibit A. Contextual Images

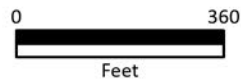


LOCATION MAP

8-I-26-OB



Case boundary

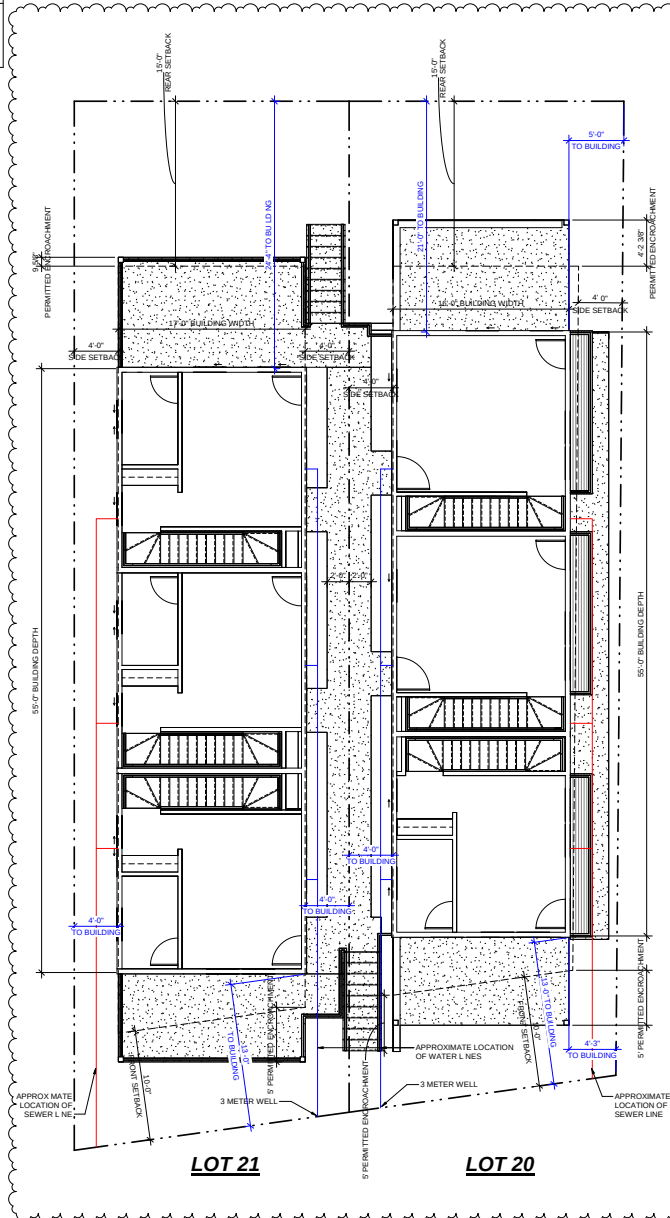


NOTE:
GENERAL CONTRACTOR TO DETERMINE THE FINAL LOCATION OF THE STRUCTURE ON THE SITE BASED ON SETBACK REQUIREMENTS OF THE LOCAL JURISDICTION.

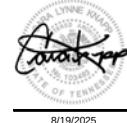
NOTE:
SURFACE DRAINAGE SHALL BE DIVERTED TO A STORM SEWER CONVEYANCE OR OTHER APPROVED POINT OF COLLECTION THAT DOES NOT CREATE A HAZARD. LOTS SHALL BE GRADED TO DRAIN SURFACE WATER AWAY FROM THE FOUNDATION WALLS. THE GRADE SHALL FALL NOT FEWER THAN 6 INCHES WITHIN THE FIRST 10 FEET.

UTILITY NOTES:
ELECTRICAL WILL BE OVERHEAD TO MASTS ALONG THE OUTER ELEVATIONS. EACH UNIT WILL RECEIVE ITS POWER VIA A FEEDER FROM ITS MASTMETER ON THE OUTER ELEVATION, THEN BURIED UNDER THE SLAB IN 2" SCHEDULE 40 PVC CONDUIT. NOT SHOWN.

APPROXIMATE LOCATIONS OF SEWER & WATER LINES SHOWN ON SITE PLAN.
FINAL LOCATIONS TO BE DETERMINED BY UTILITY COMPANY.



1 ARCHITECTURAL SITE PLAN
3/16" = 1'-0"



8/19/2025

FIFTH AVE TRIPLEX
NEW RESIDENTIAL CONSTRUCTION
Lot 20 + 21 Fifth Ave, Knoxville, Tennessee 37921

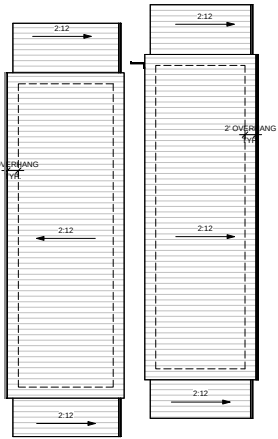
DATE	BY	REVISION
08/19/2025	MB	1.00
08/19/2025	MB	1.01

DRAWN BY: MB
ARCHITECTURAL SITE PLAN

A101

PROJECT : 25068
© COPYRIGHT 2025

FLOOR PLAN INDICATES GENERAL REPRESENTATION OF WINDER TREADS FOR REFERENCE ONLY. FOR SPECIFIC DIMENSIONS, CONFIGURATION, AND CONSTRUCTION REQUIREMENTS, REFER TO WINDER TREAD DETAIL ON SHEET 4/A301.



3 ROOF PLAN
A103 3/32" = 1'-0"

WINDOW LEGEND:	WALL LEGEND
F FIXED	Z44 WOOD STUDS @16" O.C. WITH R-20 BATT INSULATION.
SH SINGLE HUNG	-1/2" GYP BOARD INTERIOR SIDE
DN DOUBLE HUNG	-1/2" PL WOOD SHIMATING, TYNEX WEATHER BARRIER & S D NG EXTERIOR SIDE (SEE EXTERIOR ELEVATIONS)
C CASEMENT	
T TRANSOM	Z44 WOOD STUDS @16" O.C.
EG EGRESS	-1/2" GYP BOARD BOTH SIDES
	8" CMU FOUNDATION WALL
	1 HR. SEPARATION Z44 WALL - UL L305
	1 HR. EXTERIOR Z44 WALL - GP-EWF-02

FLOOR PLAN NOTES:

TYPICAL BLOCKING NOTE:

PROVIDE WOOD BLOCKING IN THE WALLS AS REQUIRED TO SUPPORT & ATTACH ALL WALL HUNG ITEMS SUCH AS CAB NETS, BRACKETS, HAND RAILS, GRAB BARS, ETC. THE BLOCK NG & ITS ATTACHMENTS SHALL CARRY THE MINIMUM WEIGHT, VERIFY WITH MANUFACTURER.

TYPICAL WINDOW NOTE:

GLAZING IN AN INDIVIDUAL FIXED OR OPERABLE PANEL THAT MEETS ALL OF THE FOLLOWING CONDITIONS SHALL BE CONSIDERED TO BE A HAZARDOUS LOCATION:

- THE EXPOSED AREA OF AN INDIVIDUAL PANE IS LARGER THAN 9 SQUARE FEET
- THE BOTTOM EDGE OF THE GLAZING IS LESS THAN 18 INCHES ABOVE THE FLOOR
- THE TOP EDGE OF THE GLAZING IS MORE THAN 36 INCHES ABOVE THE FLOOR
- ONE OR MORE WALKING SURFACES ARE WITHIN 36 INCHES, MEASURED HORIZONTALLY AND IN A STRAIGHT LINE, OF THE GLAZING

SEE R308.4.3 GLAZING IN WINDOWS FOR EXCEPTIONS (E.G. DECORATIVE GLAZING)

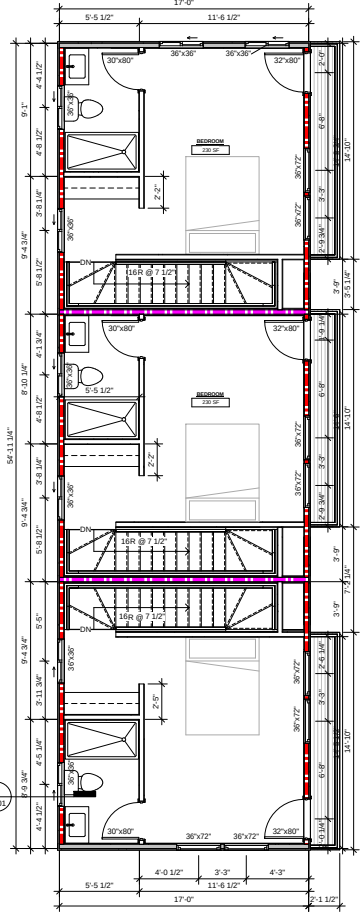
PLAN NOTE:
CABINETS AND FURNITURE IS SHOWN
FOR PLANNING PURPOSES ONLY.
CONTRACTOR TO COORDINATE WITH
OWNER.

ALL EXTERIOR DOORS TO BE INSULATED, AND HAVE WEATHER STRIPPING (AND APPROPRIATE

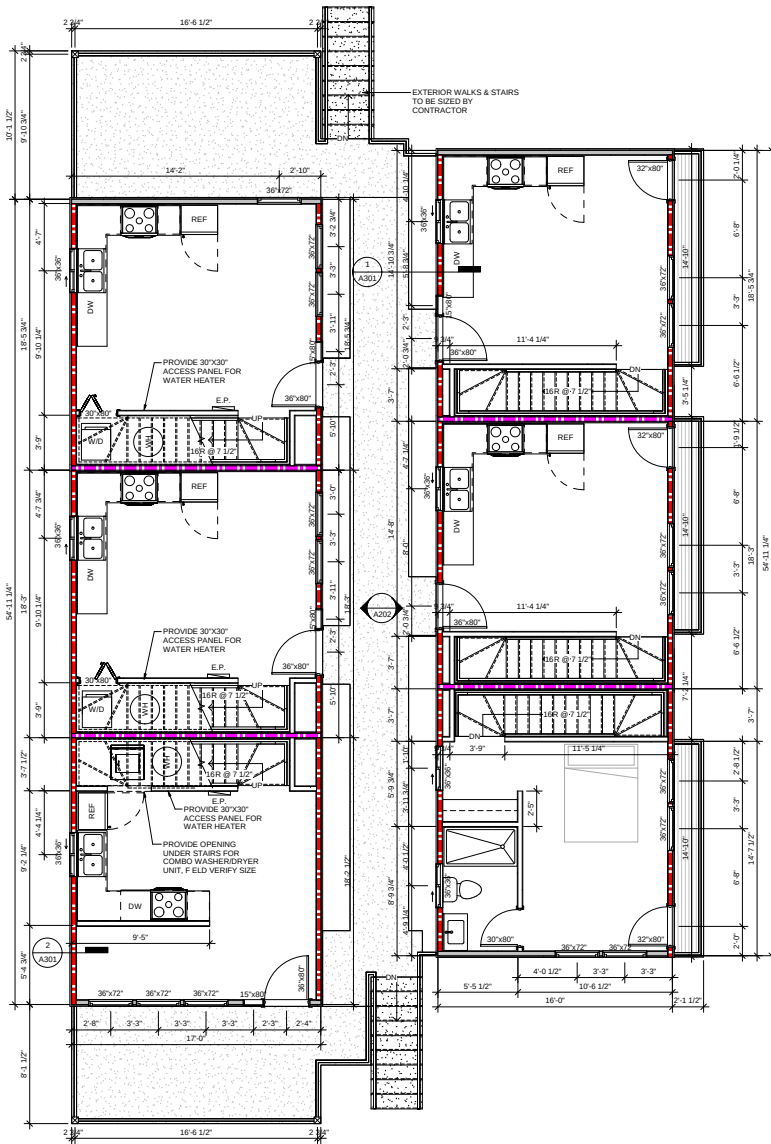
TYPICAL DECKS, PATIOS & PORCHES:
DECKS, PATIOS & PORCHES TO BE 1/2"
BELOW ADJACENT FINISHED FLOOR.
PROVIDE FLASHING AT ALL FLOOR
TRANSITIONS AT DECK, PATIOS, &
PORCHES

IF THE FINISHED FLOOR HEIGHT OF THE DECK IS 30" ABOVE GRADE, STAIRS AND RAILINGS TO GRADE MUST BE ADDED. RAILINGS TO BE 36" TALL WITH A MINIMUM OF 4" TOP AND BOTTOM RAILS WITH 2" PICKETS SPACED AT NO MORE THAN 3 7/8".

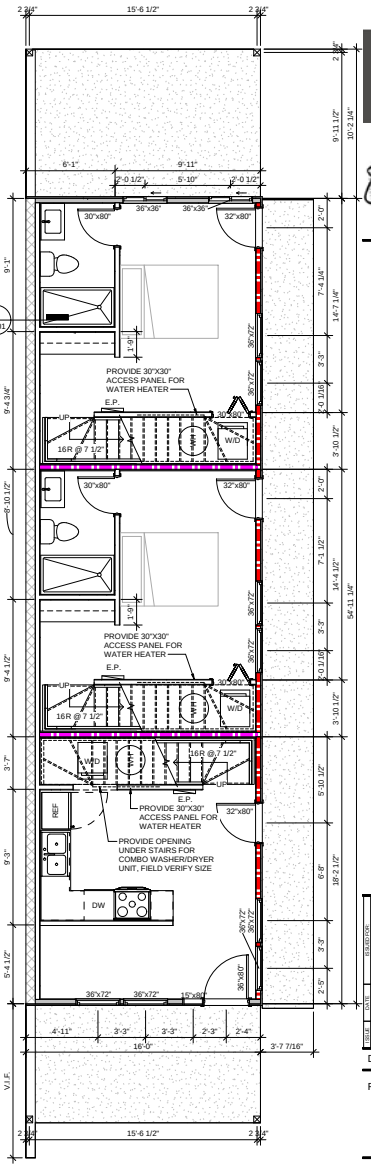
IMPERVIOUS SURFACES TO BE
SLOPED AWAY FROM STRUCTURE @
1/8" PER FOOT



2 SECOND FLOOR PLAN - LOT 21
A103 1/4" = 1'-0"



1 MAIN FLOOR PLAN - LOT 20 & 21
A103 1/4" = 1'-0"



4 BASEMENT FLOOR PLAN - LOT 20
A103 1/4" = 1'-0"

EXTERIOR ELEVATION KEYNOTES

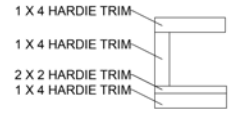
- 1 HARDIE SIDING
- 2 CMU W/ PARGE COAT
- 3 METAL ROOF TBS BY OWNER



TRANSPARENCY CALCULATIONS:

LOT 20
FRONT FACADE: 350 SQFT
TRANSPARENCY: 108 SQFT
30% TRANSPARENCY PROVIDED

LOT 21
FRONT FACADE: 316 SQFT
TRANSPARENCY: 88 SQFT
28% TRANSPARENCY PROVIDED

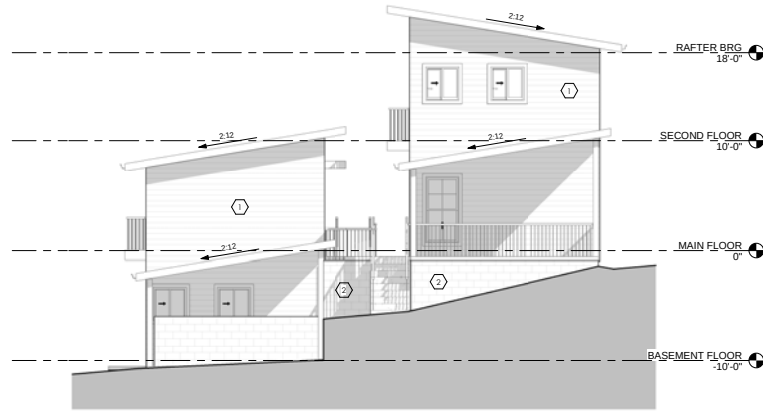


5 ARTICULATED WINDOW & DOOR TRIM DETAIL
NTS

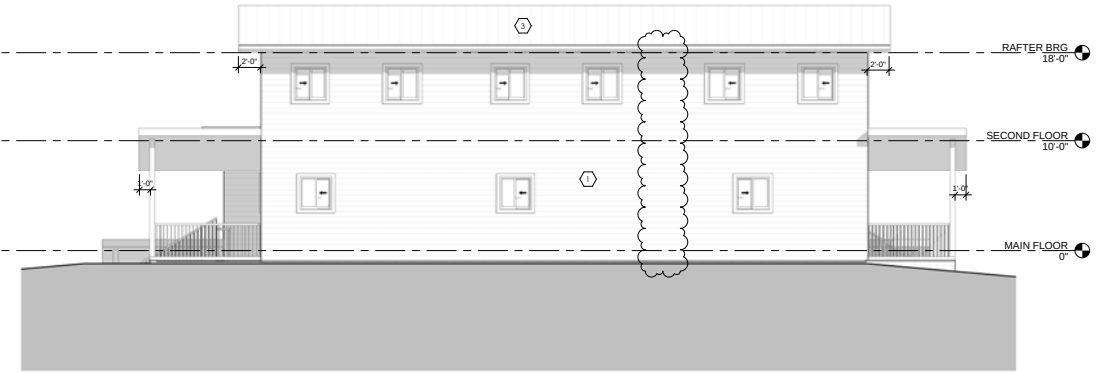
EXTERIOR ELEVATION NOTES

APPROXIMATE SITE LOCATION AND TOPOGRAPHY. GENERAL CONTRACTOR TO WORK WITH CIVIL AND STRUCTURAL TEAM TO CLARIFY HOME LOCATION ON PROPOSED SITE AND ANY RETAINING REQUIREMENTS. CONFIRM ANY BUILDING ADJUSTMENTS WITH ARCHITECT BASED ON LOCATION WITH IN SETBACK REQUIREMENTS AND ANY CITY, CODE OR SEPTIC REQUIREMENTS PRIOR TO SUBMISSION.

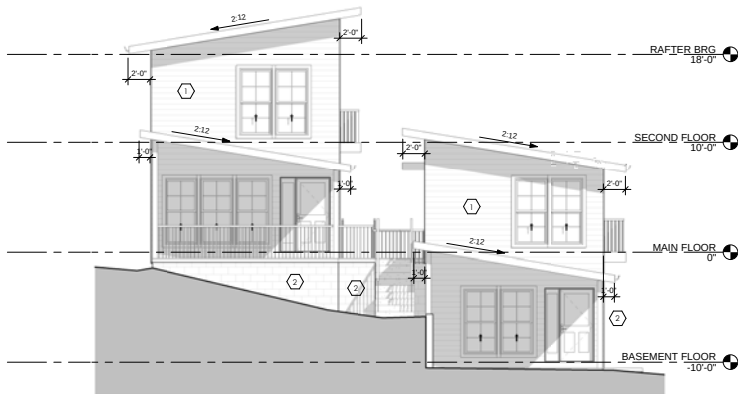
DESIGN ELEMENTS:
4.6.E.4.B. ROOF: ARTICULATED; 2 PITCHES WITH 2 RIDGELINE DIRECTIONS VIS. SILE FROM THE FRONT.
4.6.E.4.B. (MASONRY FENCE DIVIDING PATIOS ON ONE SIDE; CANTILEVERED OVERHANGS AND CONCRETE STAIRS ON THE OTHER SIDE)
4.6.E.4.C. 8' DEEP PORCH SPANNING THE ENTIRE WIDTH OF BUILDING; 8' EAVE OVERHANGS 12" V. PROJECT NG ENTRY FEATURE 8' COVERED PORCH; VIL ARTICULATED WINDOW AND DOOR TRIM.
4.6.E.5 ONE UNIT FACES THE STREET;



3 REAR ELEVATION
3/16" = 1'-0"



2 LEFT ELEVATION
3/16" = 1'-0"



4 FRONT ELEVATION
3/16" = 1'-0"



1 RIGHT ELEVATION
3/16" = 1'-0"

EXTERIOR ELEVATION KEYNOTES

- 1 HARDIE SIDING
- 2 CMU W/ PARGE COAT
- 3 METAL ROOF TBS BY OWNER

TRANSPARENCY CALCULATIONS:

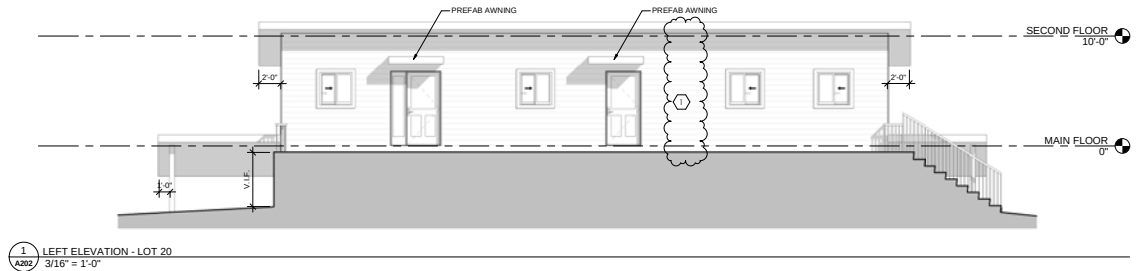
LOT 20
FRONT FACADE: 350 SQFT
TRANSPARENCY: 108 SQFT
30% TRANSPARENCY PROVIDED

LOT 21
FRONT FACADE: 316 SQFT
TRANSPARENCY: 88 SQFT
28% TRANSPARENCY PROVIDED

EXTERIOR ELEVATION NOTES

APPROXIMATE SITE LOCATION AND TOPOGRAPHY. GENERAL CONTRACTOR TO WORK WITH CIVIL AND STRUCTURAL TEAM TO CLARIFY HOME LOCATION ON PROPOSED SITE AND ANY RETAINING REQUIREMENTS. CONFIRM ANY BUILDING ADJUSTMENTS WITH ARCHITECT BASED ON LOCATION WITH IN SETBACK REQUIREMENTS AND ANY CITY, CODE OR SEPTIC REQUIREMENTS PRIOR TO SUBMISSION.

DESIGN ELEMENTS:
4.6.E.4.B. ROOF: ARTICULATED; 2 PITCHES WITH 2 RIDGEL LINE DIRECTIONS VIS. SILE FROM THE FRONT.
4.6.E.4.B. (MASONRY FENCE DIVIDING PATIOS ON ONE SIDE; CANTILEVERED OVERHANGS AND CONCRETE STAIRS ON THE OTHER SIDE)
4.6.E.4.C. 8' DEEP PORCH SPANNING THE ENTIRE WIDTH OF BUILDING; 8' EAVE OVERHANGS 12" V. PROJECT NG ENTRY FEATURE 8' COVERED PORCH; VIL ARTICULATED WINDOW AND DOOR TRIM.
4.6.E.5 ONE UNIT FACES THE STREET;



FIFTH AVE TRIPLEX NEW RESIDENTIAL CONSTRUCTION

Lot 20 + 21 Fifth Ave, Knoxville, Tennessee 37921

DRAWN BY: MB
EXTERIOR ELEVATIONS

A202

PROJECT : 25068
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IRC-NEW-25-0549: Dwelling - Townhouse, \$200000 , 1409 Triplex

Dept: ▼

Status: ▼

Response: ▼

Search:

Type: ▼

Cycle: ▼

Time: ▼

[Refresh](#)

	Ref.# 26	Planning Review Jake Beaumier 7/25/25 11:00 AM	Cycle 1	No response required.
	Info Only	This property is exempt from HP Overlay regulations per article 8.9.B.4 of the City of Knoxville zoning ordinance. "Lots that have been previously legally disturbed or developed would also be excepted provided that any new/additional disturbance does not exceed the previously-disturbed area." Site Disturbance is documented in the 1959 historic aerial. If you have any questions, please contact Jake Beaumier with Knoxville-Knox County Planning. (865)215-3085 or jake.beaumier@knoxplanning.org		
	Comment			
	Ref.# 27	Planning Review Lindsay Lanois 7/29/25 1:17 PM	Cycle 1	No response required.
	Internal Only	Hi Engineering and/or Zoning, can you please confirm Lots 20 and 21 meet non-conforming lot of record requirements?		
	Comment			
	Ref.# 28	Planning Review Lindsay Lanois 7/29/25 1:27 PM	Cycle 1	Type your response here.
	Unresolved	Article 4.6.A: The building is described as a triplex. The application does not propose units that are stacked on top of each other and does not meet the intent of the definition of triplex. The building features three units oriented perpendicular to the street with the units separated by party walls/shared side walls, which meets the definition of a DwellingTownhouse per article 2.3 and partially meets the definition of Townhouse (small) per Article 4.6.A (definitions below for comparison).		
	Comment			
		<i>Responded by: MARLOW BUILDERS - 10/23/25 11:41 AM</i> TBD <i>Reviewer Response: Samiul Haque - 10/23/25 9:17 AM</i> Each review is specific to the case and site. The project, as presented, does not meet the intent of Middle Housing Standards and contradicts Article 4.6, 4.6.E.1, 4.6.E.4, and Article 4.6.G of the Zoning Ordinance. Staff's interpretation can be appealed in accordance with Article 4.6.G.3. <i>Responded by: MARLOW BUILDERS - 10/15/25 10:59 AM</i> OBJECTION. This plan is compliant with Art. 4.6 Middle Housing by determination of Knoxville-Knox County Planning Commission, 14 August 2025; 8-C-25-OB. <i>Responded by: MARLOW BUILDERS - 9/3/25 9:47 PM</i> This building does not meet the definition of a slot house. It features one unit (33% of the total) that fronts the street; the structure has a street facing porch, meets street facing transparency requirements; and it does not extend the full depth of the lot. The structure complies with all dimensional standards of a triplex (building depth, building height, and front/rear setbacks.). Moreover, Art. 4.6 definition of triplex does not require units to be stacked on top of each other. Planning Commission determined this design met the requirements of Art. 4.6 as a triplex upon appeal of an identical design, file number 8-C-25-OB, Agenda Item 31, heard by Planning Commission on 14 August 2025; vote approving this design as triplex 8-3. See https://www.youtube.com/watch?v=nl2UodcbZEo&list=PLHG8_5NdPaHaPC8FQ_0UBHKx3g1VzxBFc <i>Reviewer Response: Samiul Haque - 8/28/25 9:52 AM</i> The development proposed is a slot house design. This is not a defined middle housing type and is not found in the immediately surrounding area of the neighborhood. A slot house does not meet the intent of Middle Housing as the buildings are oriented to the side lot line where the front porches, doors, and windows open into the sides of neighboring structures, which can cause a reduction in privacy for abutting neighbors on this side of the lot. <i>Responded by: MARLOW BUILDERS - 8/19/25 3:19 PM</i> MH Approved by Planning Commission 8-3 on 14 August 2024. Agenda item 31; file 8C25OB.		
	Ref.# 29	Planning Review Lindsay Lanois 7/29/25 1:27 PM	Cycle 1	
	Resolved	Article 4.6.E.5.c: The proposed design does not meet the requirement that townhouses shall not be oriented perpendicular to the street. The narrow side of townhouse units must face the street.		
	Comment			
		<i>Reviewer Response: Samiul Haque - 8/28/25 9:53 AM</i> See Ref. # 28		

		<i>Responded by: MARLOW BUILDERS - 8/19/25 3:19 PM</i> MH Approved by Planning Commission 8-3 on 14 August 2024. Agenda item 31; file 8C25OB.			
	Ref.# 30	Planning Review	Lindsay Lanois	7/29/25 1:27 PM	Cycle 1
	Resolved	Article 4.6.C: Provide an actual front setback measurement, measuring from the front property line to the front building line.			
	Comment				
		<i>Responded by: MARLOW BUILDERS - 8/19/25 3:19 PM</i> See revised A101.			
	Ref.# 31	Planning Review	Lindsay Lanois	7/29/25 1:27 PM	Cycle 1
	Resolved	Article 4.6.E.4.b: recesses or projections in the building wall of any front or side elevation that exceeds a length of 50, which shall be at least 2 wide. Side elevations do not meet this requirement.			
	Comment				
		<i>Reviewer Response: Samiul Haque - 10/23/25 9:10 AM</i> An administrative variation has been approved in accordance with Article 4.6.G.1.iii. The removal of the faux chimney will contribute to a cohesive architectural design, while a reduction in setback encroachment will better align with the setbacks of neighboring buildings on the subject block face and the opposite block face across the street. <i>Responded by: MARLOW BUILDERS - 10/13/25 9:10 PM</i> Planning staff can approve a variation to eliminate the requirement in Section 4.6.E.4.b. based on the criteria in Article 4.6.G.1.iii. Section 4.6.E.4.b. Recesses or projections in the building wall are required in the horizontal plane of any front or side elevation that exceeds a length of 50 feet. Each recess or projection shall be at least two feet. Article 4.6.G.1.iii. Design standards: a variation on the design standards in Section 4.6.E may be permitted, provided the project meets all applicable dimensional standards of Section 4.6, and variation from the design standards is necessary to achieve a creative architectural design which is similar in scale with the buildings on the subject block face and the block face directly across the street. <i>Reviewer Response: Samiul Haque - 9/11/25 5:02 PM</i> This review comment will be resolved upon the Zoning and Building department's approval of the item. <i>Responded by: MARLOW BUILDERS - 9/3/25 5:05 PM</i> Gas appliances are venting out the chimney. Thus, the chimney meets the Art. 2 definition of a chimney and is therefore a permitted encroachment. See Revised A103. <i>Reviewer Response: Samiul Haque - 8/28/25 10:07 AM</i> The proposed wall projection encroaches into the minimum required side setback, which is not permitted. <i>Responded by: MARLOW BUILDERS - 8/19/25 3:19 PM</i> See revised A201 & revised A202.			
	Ref.# 32	Planning Review	Lindsay Lanois	7/29/25 1:27 PM	Cycle 1
	Resolved	Article 4.6.G: The application requests an administrative variation, reducing the required 5 interior side setback to 4. Administrative variations on side setbacks may only be granted if approved by Engineering.			
	Comment				
		<i>Responded by: MARLOW BUILDERS - 10/15/25 11:00 AM</i> This lot has no utility and drainage easements. Accordingly Engineering cannot object to reducing the U/D easements. Planning Staff therefore has no basis to deny the side setback reduction to 4'. <i>Reviewer Response: Samiul Haque - 9/11/25 5:05 PM</i> This review comment will be resolved upon the Engineering department's approval of the item. <i>Responded by: MARLOW BUILDERS - 9/3/25 4:54 PM</i> Approved by email from Chris Howley. See file 'Gmail - U&D Easement.pdf' in the document folder. <i>Responded by: MARLOW BUILDERS - 8/19/25 3:22 PM</i> Approved by email from Chris Howley. See Doc 'Gmail - U&D Easement.pdf' See also Doc 'Gmail - Platting - Fifth.pdf'			

	Ref.# 37	Planning Review Samiul Haque 8/28/25 10:10 AM	Cycle 2	No response required.
	Internal Only	Article 4.6.D (Parking Standards): The application includes no parking spaces. No spaces are required as the property is within a quarter mile of a transit route.		
	Comment			

August 13, 2026

Planning Commission meeting

Public Comments

1 Comment for 8-I-26-OB and

David (37914), August 12, 2026 at 1:34 PM

Again, Deny this appeal. This structure is not a middle housing structure under the old code, or revised code. The lot is way too small. The structure is way too tall. The side entrances on three stories looks ridiculous, nothing like middle housing code calls for.

8-4-26-RZ
8-1-26-RZ

1409 and 1415 W. Fifth Meets Definition of Triplex

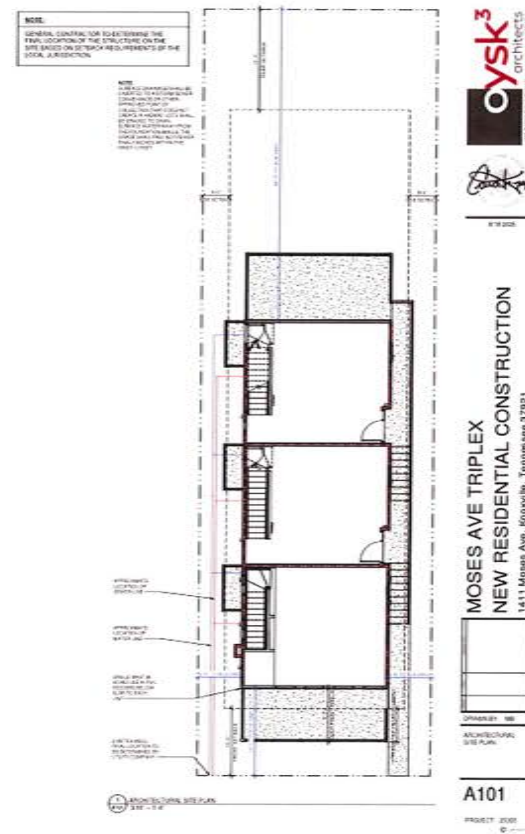
Triplex: a structure up to three stories, containing three dwelling units typically stacked on top of each other, in locations where there is a transition from a commercial corridor and/or higher intensity area into single-family neighborhoods. Within neighborhoods, away from transition areas adjacent to corridors, a 2.5-story triplex may feature other configurations to accommodate three units.

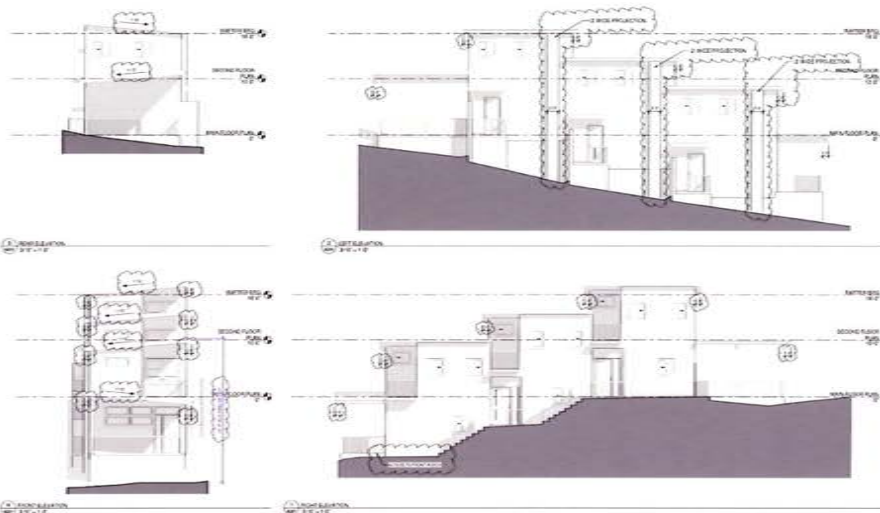
Definition of Triplex was determined during appeal in August 2025, March 2026, and April 2026. Definitions must be applied uniformly.

1403 Moses Approved on Appeal 8/14/25



1411 Moses Approved on Appeal 3/5/26





31. R. BENTLEY MARLOW

1403 Moses Avenue / Parcel ID 094FV027. Appeal of an administrative decision to deny a Middle Housing request. Council District 6.

Speakers:

Jonah Pruitt, 1545 Western Ave., Knoxville, TN 37921
R. Bentley Marlow, 322 Douglas Ave., Knoxville, TN 37921
Parker Bartholomew, 5406 Summridge Ln., Knoxville, TN 37921

1. STAFF RECOMMENDATION

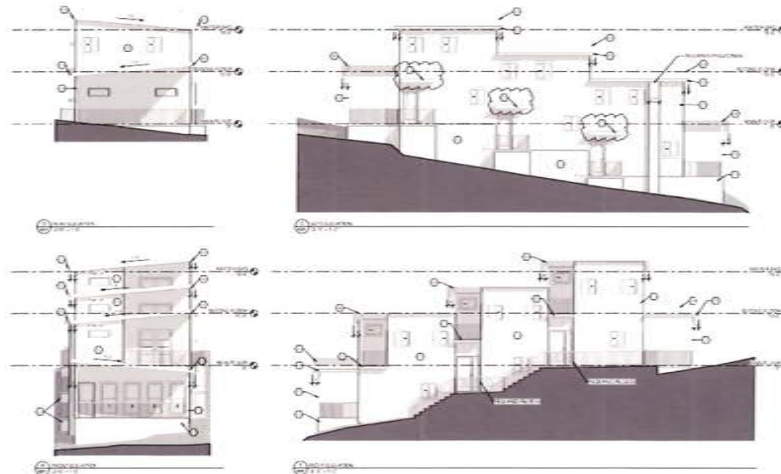
The project as presented in the attached application does not meet the applicable standards per Knoxville City Code, Appendix B, Zoning Code, Article 4.6. The building does not meet the design standards for townhouses (Article 4.6.E.5.c), and does not meet the intent of the Middle Housing Standards (Article 4.6: "intended to promote the development of neighborhood-scale housing forms which are compatible with existing housing in the surrounding area;" Article 4.6.E.4: "to generate new Middle Housing buildings that are similar in footprint, height, and setbacks with the existing neighborhood;" Article 4.6.G: "the intent of Article 4.6 is to allow middle housing types which are in harmony with the surrounding neighborhood and will not be injurious to it or the public welfare.")

2. MOTION (GILL) AND SECOND (ANDERSON) WERE MADE TO APPROVE THE APPEAL, THEREBY OVERTURNING THE DECISION OF PLANNING STAFF.

MOTION CARRIED 8-3 (NO: MIDIS, ADAMS, BUTLER)

Below 1411 Moses

Above 1403 Moses



1403 Moses Approved on appeal 8/14/25

OTHER BUSINESS

17. R. BENTLEY MARLOW

1411 Moses Avenue / Parcel ID 094FV0301. Appeal of an administrative determination for a Middle Housing application.

3-A-25-08

ACCESS & DRIVE

Page 9

Item No.

Planning Commission Meeting - March 5, 2024
File No.

Speakers:
R. Bentley Marlow, 322 Douglas Ave., Knoxville, TN
Parker Bartholomew, 5406 Summridge Ln., Knoxville, TN

1. STAFF RECOMMENDATION

Staff recommends that the Planning Commission evaluate the proposed application based on the Middle Housing Standards (Article 4.6) for the property located at 1411 Moses Avenue. The Planning Commission should discuss whether the structure is a Middle Housing type per Article 4.6.A with a building footprint and overall scale comparable to single family houses and compatible with existing housing in the surrounding area, and whether the proposal will be injurious to the surrounding neighborhood.

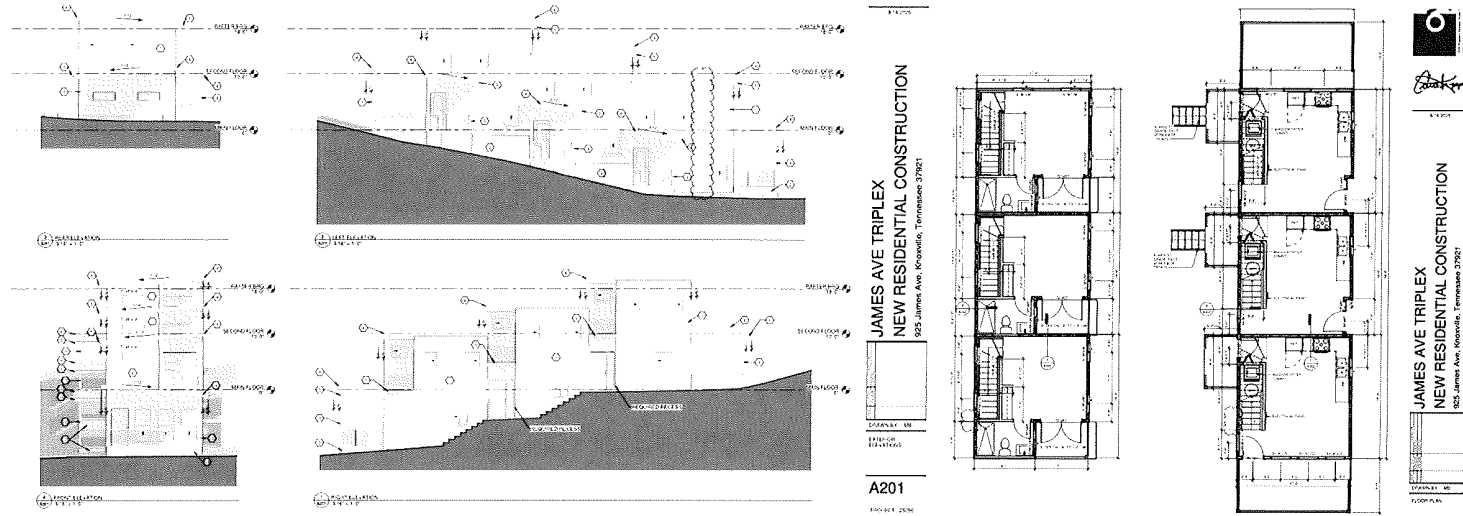
Each application is reviewed on its own merits separately. Land use decisions are considered on a case-by-case basis, and they are not fully bound by precedent. Boards are free to make different decisions even on similar projects, as no two pieces of land are exactly the same. If the Planning Commission makes a different decision on a similar application, the Planning Commission should provide reasoning as to why the decision differs.

2. MOTION (ANDERSON) AND SECOND (GILL) WERE MADE TO APPROVE THE APPEAL.

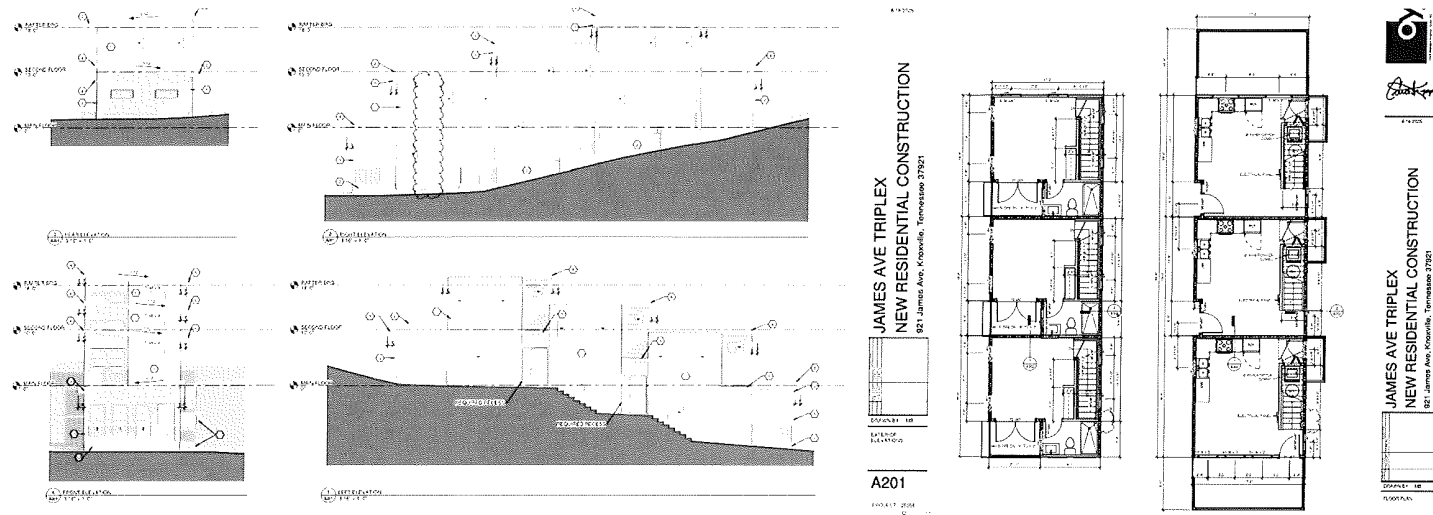
MOTION CARRIED 10-2 (NO: ANDERSON) APPROVED

1411 Moses Approved on Appeal 3/5/26

925 James Approved on Appeal This is Same Building As Moses, and now Fifth Ave



921 James Approved on Appeal This is Same Building As Moses, and now Fifth Ave



921 James Approved on Appeal 4/9/26

21. R. BENTLEY MARLOW

921 James Avenue / Parcel ID 094CK018. Appeal of an administrative determination for a Middle Housing application.

Speaking:

R. Bentley Marlow, 322 Douglas Ave., Knoxville, TN
Parker Bartholomew, 5406 Summit Ridge Ln., Knoxville, TN

1. STAFF RECOMMENDATION

Staff recommends that the Planning Commission evaluate the proposed application based on the Middle Housing Standards (Article 4.6) for the property located at 921 James Avenue. The Planning Commission should discuss whether the structure is a Middle Housing Type per Article 4.6.A with a building footprint and overall scale comparable to single-family houses and compatible with existing housing in the surrounding area, and whether the proposal will be injurious to the surrounding neighborhood.

5/18/2026 1:06 PM

Page 15

Minutes
Item No.

Planning Commission Meeting – April 9, 2026
File No.

Each application is reviewed on its own merits separately. Land use decisions are considered on a case-by-case basis, and they are not fully bound by precedent. Boards are free to make different decisions even on similar projects, as no two pieces of land are exactly the same. If the Planning Commission makes a different decision on a similar application, the Planning Commission should provide reasoning as to why the decision differs.

2. MOTION (ANDERSON) AND SECOND (GILL) WERE MADE TO APPROVE THE APPEAL.

MOTION CARRIED 10-2 (NO: BUTLER, MIDIS). APPROVED

4-F-26-OB

925 James Approved on Appeal 4/9/26

22. R. BENTLEY MARLOW

925 James Avenue / Parcel ID 094CK019. Appeal of an administrative determination for a Middle Housing application.

Speaking:

R. Bentley Marlow, 322 Douglas Ave., Knoxville, TN
Parker Bartholomew, 5406 Summit Ridge Ln., Knoxville, TN

1. STAFF RECOMMENDATION

Staff recommends that the Planning Commission evaluate the proposed application based on the Middle Housing Standards (Article 4.6) for the property located at 925 James Avenue. The Planning Commission should discuss whether the structure is a Middle Housing Type per Article 4.6.A with a building footprint and overall scale comparable to single-family houses and compatible with existing housing in the surrounding area, and whether the proposal will be injurious to the surrounding neighborhood.

Each application is reviewed on its own merits separately. Land use decisions are considered on a case-by-case basis, and they are not fully bound by precedent. Boards are free to make different decisions even on similar projects, as no two pieces of land are exactly the same. If the Planning Commission makes a different decision on a similar application, the Planning Commission should provide reasoning as to why the decision differs.

5/18/2026 1:06 PM

Page 16

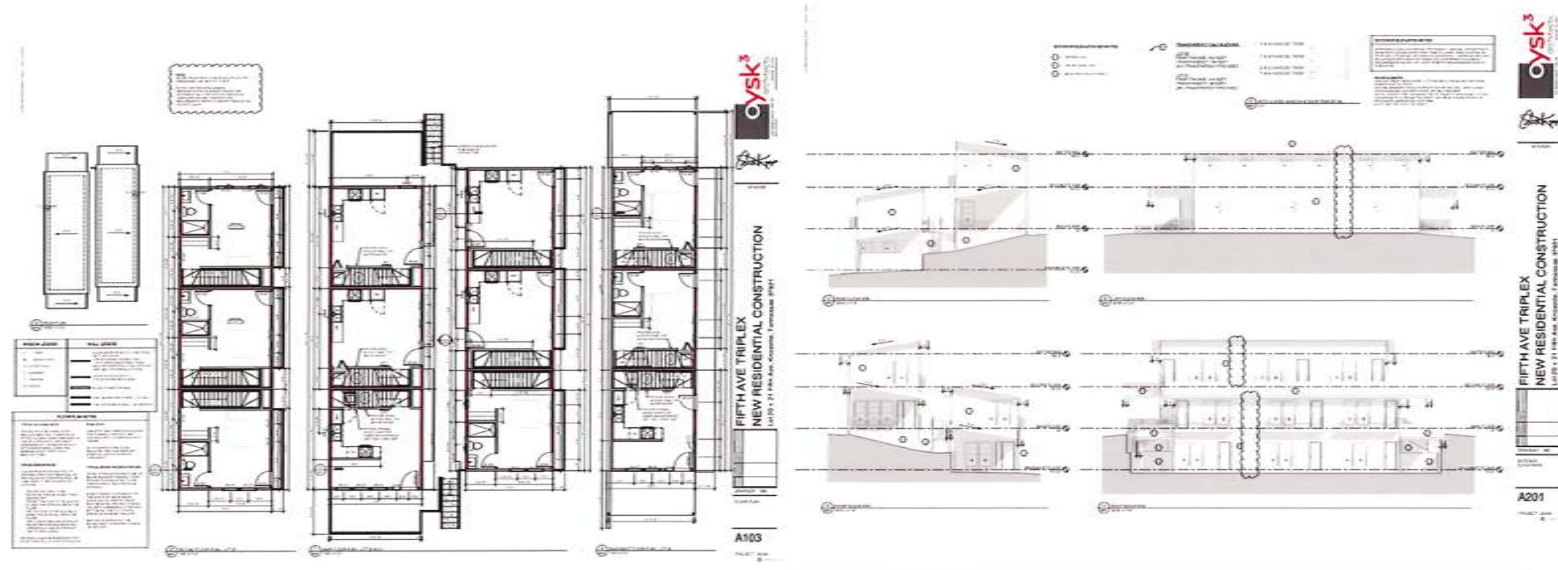
Minutes
Item No.

Planning Commission Meeting – April 9, 2026
File No.

2. MOTION (ANDERSON) AND SECOND (GILL) WERE MADE TO APPROVE THE APPEAL.

MOTION CARRIED 10-2 (NO: BUTLER, MIDIS). APPROVED

1409 and 1415 Fifth Ave



All Dimensional Standards are Met:

4.6.C. Middle Housing Dimensional Standards

YES The dimensional standards of this Section supersede the base zoning district dimensional standards as defined in [Article 4](#).

YES Table 4-4: Middle Housing Dimensional Standards establishes the dimensional standards for new construction of Middle Housing types within the permitted area.

YES Building setbacks:

- Front setbacks for Middle Housing types shall be the average of the block face, plus or minus five feet, in no case less than 10'.
- Rear setbacks for Middle Housing types shall be no less than 15 feet.

YES Building heights shall not exceed the maximum building height of the base zoning district, or the maximum height in stories as noted in Table 4-4, whichever is less. For Middle Housing types, story and half-story are defined below.

- Story: the portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above, the space between the floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than six feet above grade for more than 50 percent of the total perimeter, such basement or cellar shall be considered a story.
- Half-Story: conditioned space that rests primarily underneath the slope of the roof, usually having dormer windows. The half story is identified by the ".5" in the description of maximum height (e.g., 2.5). A half-story is considered a story when its top wall plates, on at least two opposite exterior walls, are four feet or more above the floor of such story.

YES Dormers:

- The combined width of dormers shall not exceed 50% of the width of the wall area beneath.
- Dormers shall be set back from the nearest rake or eave by at least two feet.

YES Building width for Middle Housing types is defined as follows: the length of the building façade wall that does not include permitted encroachments, as measured along the foundation that generally faces the front lot line or a public space.

YES Building depth for Middle Housing types is defined as follows: the length of the building façade wall that does not include permitted encroachments, as measured along the foundation that generally faces an interior or corner side lot line or a public space.

Specific Design Standards

4.6.E. Middle Housing Design Standards

- YES** 1. The following standards apply only to new construction of Middle Housing types and are intended to promote the development of neighborhood-scale housing forms which are compatible with existing housing in the surrounding area.
- YES** 2. New construction and certain expansion and exterior alteration actions within the IH, NC, and H overlays, as described in Sections [16.6](#) and [16.8](#), are subject to review and approval by the Design Review Board or Historic Zoning Commission, per Sections [16.6](#) and [16.8](#).
- YES** 3. The principal use standards for two-family, multi-family, and townhouse dwellings, as described in Sections 9.3.I and 9.3.J, apply alongside the below design standards.
- YES** 4. In order to generate new Middle Housing buildings that are similar in footprint, height, and setbacks with the existing neighborhood and increase visual interest, yet allow for flexibility in design, the following requirements apply to all Middle Housing types:
- YES**
- a. Rooflines must be either:
 - i. Flat, featuring a cornice, parapet, or decorative band to serve as a building cap for portions of the roof visible from the street;
 - ii. Steep, with a roof pitch of 6/12 or more;
 - iii. Articulated, with at least two pitches, planes, or ridge line directions, or displaying hips and valleys.
 - b. Recesses or projections in the building wall are required in the horizontal plane of any front or side elevation that exceeds a length of 50 feet. Each recess or projection shall be at least two feet.
 - c. The front façade must contain (1) a porch or stoop, and (2) at least three of the following design elements:
 - i. Dormer(s);
 - ii. Eave overhangs, a minimum of 12 inches;
 - iii. Decorative cornice;
 - iv. Covered porches at least eight feet in depth, composing a minimum of 25% of the width of the street facing elevations (this item may satisfy the requirement for a porch or stoop, and one design element);
 - v. A recessed or projecting entry feature of 18 inches or more in depth, and of at least six feet in width;
 - vi. A bay window projecting a minimum of 12 inches from the front façade;
 - vii. Articulated window and door trim, a minimum of 3.5 inches in width, to include projecting window sills;
 - viii. Brick masonry composing at least 25% of any street-facing elevation.
- YES** 5. Building Orientation to Street
- a. Middle Housing types shall be oriented with their front elevations facing the street. At least one ground-level entrance must be oriented towards the street.
 - b. Townhouses shall not be oriented so the fronts of units face the rear elevations of units.
 - c. Townhouses shall not be oriented perpendicular to the street. The narrow side of townhouse units must face the street.

August 13, 2026

1:30 P.M. | Main Assembly Room
City County Building

The Planning Commission met in regular session on August 13, 2026, 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

Commissioner	Present	Absent	Arrive late/left early
Tim Hill	✓		
Louis Browning	✓		
Marité Pérez	✓		
Matt Anderson		✓	
Margaret Butler	✓		
Miles Biggs		✓	
Kara Daley	✓		
Nick Gill	✓		
Amy Midis	✓		
Cathy Shuck	✓		
Nancy Barger	✓		
Wala Habiby	✓		
Sarah Harris	✓		
Rich Levenson, Vice-Chair	✓		
John Huber, Chair	✓		

50. R. BENTLEY MARLOW

8-I-26-OB

1409 Fifth Avenue / Parcel ID 094FC020. Appeal of an administrative determination for a Middle Housing application.

Speaking:

R. Bentley Marlow, 322 Douglas Ave., Knoxville, TN

Parker Bartholomew, 5406 Summitttridge Ln., Knoxville, TN

1. STAFF RECOMMENDATION

Item No.**File No.**

Staff recommends that the Planning Commission evaluate the proposed application based on the Middle Housing Standards (Article 4.6) for the property located at 1409 W Fifth Avenue. The Planning Commission should discuss whether the structure is a Middle Housing Type per Article 4.6.A with a building footprint and overall scale comparable to single-family houses and compatible with existing housing in the surrounding area, and whether the proposal will be injurious to the surrounding neighborhood.

2. **MOTION (BUTLER) AND SECOND (GILL) WERE MADE TO DENY THE APPEAL AND AFFIRM THE PLANNING STAFF'S DECISION BASED ON THE TYPE, SCALE, AND NEIGHBORHOOD COMPATIBILITY STANDARDS OF ARTICLE 4.6.A.**

**MOTION CARRIED UNANIMOUSLY 12-1 (NO: HABIBY).
DENIED**

THANK YOU for your submission!

Your notice has been submitted for publication. Below is a confirmation of your order. You will also receive an email confirmation.

ORDER DETAILS

Order Number:
LOKR0579777

Order Status:
Submitted

Classification:
Public Sale

Package:
General Package

1 Affidavit:
7.50

Total payment:
100.88

Payment Type:
Account Billed

User ID:
L0013876

External User ID:
676064

ACCOUNT INFORMATION

Knoxville-Knox County Planning
400 W Main ST # 403 DELLAS DEARMOND
Knoxville, TN 37902-2427
865-215-2506
dori.caron@knoxplanning.org
Knoxville-Knox County Planning
Contract ID: GOVT

TRANSACTION REPORT

Date
August 18, 2026 3:45:32 PM EDT

Amount:
100.88

ADDITIONAL OPTIONS

1 Affidavit

PREVIEW FOR AD NUMBER LOKR05797770

PUBLIC NOTICE- APPEAL OF DECISION
The following item will be considered by the Knoxville City Council on Spetember 15, 2026, at 6:00 p.m. in the Main Assembly Room, City County Building, 400 Main St., Knoxville, TN. Information related to this item is available online at www.knoxplanning.org or in person at the Planning Office, Suite 403, City County Building. If you need assistance of 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 affirmation of a staff determination for a Middle Housing application, requested by R. Bentley Marlow. Property located at 1409 W Fifth Ave., Council District 6. Planning Commission file no. 8-I-26-OB

Appeal by R. Bentley Marlow of the Knoxville-Knox County Planning Commission's affirmation of a staff determination for a Middle Housing application, requested by R. Bentley Marlow. Property located at 1415 W Fifth Ave., Council District 6. Planning Commission file no. 8-H-26-OB
August 21 2026
LOKR0579777

[<< Click here to print a printer friendly version >>](#)

SCHEDULE FOR AD NUMBER LOKR05797770

August 21, 2026
Knoxville News Sentinel

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EXHIBITS SUBMITTED BY APPLICANT



TO: Knoxville-Knox County Planning Commission
FROM: Samiul Haque, Planner
DATE: February 26, 2026
SUBJECT: Appeal of an administrative determination for a Middle Housing application
FILE #: 3-A-26-0B; Agenda Item #17

SUMMARY OF RECOMMENDATION

Staff recommends that the Planning Commission evaluate the proposed application based on the [Middle Housing Standards \(Article 4.6\)](#) for the property located at 1411 Moses Avenue. The Planning Commission should discuss whether the structure is a Middle Housing Type per Article 4.6.A with a building footprint and overall scale comparable to single-family houses and compatible with existing housing in the surrounding area, and whether the proposal will be injurious to the surrounding neighborhood.

Each application is reviewed on its own merits separately. Land use decisions are considered on a case-by-case basis, and they are not fully bound by precedent. Boards are free to make different decisions even on similar projects, as no two pieces of land are exactly the same. If the Planning Commission makes a different decision on a similar application, the Planning Commission should provide reasoning as to why the decision differs.

APPEAL AND REQUEST SUMMARY

The applicant is appealing Planning staff's comments on a pending Middle Housing application for a proposed 3-unit structure at 1411 Moses Avenue (KnoxPlans project # IRC-NEW-25-0542).

The applicable review comments on the project are as follows:

- 9/11/25 - The development proposed is a slot house design. This is not a defined middle housing type and is not found in the immediately surrounding area of the neighborhood. A slot house does not meet the intent of Middle Housing as the buildings are oriented to the side lot line, where the front porches, doors, and windows open into the sides of neighboring structures, which can cause a reduction in privacy for abutting neighbors on this side of the lot.
- 7/29/25 - Article 4.6.A: The applicant describes the building as a triplex. The application does not propose units that are stacked on top of each other and does not meet the

definition of triplex. The building features three units oriented perpendicular to the street with the units separated by party walls/shared side walls, which meets the definition of a Dwelling Townhouse per Article 2.3 and partially meets the definition of Townhouse (small) per Article 4.6.A.

- 7/29/25 - Article 4.6.E.5.c: The proposed design does not meet the requirement that townhouses shall not be oriented perpendicular to the street. The narrow side of townhouse units must face the street.

The full record of staff review comments and applicant responses is provided in Exhibit B.

The Middle Housing Request

The request is located on a vacant property in the Mechanicsville neighborhood. The property is zoned RN-2 (Single-Family Neighborhood) with the HP (Hillside Protection Overlay) and is in the Traditional Neighborhood Residential land use classification. It has a lot size of 3,425 sq ft and a lot width of 29.94 ft.

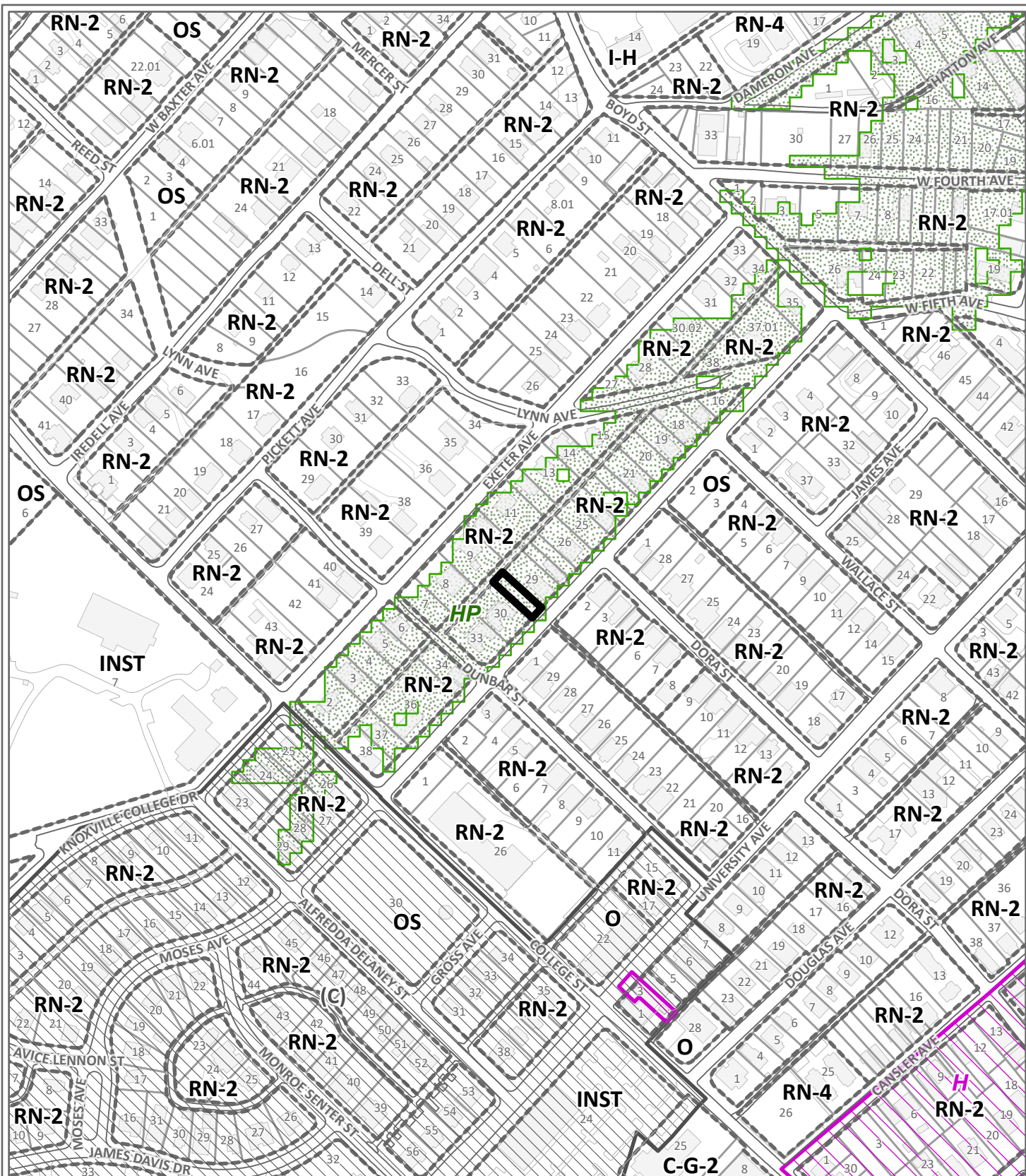
1411 Moses is located between a 2-story duplex and a 2-story house, with the basement level of both structures located at grade level. The proposed building features three units with two units oriented towards the side yard, with the units separated by party walls/shared side walls.

The proposed structure has characteristics of a slot house, since all but one of the units are oriented facing the side yard, and the overall structure utilizes the maximum building depth allowed. A slot house is not a housing type identified as a middle housing type in Article 4.6. The proposed structure has porches and doors opening into the sides of neighboring structures. This design can reduce privacy for abutting neighbors, potentially creating a negative impact that is amplified on this narrow lot, which is nonconforming to the RN-2 district's minimum lot width standards and has limited space between structures.

STANDARD OF REVIEW

The application was submitted prior to the recent amendments to the City of Knoxville Zoning Code, Article 4.6, Middle Housing, which amended the appeal body to the Design Review Board, and is therefore subject to the previous zoning ordinance requirements, in which Middle Housing appeals were heard by the Knoxville-Knox County Planning Commission.

In accordance with Article 16.12.A.4.b under the applicable code, the Planning Commission must evaluate the application based upon the evidence presented at the public hearing. The Commission may affirm, modify, impose restrictions, or overrule the Planning staff determination.



OTHER BUSINESS

3-A-26-OB

Petitioner: R. Bentley Marlow



Purpose of Request: Appeal of an administrative determination for a Middle Housing application.

Original Print Date: 2/26/2026

Knoxville - Knox County Planning Commission * City / County Building * Knoxville, TN 37902

Map No: 999

Jurisdiction: City

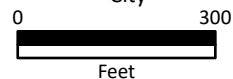
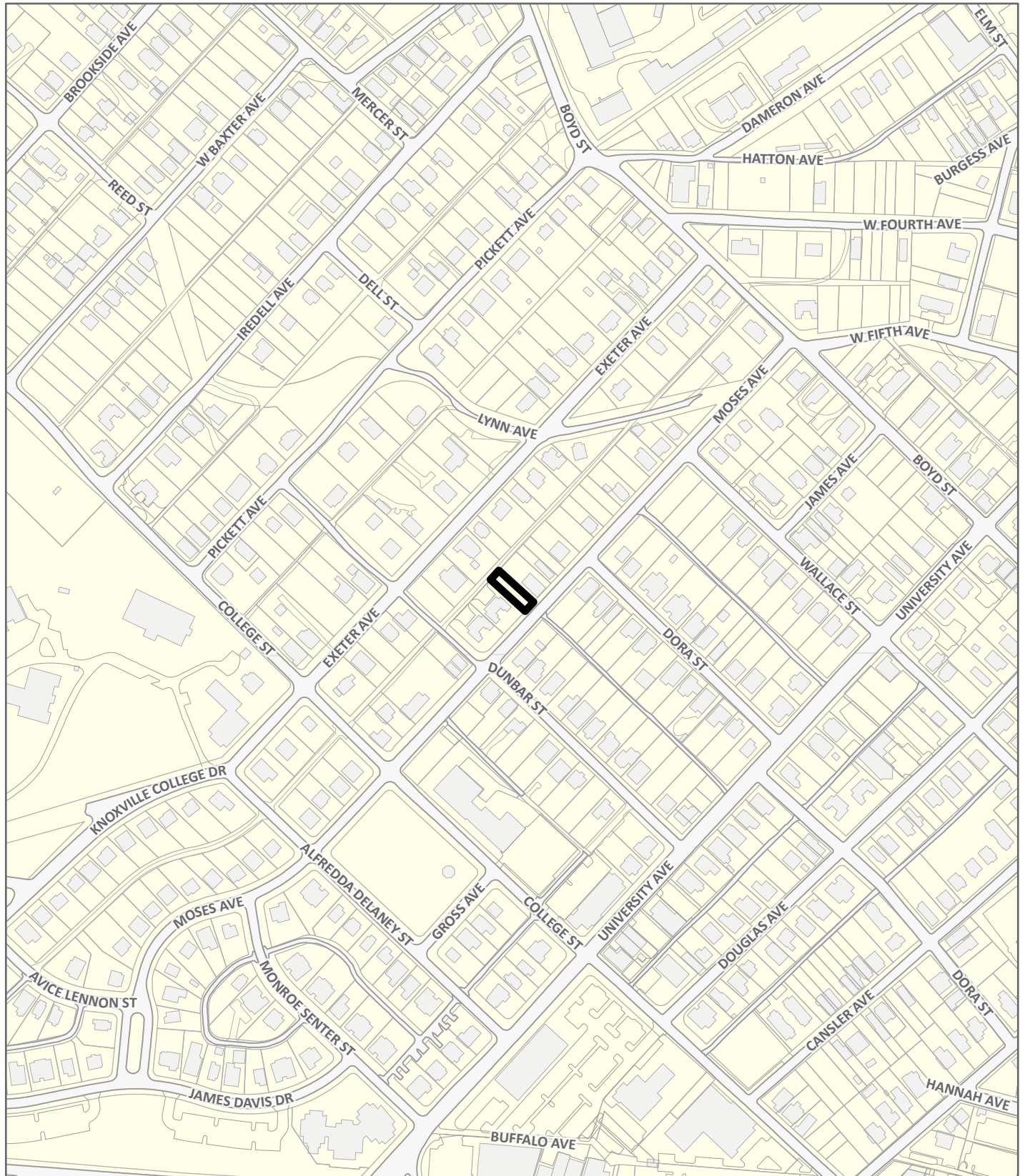


Exhibit A. Contextual Images



LOCATION MAP

3-A-26-OB



Case boundary

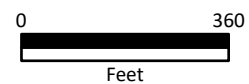


Exhibit A. Contextual Images



AERIAL MAP



Case boundary

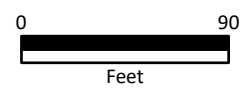


Exhibit A. Contextual Images



KGIS Pictometry View (2024)



Google StreetView (2015)

PICTOMETRY AND STREETVIEW

3-A-26-OB



Case boundary

Type: ☐ Plan Amendment ☐ Rezoning ☐ Certificate of Appropriateness

File #3-A-26-OB

☐ Street Name Change ☒ Other: _____

Decision By: ☒ Planning Staff ☐ Planning Commission ☐ Other: _____ ☐ Date of Decision: _____

Jurisdiction: ☒ City 6th _____ Council District ☐ County _____ Commission District

IRC-NEW-25-0542

R. Bentley Marlow

Original File Number Being Appealed

920 University LLC

Original Applicant Name

~~094FV000001~~ 094FV03001

Name of Owner of Subject Property

Denial of Middle Housing Approval

Parcel Number of Subject Property

Property: 1411 Moses Ave

Decision Being Appealed

Reason for the Appeal:
(Attach additional pages,
if necessary.)

Arbitrary and Capricious Denial by Staff. Issues raised by Staff on 29 July 2025: 1) Article 4.6.A: The building is described as a triplex. The application does not propose units that are stacked on top of each other and does not meet the intent of the definition of triplex. The building features three units oriented perpendicular to the street with the units separated by party walls/shared side walls, which meets the definition of a Dwelling Townhouse per article 2.3 and partially meets the definition of Townhouse (small) per Article 4.6.A (definitions below for comparison); and, raised on 11 September 2025: 2) The development proposed is a slot house design. This is not a defined middle housing type and is not found in the immediately surrounding area of the neighborhood. A slot house does not meet the intent of Middle Housing as the buildings are oriented to the side lot line where the front porches, doors, and windows open into the sides of the neighboring structures, which can cause a reduction in privacy for adjoining neighbors on this side of the lot. Planning Commission determined this design met the requirements of Art. 4.6 as a triplex upon appeal of an identical design, file number B-C-25-05, Agenda Item 31, heard by Planning Commission on 14 August 2025; vote approving this design as triplex B-3. Planning Staff seeks to reiterate already decided designs.

PETITIONER INFORMATION

R. Bentley Marlow



Name of Petitioner

Signature of Petitioner

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

Property owner and General Contractor

All correspondence
should be sent to:

R. Bentley Marlow

865-607-4357

Name (Print)

Phone

Email

322 Douglas Avenue

Knoxville

Tenn.

37921

Address

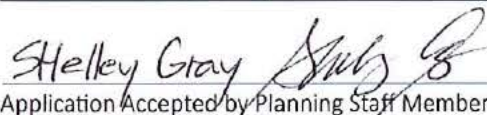
City

State

ZIP

STAFF USE ONLY

Application Accepted by Planning Staff Member



Appeal Fee Amount

\$ 250.00

Date Appeal Received

2/16/2026

APPEAL MEETING INFORMATION

City
Council - 6 p.m.

Month | Date | Year

County
Commission - 5 p.m.

Month | Date | Year

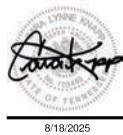
Knoxville-Knox
County Planning
Commission - 1:30 p.m.

Month | Date | Year

03/05/26

MOSES AVE TRIPLEX NEW RESIDENTIAL CONSTRUCTION

1411 Moses Ave, Knoxville, Tennessee 37921



8/18/2025

DETAIL CALLOUT



ELEVATION MARKER



DETAIL SECTION MARKER



BUILDING SECTION MARKER



INTERIOR ELEVATION MARKER



NORTH INDICATOR



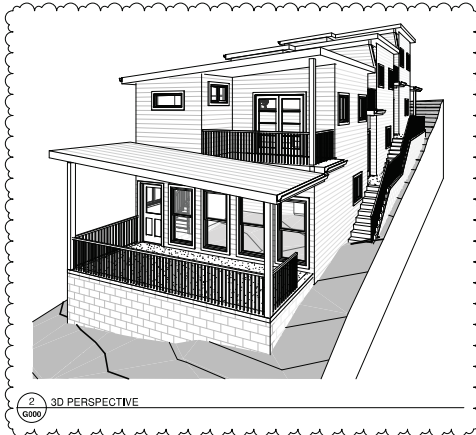
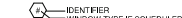
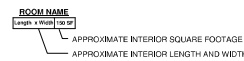
ELEVATION MARKER



SPOT ELEVATION



FLOOR PLAN TAGS



2 3D PERSPECTIVE



1 VICINITY MAP

SHEET NUMBER	SHEET NAME	Sheet Issue Date	Current Revision Description	Current Revision Date
01 - GENERAL				
G000	PROJECT INFORMATION	8/18/2025		
G001	CONSTRUCTION NOTES	8/18/2025		
G002	CONSTRUCTION NOTES	8/18/2025		
G003	JUL ASSEMBLIES	8/18/2025		
02 - ARCHITECTURAL				
A101	ARCHITECTURAL SITE PLAN	8/18/2025		
A102	FOUNDATION PLAN & FLOOR FRAMING PLAN	8/18/2025		
A103	FLOOR PLAN	8/18/2025		
A104	ROOF PLAN & ROOF FRAMING PLAN	8/18/2025		
A201	EXTERIOR ELEVATIONS	8/18/2025		
A302	WALL SECTIONS & DETAILS	8/18/2025		
A304	AIR SEALING DETAILS	8/18/2025		

OWNER

Marlow Builders, Inc.
322 Douglas Ave
Knoxville, TN 37921
CONTACT: Bentley Marlow
CELL PHONE: (865) 607-4357
EMAIL: bmarlow@marlow.com

ARCHITECT

oysk3 architects
1545 Western Avenue, Suite 100
Knoxville, TN 37921
CONTACT: Kara Knapp
OFFICE PHONE: (865) 523-8200
EMAIL: office@oysk3architects.com

FACILITY AND CODE COMPLIANCE

PARCEL DESCRIPTION	094FV03001
SUBDIVISION	MOSES FAIRVIEW PT LOT 258
PROPERTY ZONE	RN-2
PROPERTY SIZE	3,990 SF
BUILDING SQUARE FOOTAGE	MAIN FL. 1203 SF SECOND FL. 1203 SF TOTAL 2405 SF
FLOOR LEVELS	TWO STORY
CONSTRUCTION CLASSIFICATION	V-S, UNPROTECTED, UNSPRINKLERED
OCCUPANCY CLASSIFICATION	RESIDENTIAL
OCCUPANT LOAD	2405/200 = 12 OCCUPANTS
RATED WALLS	NONE
DETECTION AND ALARM SYSTEMS	LINE VOLTAGE, INTERCONNECTED, SMOKE DETECTORS IN EACH BEDROOM AND OUTSIDE EACH BEDROOM IN CLOSE PROXIMITY, WITH BATTERY BACKUP, SMOKE ALARM TO BE PLACED NO LESS THAN 3' HORIZONTALLY FROM THE OUTSIDE OF A BATHROOM DOOR CONTAINING A BATH TUB/SHOWER.

EMERGENCY & ILLUMINATION

MAX TRAVEL DISTANCE TO EXITS	NOT REQUIRED
FIRE EXTINGUISHERS	PROVIDED BY OWNER

BUILDING STANDARDS

SCOPE OF WORK:	2-STORY TRIPLEX, WOOD FRAME ON CMU FOUNDATION, WITH TYPICAL UTILITIES, SITE GRADING AS REQUIRED.
ADOPTED CODES:	ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH LOCAL CODES. 2024 INTERNATIONAL RESIDENTIAL CODE 2018 INTERNATIONAL ENERGY CONSERVATION CODE
FIRE RESISTANCE:	ALL MATERIALS USED ARE TO BE INSTALLED WITH STRICT ACCORDANCE WITH THE MANUFACTURER'S RECOMMENDED DETAILS & INSTRUCTIONS. EXTERIOR WALLS: 0 HR. + 1 HR. INTERIOR WALLS: 0 HR. ROOF CONSTRUCTION: 0 HR. FLOOR CONSTRUCTION: 0 HR. TOWNHOUSE SEPARATION: 2 HR.
DESIGN LOADS:	FLOOR, 1st: 40 PSF LIVE + 10 PSF DEAD FLOOR, 2nd: 40 PSF LIVE + 10 PSF DEAD ROOF: 20 PSF LIVE + 10 PSF DEAD SLEEPING AREAS: 30 PSF LIVE + 10 PSF DEAD INTERIOR STAIRS: 40 PSF LIVE + 10 PSF DEAD EXTERIOR DECKS: 60 PSF LIVE + 10 PSF DEAD
SEISMIC LOADING TO BE BASED ON REQUIREMENTS OF SECTION R301 OF THE IRC.	"REFER TO SNOW LOAD & WIND LOAD PER SECTION R301 OF THE INTERNATIONAL RESIDENTIAL CODE (IRC)."

MOSES AVE TRIPLEX
NEW RESIDENTIAL CONSTRUCTION
1411 Moses Ave, Knoxville, Tennessee 37921

DATE	DESCRIPTION	BY	CHKD
8/18/25	ISSUED FOR PERMIT	MB	MB

DRAWN BY: MB
PROJECT INFORMATION

G000

PROJECT : 25055
© COPYRIGHT 2025

NOTE:
GENERAL CONTRACTOR TO DETERMINE THE FINAL LOCATION OF THE STRUCTURE ON THE SITE BASED ON SETBACK REQUIREMENTS OF THE LOCAL JURISDICTION.

NOTE:
SURFACE DRAINAGE SHALL BE DIVERTED TO A STORM SEWER CONVEYANCE OR OTHER APPROVED POINT OF COLLECTION THAT DOES NOT CREATE A HAZARD. LOTS SHALL BE GRADED TO DRAIN SURFACE WATER AWAY FROM THE FOUNDATION WALLS. THE GRADE SHALL FALL NOT FEWER THAN 6 INCHES WITHIN THE FIRST 10 FEET.

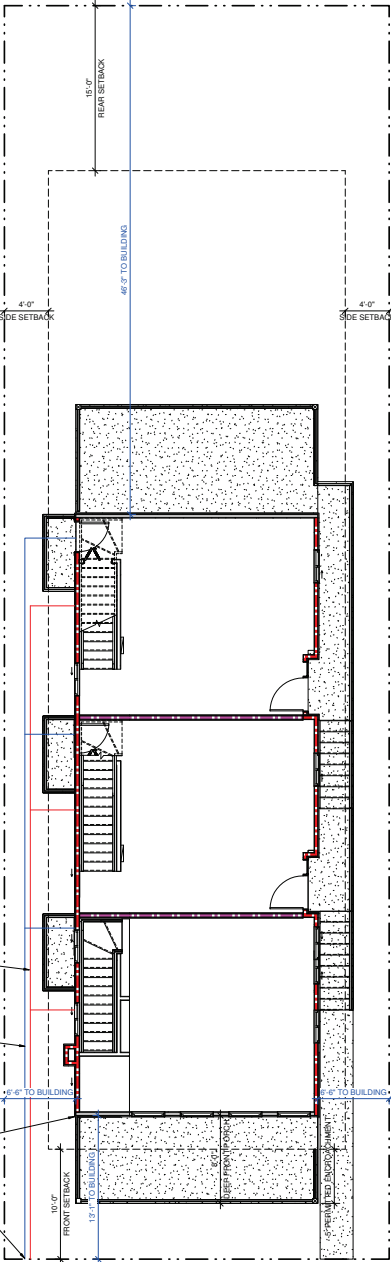
APPROXIMATE LOCATION OF SEWER LINE

APPROXIMATE LOCATION OF WATER LINE

SINGLE MAST W/ SCHEDULE 40 PVC FEEDERS BELOW SLAB TO EACH UNIT

3 METER WELL. FINAL LOCATION TO BE DETERMINED BY UTILITY COMPANY

1 ARCHITECTURAL SITE PLAN
A101 3/16" = 1'-0"



oysk³

architects

14111 Moses Ave, Suite 100
Knoxville, TN 37921
(606) 528-1000
info@oysk3.com

Seal of the State of Tennessee

8/18/2025

MOSES AVE TRIPLEX
NEW RESIDENTIAL CONSTRUCTION
1411 Moses Ave, Knoxville, Tennessee 37921

PROJECT NO.	
DATE	
DRAWN BY: MB	

ARCHITECTURAL SITE PLAN

NOTE:
VENTING FOR GAS APPLIANCES TO BE RAN IN CHIMNEY.

WALL LEGEND	
	2x4 WOOD STUDS @ 16" O.C. WITH R-20 BATT INSULATION
	1/2" GYP BOARD INTERIOR SIDE
	1/2" GYP BOARD EXTERIOR SIDE (SEE EXTERIOR ELEVATIONS)
	2x4 WOOD STUDS @ 16" O.C. WITH R-20 BATT INSULATION
	1/2" GYP BOARD INTERIOR SIDE
	1/2" GYP BOARD EXTERIOR SIDE (SEE EXTERIOR ELEVATIONS)
	8" CMU FOUNDATION WALL
	2" HR. SEPARATION 2x4 WALL - UL U301
	1" HR. EXTERIOR 2x4 WALL - GR-EFW-02

WINDOW LEGEND:	
SH	SINGLE HUNG
SL	SLIDING
T	TRANSOM

FLOOR PLAN NOTES:

TYPICAL BLOCKING NOTE:
PROVIDE WOOD BLOCKING IN THE WALLS AS REQUIRED TO SUPPORT & ATTACH ALL WALL HUNG ITEMS SUCH AS CABINETS, BRACKETS, HAND RAILS, GRAB BARS, ETC. THE BLOCKING & ITS ATTACHMENTS SHALL CARRY THE MINIMUM WEIGHT. VERIFY WITH MANUFACTURER.

TYPICAL WINDOW NOTE:
GLAZING IN AN INDIVIDUAL FIXED OR OPERABLE PANEL THAT MEETS ALL OF THE FOLLOWING CONDITIONS SHALL BE CONSIDERED TO BE A HAZARDOUS LOCATION:

- THE EXPOSED AREA OF AN INDIVIDUAL PANE IS LARGER THAN 9 SQUARE FEET
- THE BOTTOM EDGE OF THE GLAZING IS LESS THAN 18 INCHES ABOVE THE FLOOR
- THE TOP EDGE OF THE GLAZING IS MORE THAN 36 INCHES ABOVE THE FLOOR
- ONE OR MORE WALKING SURFACES ARE WITHIN 36 INCHES, MEASURED HORIZONTALLY AND IN A STRAIGHT LINE, OF THE GLAZING

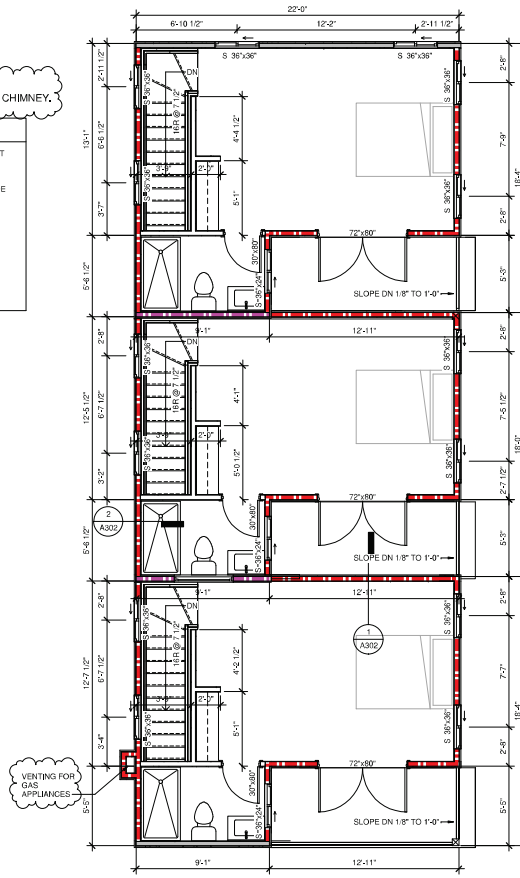
SEE R308.4.3 GLAZING IN WINDOWS FOR EXCEPTIONS (E.G. DECORATIVE GLAZING)

PLAN NOTE:
CABINETRY AND FURNITURE IS SHOWN FOR PLANNING PURPOSES ONLY. CONTRACTOR TO COORDINATE WITH OWNER.
ALL EXTERIOR DOORS TO BE INSULATED, AND HAVE WEATHER STRIPPING AND APPROPRIATE THRESHOLD.

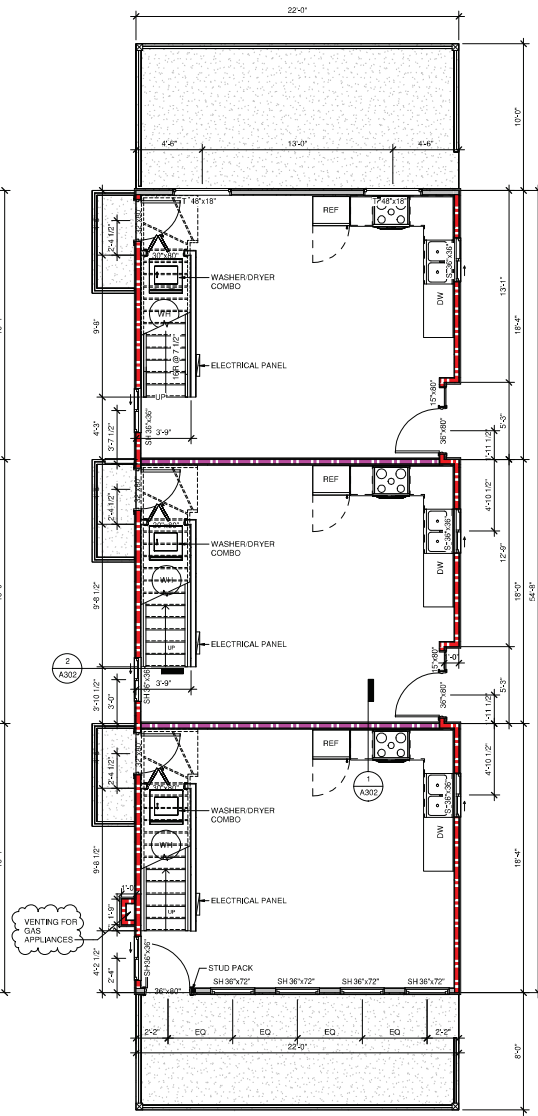
TYPICAL DECKS, PATIOS & PORCHES:
DECKS, PATIOS & PORCHES TO BE 12" BELOW ADJACENT FINISHED FLOOR. PROVIDE FLASHING AT ALL FLOOR TRANSITIONS AT DECK, PATIOS, & PORCHES.

IF THE FINISHED FLOOR HEIGHT OF THE DECK IS 30" ABOVE GRADE, STAIRS AND RAILINGS TO GRADE MUST BE ADDED. RAILINGS TO BE 36" TALL WITH A MINIMUM OF 4" TOP AND BOTTOM RAILS WITH 2" PICKETS SPACED AT NO MORE THAN 3 7/8".

IMPERVIOUS SURFACES TO BE SLOPED AWAY FROM STRUCTURE @ 1/8" PER FOOT



5 SECOND FLOOR PLAN
1/4" = 1'-0"



4 MAIN FLOOR PLAN
1/4" = 1'-0"

1 RIGHT ELEVATION
A201 $\frac{3}{16}'' = 1'-0''$

A201

Exhibit B. KnoxPlans Review Comments



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IRC-NEW-25-0542: Dwelling - Townhouse, \$200000 , 1411 Moses Triplex

Dept:

Planning Review

▼

Status:

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Response:

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Enter keyword

Type:

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Exhibit B. KnoxPlans Review Comments

	Ref.# 29	Planning Review Jake Beaumier 7/25/25 10:35 AM	Cycle 1	<i>No response required.</i>
	Info Only	This property is exempt from HP Overlay regulations per article 8.9.B.4 of the City of Knoxville zoning ordinance. "Lots that have been previously legally disturbed or developed would also be excepted provided that any new/additional disturbance does not exceed the previously-disturbed area." Site Disturbance is documented in the 2018 historic aerial. If you have any questions, please contact Jake Beaumier with Knoxville-Knox County Planning. (865)215-3085 or jake.beaumier@knoxplanning.org		
	Comment			
	Ref.# 30	Planning Review Lindsay Lanois 7/29/25 1:10 PM	Cycle 1	
	Resolved	Article 4.6: The property is zoned RN-2/HP within the TDR land use area. The lot frontage on Moses Avenue is 35 wide with an alley. The proposed lot does not meet the minimum lot width for a triplex (or any Middle Housing Type) in Table 4-4 of Article 4.6. The application aims to use Article 17.3.E, "lot created by deed," to qualify for a non-conforming lot of record. Per Engineering Ref 13, Engineering requires a plat of the property to create a legal lot of record.		
	Comment			
		<i>Responded by: MARLOW BUILDERS - 10/28/25 1:26 PM</i> Plat is recorded. Instrument No. 20251024-0023856. <i>Reviewer Response: Samiul Haque - 9/11/25 11:27 PM</i> This review comment will be resolved upon the Engineering department's approval of the item. <i>Responded by: MARLOW BUILDERS - 9/4/25 10:56 AM</i> A new survey and plat will be submitted to Knox Planning by end of today. Submission by Matt Dawson, Smoky Mtn Land Surveying. The parcel is currently unplatted and therefore has no U&D easements. This plat requests U&D easement waivers to zero as required based upon the submitted site plan for this parcel. Additionally, applicant objects to U&D easements being forced upon the property as it is tantamount of a takings by the government without compensation. <i>Responded by: MARLOW BUILDERS - 8/19/25 10:20 AM</i> MH Approved by Planning Commission 8-3 on 14 August 2024. Agenda item 31; file 8C25OB.		
	Ref.# 31	Planning Review Lindsay Lanois 7/29/25 1:10 PM	Cycle 1	<i>Type your response here.</i>
	Unresolved	Article 4.6.A: The building is described as a triplex. The application does not propose units that are stacked on top of each other and does not meet the intent of the definition of triplex. The building features three units oriented perpendicular to the street with the units separated by party walls/shared side walls, which meets the definition of a DwellingTownhouse per article 2.3 and partially meets the definition of Townhouse (small) per Article 4.6.A (definitions below for comparison).		
	Comment			
		<i>Responded by: MARLOW BUILDERS - 11/7/25 2:18 PM</i> Applicant maintains the appeal before Planning Commission on 14 August 2025, vote 8-3 resolved the Middle Housing issue. Forthcoming legal proceedings will ultimately resolve that issue. See Marlow Builders, Inc. v Knoxville-Knox County Planning, Knox County Chancery Court, No. 212010-2. <i>Responded by: MARLOW BUILDERS - 10/28/25 1:25 PM</i> Applicant maintains the appeal before Planning Commission on 14 August 2025, file 8-3-C-25-OB, vote 8-3 resolved the Middle Housing issue. Forthcoming legal proceedings will ultimately resolve that issue. See Marlow Builders, Inc. v Knoxville-Knox County Planning, Knox County Chancery Court, No. 212010-2. <i>Reviewer Response: Samiul Haque - 9/11/25 11:28 PM</i> The development proposed is a slot house design. This is not a defined middle housing type and is not found in the immediately surrounding area of the neighborhood. A slot house does not meet the intent of Middle Housing as the buildings are oriented to the side lot line where the front porches, doors, and windows open into the sides of neighboring structures, which can cause a reduction in privacy for abutting neighbors on this side of the lot. <i>Responded by: MARLOW BUILDERS - 9/3/25 5:36 PM</i> Planning Commission determined this design met the requirements of Art. 4.6 as a triplex upon appeal of an identical design, file number 8-C-25-OB, Agenda Item 31, heard by Planning Commission on 14 August 2025; vote approving this design as triplex 8-3. See https://www.youtube.com/watch?v=nl2UodcbZEo&list=PLHG8_5NdPaHaPC8FQ_0UBHKx3g1VzxBFc		

Exhibit B. KnoxPlans Review Comments

		<i>Responded by: MARLOW BUILDERS - 8/19/25 10:20 AM</i> MH Approved by Planning Commission 8-3 on 14 August 2024. Agenda item 31; file 8C25OB.			
	Ref.# 32	Planning Review	Lindsay Lanois	7/29/25 1:10 PM	Cycle 1
	Resolved	Article 4.6.E.5.c: The proposed design does not meet the requirement that townhouses shall not be oriented perpendicular to the street. The narrow side of townhouse units must face the street.			
	Comment				
		<i>Reviewer Response: Samiul Haque - 9/11/25 11:27 PM</i> See Ref. # 31 <i>Responded by: MARLOW BUILDERS - 9/3/25 5:36 PM</i> Planning Commission determined this design met the requirements of Art. 4.6 as a triplex upon appeal of an identical design, file number 8-C-25-OB, Agenda Item 31, heard by Planning Commission on 14 August 2025; vote approving this design as triplex 8-3. See https://www.youtube.com/watch?v=nl2UodcbZEo&list=PLHG8_5NdPaHaPC8FQ_0UBHKx3g1VzxBFc <i>Responded by: MARLOW BUILDERS - 8/19/25 10:20 AM</i> MH Approved by Planning Commission 8-3 on 14 August 2024. Agenda item 31; file 8C25OB.			
	Ref.# 33	Planning Review	Lindsay Lanois	7/29/25 1:11 PM	Cycle 1
	Resolved	Article 4.6.G: The application requests an administrative variation, reducing the required 5 interior side setback to 4. Administrative variations on side setbacks may only be granted if approved by Engineering; Engineering has not approved without a plat.			
	Comment				
		<i>Responded by: MARLOW BUILDERS - 10/28/25 1:25 PM</i> This comment is misleading and incorrect. Arguably evidence of malicious intent by Planning Staff. Engineering has no legal authority to grant or deny side setbacks easements. Engineering's sole role on this matter concerns utility and drainage easements -- which at the time of submission did not exist on this parcel. Moreover, having no legal basis to enforce utility and drainage easements against the property owner's objection Engineering agreed to the reduction as evidenced by the email from Chris Howley and no shown on the signed and recorded plat. Instrument No. 20251024-0023856. <i>Reviewer Response: Samiul Haque - 9/11/25 11:27 PM</i> This review comment will be resolved upon the Engineering department's approval of the item. <i>Responded by: MARLOW BUILDERS - 8/19/25 10:20 AM</i> MH Approved by Planning Commission 8-3 on 14 August 2024. Agenda item 31; file 8C25OB.			
	Ref.# 34	Planning Review	Lindsay Lanois	7/29/25 1:11 PM	Cycle 1
	Info Only	Article 4.6.D (Parking Standards): The application includes no parking spaces. No spaces are required as the property is within a quarter mile of a transit route.			
	Comment				

No response required.



TO: Knoxville-Knox County Planning Commission
FROM: Samiul Haque, Planner
DATE: April 2, 2026
SUBJECT: Appeal of an administrative determination for a Middle Housing application
FILE #: 4-G-26-0B; Agenda Item #22

SUMMARY OF RECOMMENDATION

Staff recommends that the Planning Commission evaluate the proposed application based on the Middle Housing Standards (Article 4.6) for the property located at 925 James Avenue. The Planning Commission should discuss whether the structure is a Middle Housing Type per Article 4.6.A with a building footprint and overall scale comparable to single-family houses and compatible with existing housing in the surrounding area, and whether the proposal will be injurious to the surrounding neighborhood.

Each application is reviewed on its own merits separately. Land use decisions are considered on a case-by-case basis, and they are not fully bound by precedent. Boards are free to make different decisions even on similar projects, as no two pieces of land are exactly the same. If the Planning Commission makes a different decision on a similar application, the Planning Commission should provide reasoning as to why the decision differs.

APPEAL AND REQUEST SUMMARY

The applicant is appealing Planning staff's comments on a pending Middle Housing application for a proposed 3-unit structure at 925 James Avenue (KnoxPlans project # IRC-NEW-25-0544).

The applicable review comments on the project are as follows:

- 9/11/25 - The development proposed is a slot house design. This is not a defined middle housing type and is not found in the immediately surrounding area of the neighborhood. A slot house does not meet the intent of Middle Housing as the buildings are oriented to the side lot line, where the front porches, doors, and windows open into the sides of neighboring structures, which can cause a reduction in privacy for abutting neighbors on this side of the lot.
- 8/6/25 - Article 4.6.A: The applicant describes the building as a triplex. The application does not propose units that are stacked on top of each other and does not meet the



definition of triplex. The building features three units oriented perpendicular to the street with the units separated by party walls/shared side walls, which meets the definition of a Dwelling Townhouse per Article 2.3 and partially meets the definition of Townhouse (small) per Article 4.6.A.

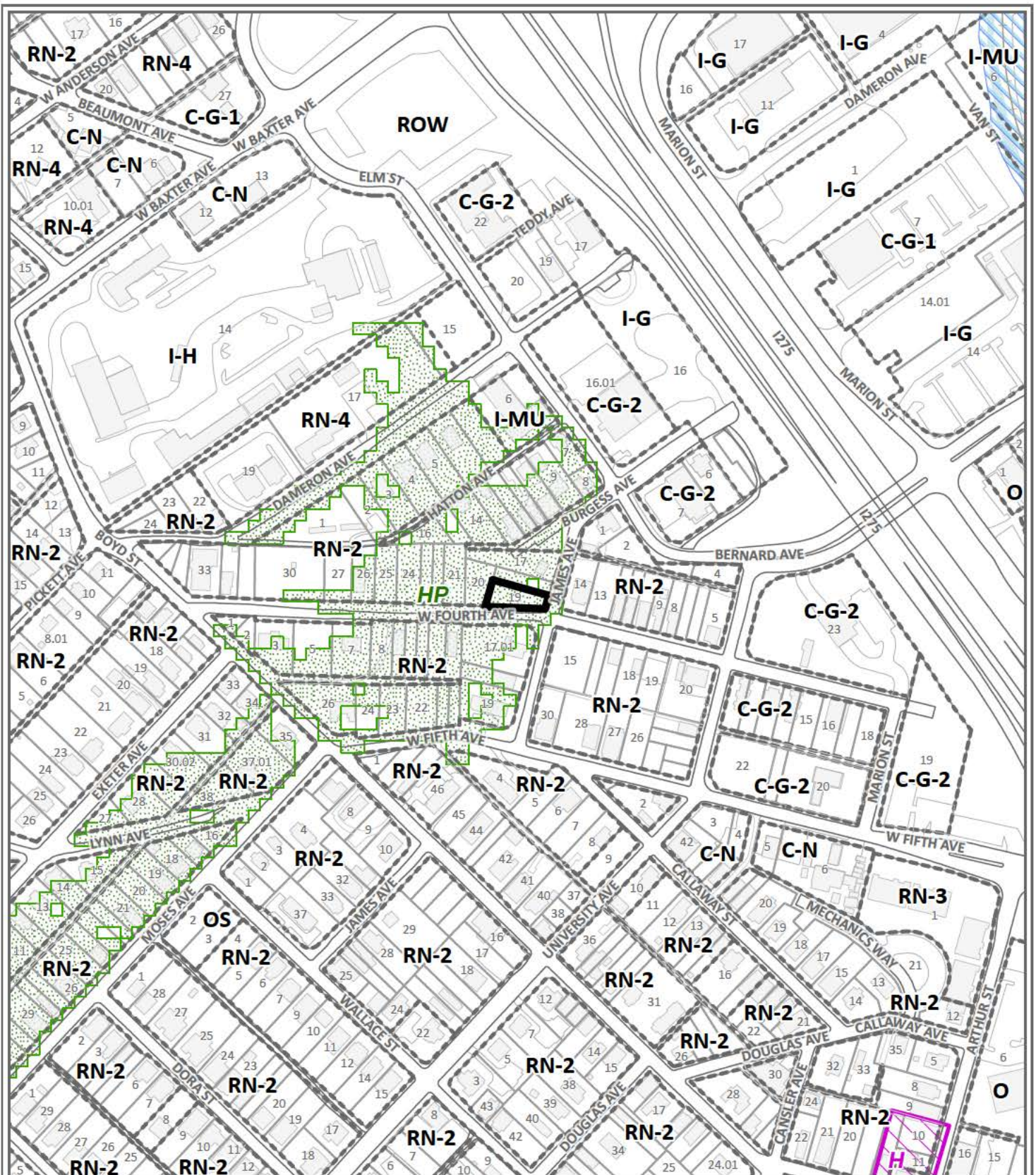
- 8/6/25 - Article 4.6.E.5.c: The proposed design does not meet the requirement that townhouses shall not be oriented perpendicular to the street. The narrow side of townhouse units must face the street.

The full record of staff review comments and applicant responses is provided in Exhibit B.

STANDARD OF REVIEW

The application was submitted prior to the recent amendments to the City of Knoxville Zoning Code, Article 4.6, Middle Housing, which amended the appeal body to the Design Review Board, and is therefore subject to the previous zoning ordinance requirements, in which Middle Housing appeals were heard by the Knoxville-Knox County Planning Commission.

In accordance with Article 16.12.A.4.b under the applicable code, the Planning Commission must evaluate the application based upon the evidence presented at the public hearing. The Commission may affirm, modify, impose restrictions, or overrule the Planning staff determination.



OTHER BUSINESS

4-G-26-OB

Petitioner: R. Bentley Marlow



Purpose of Request: Appeal of an administrative determination for a Middle Housing application. (925 James Avenue / Parcel ID 094CK019)

Original Print Date: 4/2/2026

Knoxville - Knox County Planning Commission * City / County Building * Knoxville, TN 37902

Map No: 999

Jurisdiction: City

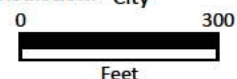


Exhibit A. Contextual Images



AERIAL MAP



Case boundary

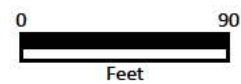
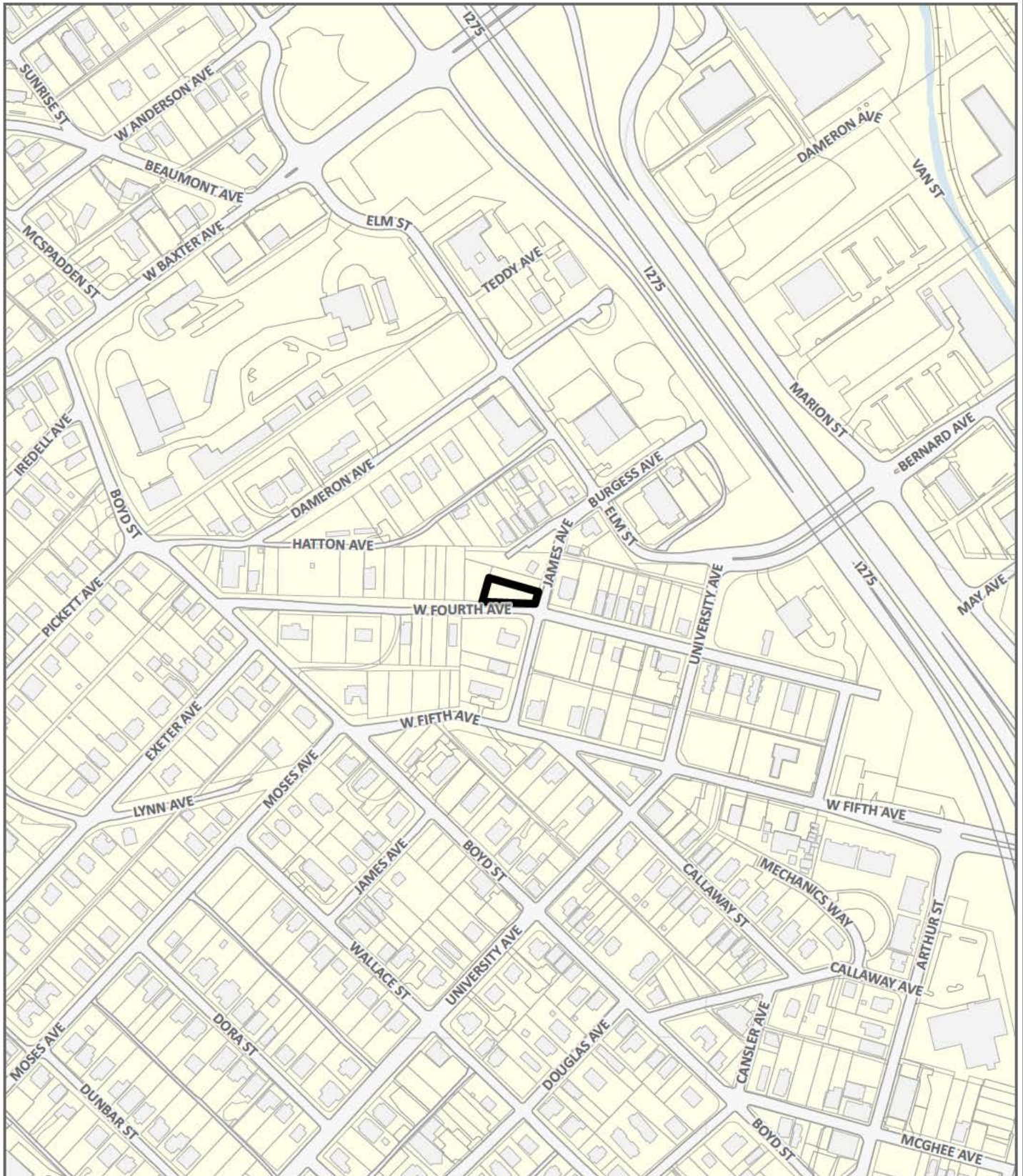


Exhibit A. Contextual Images



LOCATION MAP

4-G-26-OB



Case boundary

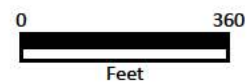


Exhibit B. KnoxPlans Review Comments



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IRC-NEW-25-0544: Dwelling - Townhouse, \$200000 , 925 James Triplex

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Status:

Response:

Search:

Type:

Cycle:

Time:

[Refresh](#)

Exhibit B. KnoxPlans Review Comments

	Ref.# 28	Planning Review	Lindsay Lanois	8/6/25 1:51 PM	Cycle 1	
	Resolved	Article 4.6: The property is zoned RN-2/HP within the TDR land use area. The lot frontage on James Avenue is approximately 30 wide with no alley. The proposed lot does not meet the minimum lot width for a triplex (or any Middle Housing Type) in Table 4-4 of Article 4.6. The application aims to use Article 17.3.E, "lot created by deed," to qualify for a non-conforming lot of record. Per Engineering Ref 13, Engineering requires a plat of the property to create a legal lot of record. Until a lot of record is established, the project is not approved for MH standards.				
	Comment					
		<i>Responded by: MARLOW BUILDERS - 10/28/25 1:54 PM</i> Plat is recorded. Instrument No. 20251024-0023855. <i>Reviewer Response: Samiul Haque - 9/11/25 11:18 PM</i> This review comment will be resolved once the Lot of Record status has been established. The plat will likely require an easement for the common pathway. <i>Responded by: MARLOW BUILDERS - 9/3/25 4:21 PM</i> A new survey plat has been submitted to Knox Planning by email dated 3 September 2025. A copy of that email is uploaded as file "Gmail - Plat submission.pdf" to the Document folder. Plat fee paid 3 September at 4:05pm Reference No. FP921925James <i>Responded by: MARLOW BUILDERS - 8/19/25 10:34 AM</i> MH Approved by Planning Commission 8-3 on 14 August 2024. Agenda item 31; file 8C25OB.				
	Ref.# 29	Planning Review	Lindsay Lanois	8/6/25 1:51 PM	Cycle 1	Type your response here.
	Unresolved	Article 4.6.A: The building is described as a triplex. The application does not propose units that are stacked on top of each other and does not meet the intent of the definition of triplex. The building features three units oriented perpendicular to the street with the units separated by party walls/shared side walls, which meets the definition of a DwellingTownhouse per article 2.3 and partially meets the definition of Townhouse (small) per Article 4.6.A.				
	Comment					
		<i>Responded by: MARLOW BUILDERS - 11/7/25 2:23 PM</i> Applicant maintains the appeal before Planning Commission on 14 August 2025, vote 8-3 resolved the Middle Housing issue. Forthcoming legal proceedings will ultimately resolve that issue. See Marlow Builders, Inc. v Knoxville-Knox County Planning, Knox County Chancery Court, No. 212010-2. <i>Responded by: MARLOW BUILDERS - 10/28/25 1:53 PM</i> Applicant maintains the appeal before Planning Commission on 14 August 2025, vote 8-3 resolved the Middle Housing issue. Forthcoming legal proceedings will ultimately resolve that issue. See Marlow Builders, Inc. v Knoxville-Knox County Planning, Knox County Chancery Court, No. 212010-2. <i>Reviewer Response: Samiul Haque - 9/11/25 11:08 PM</i> The development proposed is a slot house design. This is not a defined middle housing type and is not found in the immediately surrounding area of the neighborhood. A slot house does not meet the intent of Middle Housing as the buildings are oriented to the side lot line where the front porches, doors, and windows open into the sides of neighboring structures, which can cause a reduction in privacy for abutting neighbors on this side of the lot. <i>Responded by: MARLOW BUILDERS - 9/3/25 4:00 PM</i> Art. 4.6 definition of triplex does not require units to be stacked on top of each other. Planning Commission determined this design met the requirements of Art. 4.6 as a triplex upon appeal of an identical design, file number 8-C-25-OB, Agenda Item 31, heard by Planning Commission on 14 August 2025; vote approving this design as triplex 8-3. See https://www.youtube.com/watch?v=nl2UodcbZEo&list=PLHG8_5NdPaHaPC8FQ_0UBHKx3g1VzxBFc <i>Responded by: MARLOW BUILDERS - 8/19/25 10:34 AM</i> MH Approved by Planning Commission 8-3 on 14 August 2024. Agenda item 31; file 8C25OB.				
	Ref.# 30	Planning Review	Lindsay Lanois	8/6/25 1:51 PM	Cycle 1	
	Resolved	Article 4.6.E.5.c: The proposed design does not meet the requirement that townhouses shall not be oriented perpendicular to the street. The narrow side of townhouse units must face the street.				
	Comment					
		<i>Reviewer Response: Samiul Haque - 9/11/25 11:08 PM</i> See Ref. # 29 <i>Responded by: MARLOW BUILDERS - 9/3/25 4:00 PM</i> Plat is recorded. Instrument No. 20251024-0023855.				

Exhibit B. KnoxPlans Review Comments

		Planning Commission determined this design met the requirements of Art. 4.6 as a triplex upon appeal of an identical design, file number 8-C-25-OB, Agenda Item 31, heard by Planning Commission on 14 August 2025; vote approving this design as triplex 8-3. See https://www.youtube.com/watch?v=nl2UodcbZEo&list=PLHG8_5NdPaHaPC8FQ_0UBHKx3g1VzxBFc					
		<i>Responded by: MARLOW BUILDERS - 8/19/25 10:34 AM</i> MH Approved by Planning Commission 8-3 on 14 August 2024. Agenda item 31; file 8C25OB.					
	Ref.# 31	Planning Review	Lindsay Lanois	8/6/25 1:52 PM	Cycle 1		
	Resolved	Article 4.6.G: The application requests an administrative variation, reducing the required 5 interior side setback to 4. Administrative variations on side setbacks may only be granted if approved by Engineering; Engineering has not approved without a plat.					
	Comment						
		<i>Responded by: MARLOW BUILDERS - 10/28/25 1:54 PM</i> This comment is misleading and incorrect. Arguably evidence of malicious intent by Planning Staff. Engineering has no legal authority to grant or deny side setbacks easements. Engineering's sole role on this matter concerns utility and drainage easements -- which at the time of submission did not exist on this parcel. Moreover, having no legal basis to enforce utility and drainage easements against the property owner's objection Engineering agreed to the reduction as evidenced by the email from Chris Howley and no shown on the signed and recorded plat. Instrument No. 20251024-0023855.					
		<i>Reviewer Response: Samiul Haque - 9/11/25 11:18 PM</i> This review comment will be resolved upon the Engineering department's approval of the item.					
		<i>Responded by: MARLOW BUILDERS - 9/3/25 4:22 PM</i> A new survey plat has been submitted to Knox Planning by email dated 3 September 2025. A copy of that email is uploaded as file "Gmail - Plat submission.pdf" to the Document folder. U&D waivers have been requested on that plat as evidenced by the attached Exhibit A (site plan) that accompanied the plat submission. Plat fee paid 3 September at 4:05pm Reference No. FP921925James					
		<i>Responded by: MARLOW BUILDERS - 8/19/25 10:34 AM</i> Approved by email from Chris Howey. See Doc 'Gmail - U&D Easement.pdf'					
	Ref.# 32	Planning Review	Lindsay Lanois	8/6/25 1:52 PM	Cycle 1	No response required.	
	Info Only	Article 4.6.D (Parking Standards): The application includes no parking spaces. No spaces are required as the property is within a quarter mile of a transit route.					
	Comment						
		<i>Responded by: MARLOW BUILDERS - 8/19/25 10:35 AM</i> MH Approved by Planning Commission 8-3 on 14 August 2024. Agenda item 31; file 8C25OB.					
	Ref.# 35	Planning Review	Samiul Haque	8/27/25 9:13 AM	Cycle 2		
	Resolved	Annotate the dimensions of the three decks/porches along W Fourth Ave on the floor plan.					
	Comment						
		<i>Responded by: MARLOW BUILDERS - 9/3/25 4:03 PM</i> Dimensions are on sheet A102 - Foundation and Flooring Plan.					
	Ref.# 37	Planning Review	Jake Beaumier	8/27/25 3:05 PM	Cycle 2	No response required.	
	Info Only	This property is exempt from HP Overlay regulations per article 8.9.B.4 of the City of Knoxville zoning ordinance. "Lots that have been previously legally disturbed or developed would also be excepted provided that any new/additional disturbance does not exceed the previously-disturbed area."					
	Comment	If you have any questions, please contact Jake Beaumier with Knoxville-Knox County Planning. (865)215-3085 or jake.beaumier@knoxplanning.org					

oysk³ architects
Knoxville, TN 37921
office@oysk3architects.com
1545 Western Avenue, Suite 100
Nashville, TN 37203
(615) 252-1188



JAMES AVE TRIPLEX
NEW RESIDENTIAL CONSTRUCTION
925 James Ave, Knoxville, Tennessee 37921

姓名	王宇	身份证号	140721199305020172
性别	男	出生日期	1993.05.02
籍贯	山西太原	联系电话	13433011000
电子邮箱	140721199305020172@163.com	联系地址	山西省太原市迎泽大街100号

G000

PROJECT : 25056

SE/SMC LOADING TO BE BASED ON REQUIREMENTS
OF SECTION R301 OF THE IRC.

PROJECT : 25056
© COPYRIGHT 2005

NOTE:
ALL WATER HEATERS TO BE 28 GALLON ELECTRIC.
DIMENSIONS: H 30", W 19 7/8", D 19 7/8"

WALL LEGEND

- 2x4 WOOD STUDS @16" O.C. WITH R-20 BATT INSULATION,
1/2" GYP BOARD INTERIOR SIDE,
1/2" PLYWOOD SHEATHING, TYVEK WEATHER BARRIER & SIDING EXTERIOR SIDE (SEE EXTERIOR ELEVATIONS)
- 2x4 WOOD STUDS @16" O.C.,
1/2" GYP BOARD BOTH SIDES
- 8" CMU FOUNDATION WALL
- 2 HR. SEPARATION 2x4 WALL - UL U001
- 1 HR. EXTERIOR 2x4 WALL - GP-EWFW-02

WINDOW LEGEND:

- SH SINGLE HUNG
- S SLIDING
- T TRANSOM

FLOOR PLAN NOTES:

TYPICAL BLOCKING NOTE:

PROVIDE WOOD BLOCKING IN THE WALLS AS REQUIRED TO SUPPORT & ATTACH ALL WALL HUNG ITEMS SUCH AS CABINETS, BRICKS, HAND RAILS, GRAB BARS, ETC. THE BLOCKING & ITS ATTACHMENTS SHALL CARRY THE MINIMUM WEIGHT, VERIFY WITH MANUFACTURER.

TYPICAL WINDOW NOTE:

GLAZING IN AN INDIVIDUAL FIXED OR OPERABLE PANEL THAT MEETS ALL OF THE FOLLOWING CONDITIONS SHALL BE CONSIDERED TO BE A HAZARDOUS LOCATION.

- THE EXPOSED AREA OF AN INDIVIDUAL PANE IS LARGER THAN 9 SQUARE FEET
- THE BOTTOM EDGE OF THE GLAZING IS LESS THAN 18 INCHES ABOVE THE FLOOR
- THE TOP EDGE OF THE GLAZING IS MORE THAN 36 INCHES ABOVE THE FLOOR
- ONE OR MORE WALKING SURFACES ARE WITHIN 36 INCHES, MEASURED HORIZONTALLY AND IN A STRAIGHT LINE, OF THE GLAZING

SEE R308.4.3 GLAZING IN WINDOWS FOR EXCEPTIONS (E.G. DECORATIVE GLAZING)

PLAN NOTE:

CABINETRY AND FURNITURE IS SHOWN FOR PLANNING PURPOSES ONLY. CONTRACTOR TO COORDINATE WITH OWNERS.

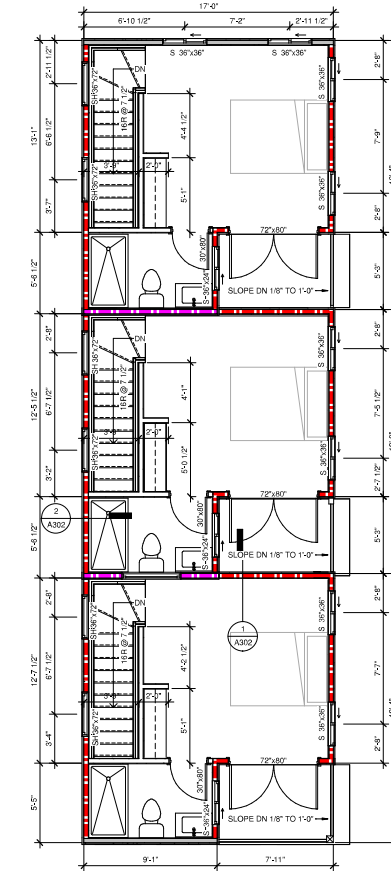
ALL EXTERIOR DOORS TO BE INSULATED, AND HAVE WEATHER STRIPPING AND APPROPRIATE THRESHOLD

TYPICAL DECKS, PATIOS & PORCHES:

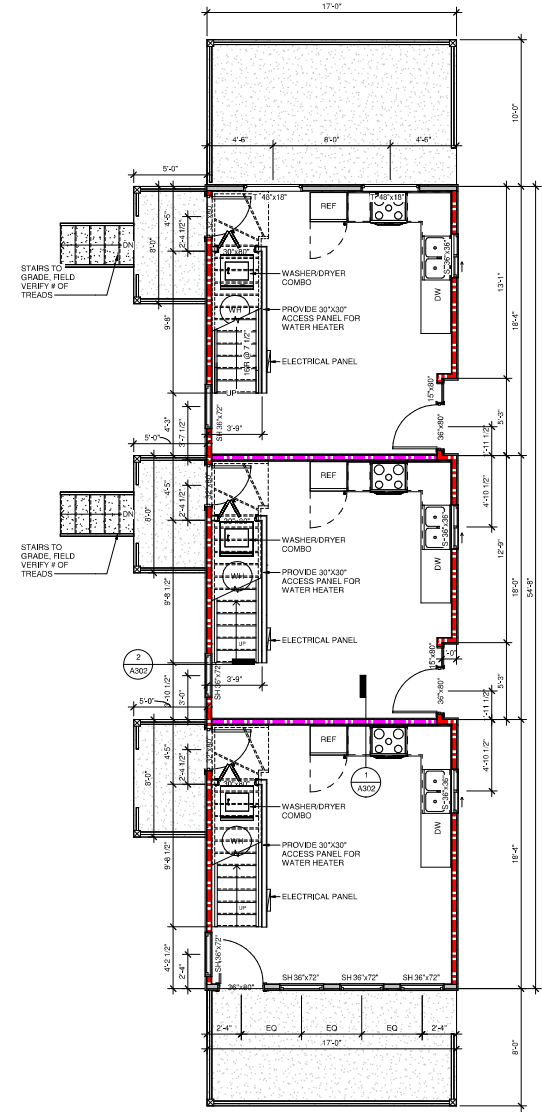
DECKS, PATIOS & PORCHES TO BE 1/2" BELOW ADJACENT FINISHED FLOOR. PROVIDE FLASHING AT ALL FLOOR TRANSITIONS AT DECK, PATIOS, & PORCHES

IF THE FINISHED FLOOR HEIGHT OF THE DECK IS 30" ABOVE GRADE, STAIRS AND RAILINGS TO GRADE MUST BE ADDED. RAILINGS TO BE 36" TALL WITH A MINIMUM OF 4" TOP AND BOTTOM RAILS WITH 2" PICKETS SPACED AT NO MORE THAN 3 7/8"

IMPERVIOUS SURFACES TO BE SLOPED AWAY FROM STRUCTURE @ 1/8" PER FOOT



5 SECOND FLOOR PLAN
1/4" = 1'-0"



4 MAIN FLOOR PLAN
1/4" = 1'-0"

NOTE:
ALL GUARDRAILS AND HANDRAILS SHALL BE
INSTALLED IN ACCORDANCE WITH
APPLICABLE CODE REQUIREMENTS.
GUARDRAILS SHALL BE A MINIMUM OF 36
INCHES IN HEIGHT, MEASURED VERTICALLY
ABOVE THE WALKING SURFACE OR
FINISHED FLOOR, AND SHALL BE
CONSTRUCTED TO RESIST A SPHERE
GREATER THAN 4 INCHES IN DIAMETER
FROM PASSING THROUGH ANY OPENING.
MAXIMUM CLEAR SPACING BETWEEN
RAILS OR INTERMEDIATE MEMBERS
SHALL NOT EXCEED 3 7/8 INCHES.

EXTERIOR ELEVATION KEYNOTES

- | | |
|---|--|
| 1 | FIBER CEMENT SIDING, TBS BY OWNER |
| 2 | PAIGE COAT ON EXPOSED CMU |
| 3 | 6x6 P.T. WD POST ON GALVANIZED COMPON STRONG TIE POST BASE |
| 4 | FIBER CEMENT FASCIA W/ PREFINISHED DRIP EDGE |
| 5 | METAL GUTTER TO DOWNSPOUT, TYP. |
| 6 | METAL ROOF, COLOR & STYLE TBS BY OWNER |

TRANSPARENCY CALCULATIONS:

FRONT FACADE: 251 SQFT
TRANSPARENCY: 80 SQFT
31% TRANSPARENCY PROVIDED

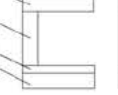
SIDE FACADE: 1158 SQFT
TRANSPARENCY: 189 SQFT
16% TRANSPARENCY PROVIDED

1 X 4 HARDIE TRIM

1 X 4 HARDIE TRIM

2 X 2 HARDIE TRIM

1 X 4 HARDIE TRIM
1/2" x 1 1/2" x 8' (1/2" x 1 1/2" x 2.44m)

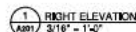
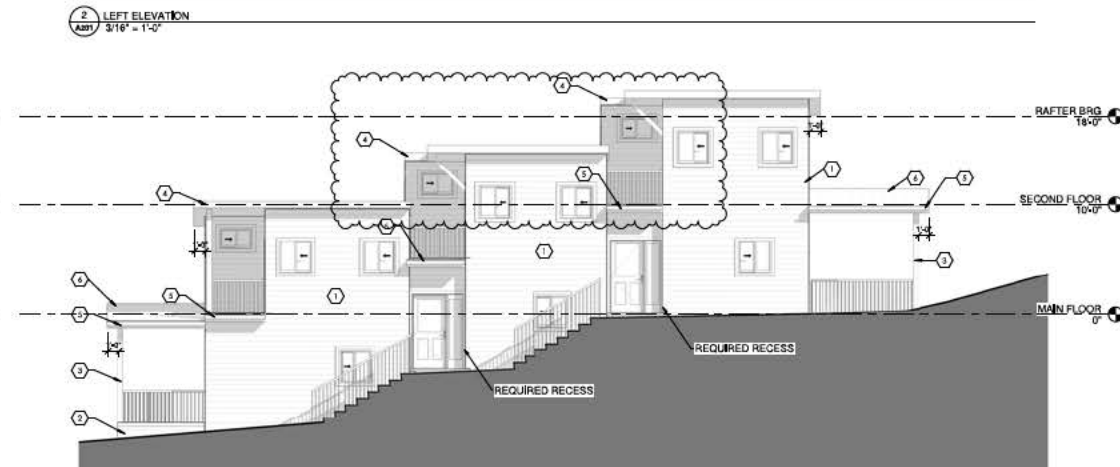
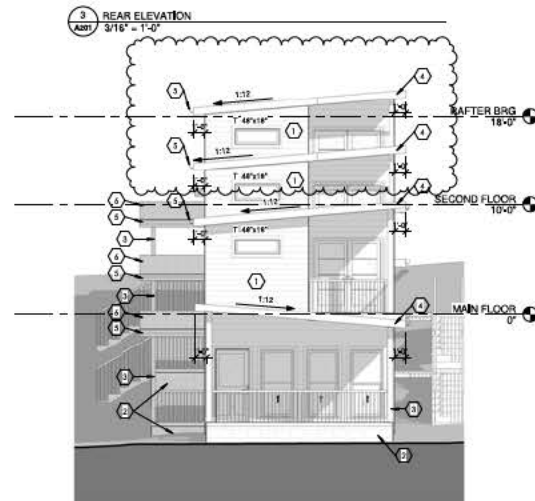
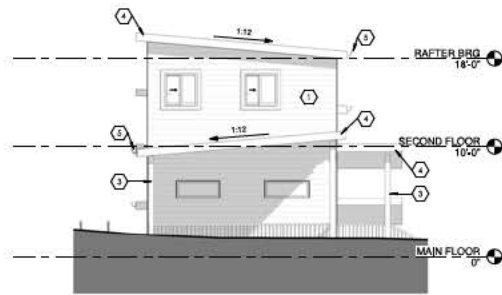


EXTERIOR ELEVATION NOTES

APPROXIMATE SITE LOCATION AND TOPOGRAPHY. GENERAL CONTRACTOR TO WORK WITH CDD AND STRUCTURAL TEAM TO CLARIFY HOME LOCATION ON PROPOSED SITE AND ANY RETAINING REQUIREMENTS. CONFIRM ANY BUILDING ADJUSTMENTS WITH ARCHITECT BASED ON LOCATION WITHIN SETBACK REQUIREMENTS AND ANY CITY, CODE OR SEPTIC REQUIREMENTS PRIOR TO SUBMISSION.

DESIGN ELEMENTS:

406.4.A.II ROOF: ARTICULATED; 2 PITCHES WITH 2 RIDGELINE DIRECTIONS
VISIBLE FROM THE FRONT;
406.4.A.III MASONRY FENCE DIVIDING PATIOS ON ONE SIDE; GANTLEVERED
OVERHANGS AND CONCRETE STAIRS ON THE OTHER SIDE;
406.4.A.IV DEEP PORCH SPANNING THE ENTIRE WIDTH OF BUILDING; 1 EAVE
OVERHANGS 12"; V. PROJECTING ENTRY FEATURE IF COVERED PORCH; VI.
ARTICULATED WINDOW AND DOOR TRIM,
406.5 ONE UNIT FACES THE STREET;





Appeal of Decision

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

Type: ☐ Plan Amendment ☐ Rezoning ☐ Certificate of Appropriateness

☐ Street Name Change ☒ Other: MH Denial

Decision By: ☒ Planning Staff ☐ Planning Commission ☐ Other: _____ ☐ Date of Decision: _____

Jurisdiction: ☐ City 6 Council District ☐ County _____ Commission District

IRC-NEW-25-0544

R. Bentley Marlow

Original File Number Being Appealed
Marlow Properties, LLC

Original Applicant Name
094CK019 / 925 James Ave.

Name of Owner of Subject Property
MH Denial

Parcel Number of Subject Property

Decision Being Appealed

Reason for the Appeal:
(Attach additional pages,
if necessary.)

Staff arbitrarily and capriciously ignores Planning Commission's prior holdings interpreting "intent" and the definition of "triplex." See 8C250B (vote 8-3) & 3A260B (Vote 11-1).

PETITIONER INFORMATION

R. Bentley Marlow

Name of Petitioner

Signature of Petitioner

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

Property Owner, General Contractor of Record

All correspondence
should be sent to:

R. Bentley Marlow

865-607-4357

Name (Print)

Phone

Email

322 Douglas Avenue

Knoxville

Tennessee 37921-4813

Address

City

State

ZIP

STAFF USE ONLY

Shelley Gray

Application Accepted by Planning Staff Member

\$ 250.00

Appeal Fee Amount

3/17/2026

Date Appeal Received

APPEAL MEETING INFORMATION

City
Council - 6 p.m. _____
Month | Date | Year

County
Commission - 5 p.m. _____
Month | Date | Year

Knoxville-Knox
County Planning
Commission - 1:30 p.m. 04 09 2026
Month | Date | Year

Type: ☐ Plan Amendment ☐ Rezoning ☐ Certificate of Appropriateness

☐ Street Name Change ☒ Other: Middle Housing

New File # 8-C-25-OB

Decision By: ☒ Planning Staff ☐ Planning Commission ☐ Other: _____ ☐ Date of Decision: 27 June 2025

Jurisdiction: ☒ City 6 Council District ☐ County _____ Commission District _____

R. Bentley Marlow

6-B-25-MH

Applicant Name

Original File Number

R. Bentley Marlow

094FV027

Name of Owner of Subject Property

Parcel Number of Subject Property

Denial of Middle Housing

Decision Being Appealed

Reason for the Appeal:
(Attach additional pages,
if necessary.)

Arbitrary and Capricious See First Review Comments -- the requested revisions were made -- application meets all requirements of Middle Housing Article 4.6 as enacted.

PETITIONER INFORMATION

R. Bentley Marlow

Name of Petitioner

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

Owner and Builder (Note I do not see a space to sign this form -- consider this form signed.)

All correspondence should be sent to:	R. Bentley Marlow	865-607-4357	rbentleymarlow@gmail.com
	Name (Print)	Phone	Email
322 Douglas Avenue	Knoxville	TN	37921
Address	City	State	ZIP

STAFF USE ONLY

	\$250.00 / pd. 07/01/2025, SG	06/29/2025
Application Accepted by Planning Staff Member	Appeal Fee Amount	Date Appeal Received

APPEAL MEETING INFORMATION

Planning Commission - 1:3- pm August 14, 2025

City Council - 6 p.m. <u>n/a</u>	County Commission - 7 p.m. <u>n/a</u>	City BZA - 4 p.m. <u>n/a</u>
Month Date Year	Month Date Year	Month Date Year

Property Address: 1403 Moses Ave

Parcel ID: 094FV027

Zoning District: RN-2/HP

Owner: R. Bentley Marlow

Applicant: R. Bentley Marlow

Project Type: New construction

Middle Housing Type: New townhouse (small)

Brief Description: Construction of a 2-story, three-unit townhouse building with three units facing the side elevation.

Additional Notes: Project described in application as triplex. Lot to receive new construction is a 25' wide non-conforming lot of record. Application also requested an administrative variation, reducing interior side setbacks to 4'.

Action:

The project as presented in the attached application does not meet the applicable standards per Knoxville City Code, Appendix B, Zoning Code, Article 4.6. The building does not meet the design standards for townhouses (Article 4.6.E.5.c), and does not meet the intent of the Middle Housing Standards (Article 4.6: "intended to promote the development of neighborhood-scale housing forms which are compatible with existing housing in the surrounding area;" Article 4.6.E.4: "to generate new Middle Housing buildings that are similar in footprint, height, and setbacks with the existing neighborhood;" Article 4.6.G: "the intent of Article 4.6 is to allow middle Housing types which are in harmony with the surrounding neighborhood and will not be injurious to it or the public welfare.")

Certified By: Lindsay Lanois

Date Certified: June 27, 2025

Middle Housing Staff Review

TO: R. Bentley Marlow, Property Owner
FROM: Lindsay Lanois, Principal Planner
DATE: June 27, 2025
SUBJECT: Middle Housing Review – 6-B-25-MH
ADDRESS: 1403 Moses Ave (Parcel ID 094FV027)

STAFF DETERMINATION:

Deny the request for a three-unit townhouse because the project does not meet the following applicable standards per the Knoxville city Code, Appendix B, Zoning Code, Article 4.6:

- The building is described as a “triplex,” which is defined in Article 4.6 as “a structure up to three stories, containing three dwelling units typically stacked on top of each other, in locations where there is a transition from a commercial corridor and/or higher intensity area into single-family neighborhoods. Within neighborhoods, away from transition areas adjacent to corridors, a 2.5 story triplex may feature other configurations to accommodate three units.” The application does not propose units that are stacked on top of each other and does not meet the intent of the definition of triplex.
 - The building instead features three units oriented perpendicular to the street with the units separated by party walls/shared side walls, which meets the definition of a *Dwelling—Townhouse* per Article 2.3 and partially meets the definition of *Townhouse (small)* per Article 4.6.A (definitions below for comparison).
 - Article 2.3 – General Definitions, Dwelling--Townhouse: “a structure consisting of three or more dwelling units, the interior of which is configured in a manner such that the dwelling units are separated by a party wall. A townhouse is designed so that each unit has a separate exterior entrance and yard area.”
 - Article 4.6.A – Townhouse (small): “a medium-sized structure up to two stories with up to four attached units, featuring shared side walls between units. The narrow side of the unit faces the street, with an entry oriented towards the street, and the larger side attached side along the depth of the lot.”
- The proposed design does not meet the zoning standard in Article 4.6.E.5.c, “townhouses shall not be oriented perpendicular to ther street. The narrow side of townhouse units must face the street.”

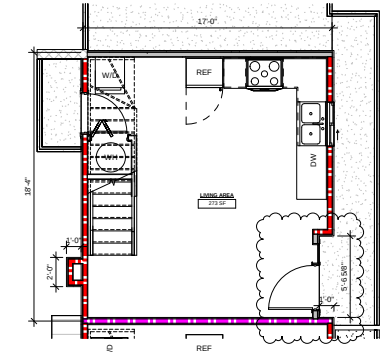
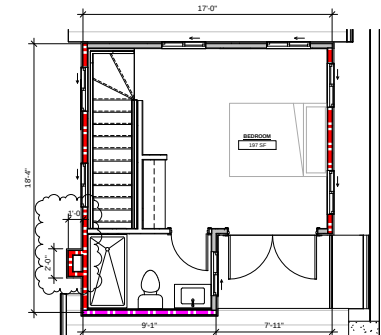
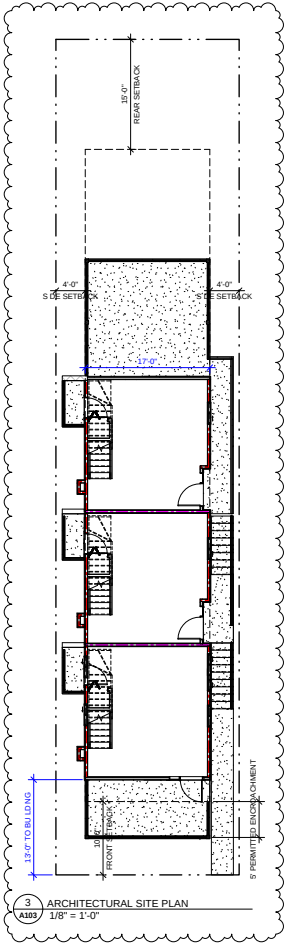
- The proposed building features three units oriented perpendicular to the street, fronting the side elevation.
- The proposed tiered, 2-story per unit, 3-unit townhouse does not meet the intent of Middle Housing standards “to promote the development of neighborhood-scale housing forms which are compatible with existing housing in the surrounding area” (Article 4.6). The building is not “similar in footprint, height, and setbacks with the existing neighborhood” (Article 4.6.E.4). This is also stated in Article 4.6.G as “the intent of Article 4.6 is to allow Middle Housing types which are in harmony with the surrounding neighborhood and will not be injurious to it or the public welfare.”
 - The building is tiered, with two stories per unit, featuring three units on an extremely narrow lot.

ADDITIONAL COMMENTS:

- The property is zoned RN-2/HP within the TDR land use area. The lot frontage on Moses Avenue is 25’ wide with an alley. The proposed lot does not meet the minimum lot width for a triplex (or any Middle Housing Type) in Table 4-4 of Article 4.6. The application uses Article 17.3.B to allow development of a non-conforming lot of record, which “must meet all applicable dimensional and design requirements of the district in which it is located,” with the exception of lot width.
- The application requests an administrative variation, reducing the required 5’ interior side setback to 4’.



FLOOR PLAN NOTES:		WINDOW LEGEND:	WALL LEGEND
TYPICAL BLOCKING NOTE PROVIDE WOOD BLOCKING IN THE WALLS AS REQUIRED TO SUPPORT & ATTACH ALL WALL HUNG ITEMS SUCH AS CABINETS, BRACKETS, HAND RAILS, GRAB BARS, ETC. THE BLOCKING & ITS ATTACHMENTS SHALL CARRY THE MINIMUM WEIGHT, VERIFY WITH MANUFACTURER.	PLAN NOTE CABINETS AND FURNITURE IS SHOWN FOR PLANNING PURPOSES ONLY. CONTRACTOR TO COORDINATE WITH OWNER. ALL EXTERIOR DOORS TO BE INSULATED, AND HAVE WEATHER STRIP NO. (AND APPROPRIATE THRESHOLD)	F FIXED SH SINGLE HUNG DH DOUBLE HUNG C CASEMENT T TRANSOM EG EGRESS	2x4 WOOD STUDS @ 16" O.C. WITH R-20 BATT INSULATION. 1/2" GYP BOARD INTERIOR SIDE 1/2" PS-WOOD SHEATHING, TYPEK WEATHER BARRIER & SIDING EXTERIOR SIDE (SEE EXTERIOR ELEVATIONS) 2x4 WOOD STUDS @ 16" O.C. 1/2" GYP BOARD BOTH SIDES 8" CMU FOUNDATION WALL 2 HR. SEPARATION 2x4 WALL - UL U30S 1 HR. EXTERIOR 2x4 WALL - GP-EWFW-02
TYPICAL WINDOW NOTE GLAZING IN AN INDIVIDUAL FIXED OR OPERABLE PANEL THAT MEETS ALL OF THE FOLLOWING CONDITIONS SHALL BE CONSIDERED TO BE A HAZARDOUS LOCATION: - THE EXPOSED AREA OF AN INDIVIDUAL PANE IS LARGER THAN 9 SQUARE FEET - THE BOTTOM EDGE OF THE GLAZING IS LESS THAN 18 INCHES ABOVE THE FLOOR - THE TOP EDGE OF THE GLAZING IS MORE THAN 36 INCHES ABOVE THE FLOOR - ONE OR MORE WALKING SURFACES ARE WITHIN 36 INCHES, MEASURED HORIZONTALLY AND IN A STRAIGHT LINE, OF THE GLAZING SEE R308.4.3 GLAZING WINDOWS FOR EXCEPTIONS (E.G. DECORATIVE GLAZING)	TYPICAL DECKS, PATIOS & PORCHES DECKS, PATIOS & PORCHES TO BE 1/2" BELOW ADJACENT FINISHED FLOOR. PROVIDE FLASHING AT ALL FLOOR TRANSITIONS AT DECK, PATIOS, & PORCHES. IF THE FINISHED FLOOR HEIGHT OF THE DECK IS 30" ABOVE GRADE, STAIRS AND RAILINGS TO GRADE MUST BE ADDED. RAILINGS TO BE 36" TALL WITH A MINIMUM OF 4" TOP AND BOTTOM RAILS WITH 2" PICKETS SPACED AT NO MORE THAN 3 7/8". IMPERVIOUS SURFACES TO BE SLOPED AWAY FROM STRUCTURE @ 1/8" PER FOOT		



MOSES AVE TRIPLEX
NEW RESIDENTIAL CONSTRUCTION
1403 Moses Ave, Knoxville, Tennessee 37921

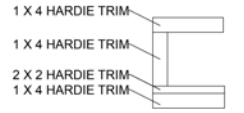
DRAWN BY: MB
FLOOR PLAN

A103

PROJECT : 25068
COPYRIGHT 2025



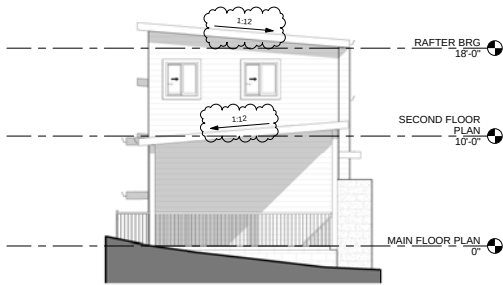
TRANSPARENCY CALCULATIONS:
FRONT FACADE: 251 SQFT
TRANSPARENCY: 56 SQFT
22.3% TRANSPARENCY PROVIDED



EXTERIOR ELEVATION NOTES
APPROXIMATE SITE LOCATION AND TOPOGRAPHY. GENERAL CONTRACTOR TO WORK WITH CIVIL AND STRUCTURAL TEAM TO CLARIFY HOME LOCATION ON PROPOSED SITE AND ANY RETAINING REQUIREMENTS. CONFIRM ANY BUILDING ADJUSTMENTS WITH ARCHITECT BASED ON LOCATION WITH IN SETBACK REQUIREMENTS AND ANY CITY, CODE OR SEPTIC REQUIREMENTS PRIOR TO SUBMISSION.

DESIGN ELEMENTS
4.6.E.4.11. ROOF: ARTICULATED; 2 PITCHES WITH 2 RIDGELINE DIRECTIONS VS. SILE FROM THE FRONT.
4.6.E.4.8. (MASONRY FENCE DIVIDING PATIOS ON ONE SIDE; CANTILEVERED OVERHANGS AND CONCRETE STAIRS ON THE OTHER SIDE)
4.6.E.4.C. 8' DEEP PORCH SPANNING THE ENTIRE WIDTH OF BUILDING; 8' EAVE OVERHANGS 12" V. PROJECTING ENTRY FEATURE 8' COVERED PORCH; V.I. ARTICULATED WINDOW AND DOOR TRIM.
4.6.E.5 ONE UNIT FACES THE STREET;

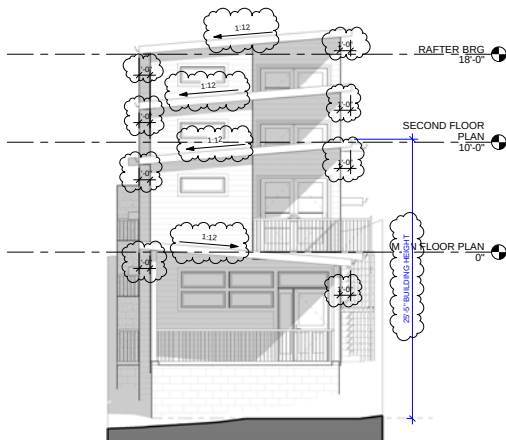
5 ARTICULATED WINDOW & DOOR TRIM DETAIL
NTS



3 REAR ELEVATION
3/16" = 1'-0"



2 LEFT ELEVATION
3/16" = 1'-0"



4 FRONT ELEVATION
3/16" = 1'-0"



1 RIGHT ELEVATION
3/16" = 1'-0"

TO: Knoxville-Knox County Planning Commission
FROM: Samiul Haque, Planner
DATE: April 2, 2026
SUBJECT: Appeal of an administrative determination for a Middle Housing application
FILE #: 4-F-26-0B; Agenda Item #21

SUMMARY OF RECOMMENDATION

Staff recommends that the Planning Commission evaluate the proposed application based on the Middle Housing Standards (Article 4.6) for the property located at 921 James Avenue. The Planning Commission should discuss whether the structure is a Middle Housing Type per Article 4.6.A with a building footprint and overall scale comparable to single-family houses and compatible with existing housing in the surrounding area, and whether the proposal will be injurious to the surrounding neighborhood.

Each application is reviewed on its own merits separately. Land use decisions are considered on a case-by-case basis, and they are not fully bound by precedent. Boards are free to make different decisions even on similar projects, as no two pieces of land are exactly the same. If the Planning Commission makes a different decision on a similar application, the Planning Commission should provide reasoning as to why the decision differs.

APPEAL AND REQUEST SUMMARY

The applicant is appealing Planning staff's comments on a pending Middle Housing application for a proposed 3-unit structure at 921 James Avenue (KnoxPlans project # IRC-NEW-25-0543).

The applicable review comments on the project are as follows:

- 9/11/25 - The development proposed is a slot house design. This is not a defined middle housing type and is not found in the immediately surrounding area of the neighborhood. A slot house does not meet the intent of Middle Housing as the buildings are oriented to the side lot line, where the front porches, doors, and windows open into the sides of neighboring structures, which can cause a reduction in privacy for abutting neighbors on this side of the lot.
- 7/29/25 - Article 4.6.A: The applicant describes the building as a triplex. The application does not propose units that are stacked on top of each other and does not meet the

definition of triplex. The building features three units oriented perpendicular to the street with the units separated by party walls/shared side walls, which meets the definition of a Dwelling Townhouse per Article 2.3 and partially meets the definition of Townhouse (small) per Article 4.6.A.

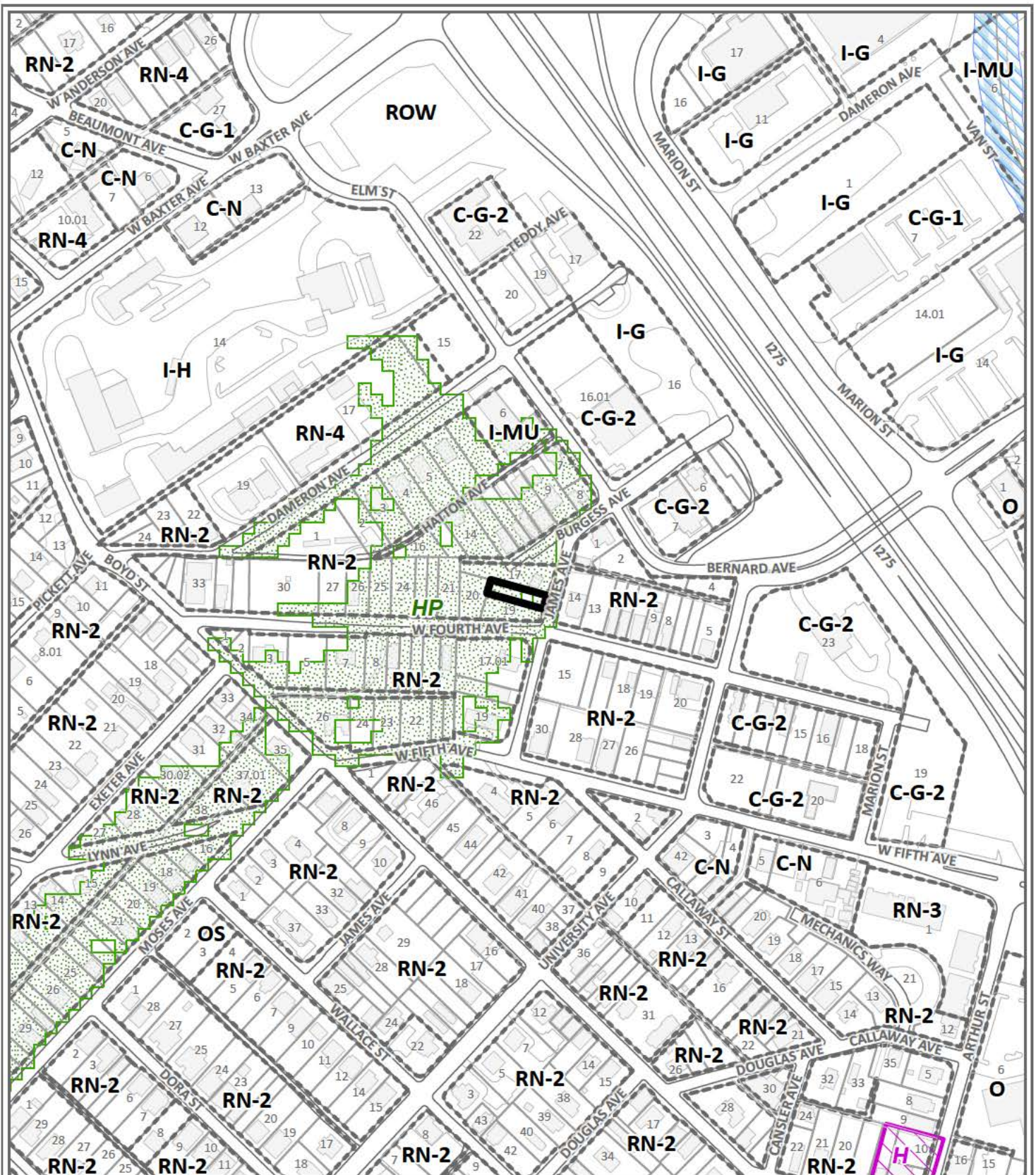
- 7/29/25 - Article 4.6.E.5.c: The proposed design does not meet the requirement that townhouses shall not be oriented perpendicular to the street. The narrow side of townhouse units must face the street.

The full record of staff review comments and applicant responses is provided in Exhibit B.

STANDARD OF REVIEW

The application was submitted prior to the recent amendments to the City of Knoxville Zoning Code, Article 4.6, Middle Housing, which amended the appeal body to the Design Review Board, and is therefore subject to the previous zoning ordinance requirements, in which Middle Housing appeals were heard by the Knoxville-Knox County Planning Commission.

In accordance with Article 16.12.A.4.b under the applicable code, the Planning Commission must evaluate the application based upon the evidence presented at the public hearing. The Commission may affirm, modify, impose restrictions, or overrule the Planning staff determination.



OTHER BUSINESS

4-F-26-OB

Petitioner: R. Bentley Marlow



Purpose of Request: Appeal of an administrative determination for a Middle Housing application. (921 James Avenue / Parcel ID 094CK018)

Original Print Date: 4/2/2026

Knoxville - Knox County Planning Commission * City / County Building * Knoxville, TN 37902

Map No: 999

Jurisdiction: City

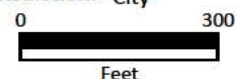


Exhibit A. Contextual Images



AERIAL MAP



Case boundary

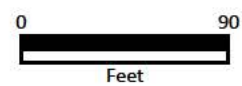
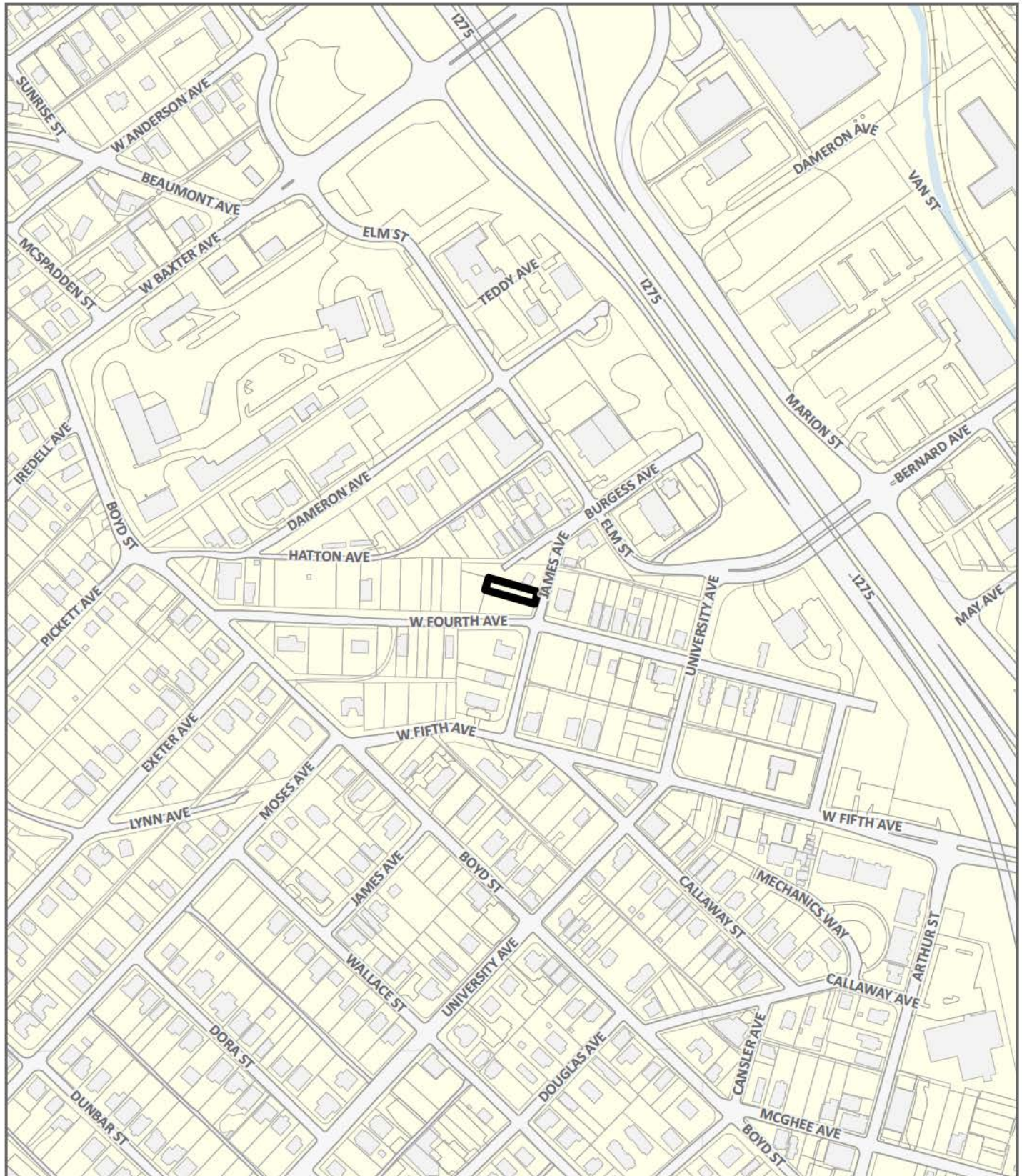


Exhibit A. Contextual Images



LOCATION MAP

4-F-26-OB



Case boundary

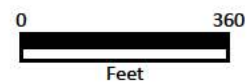


Exhibit B. KnoxPlans Review Comments



Home

Project:

All Tasks

Logout

Tasks Files Status Info Reports Discuss

Reviews

IRC-NEW-25-0543: Dwelling - Townhouse, \$20000 , 921 James Triplex

Dept:

Status:

Response:

Search:

Type:

Cycle:

Time:

[Refresh](#)

Exhibit B. KnoxPlans Review Comments

	Ref.# 27	Planning Review	Lindsay Lanois	7/29/25 2:26 PM	Cycle 1	
	Resolved	Article 4.6: The property is zoned RN-2/HP within the TDR land use area. The lot frontage on James Avenue is 30 wide with no alley. The proposed lot does not meet the minimum lot width for a triplex (or any Middle Housing Type) in Table 4-4 of Article 4.6. The application aims to use Article 17.3.E, "lot created by deed," to qualify for a non-conforming lot of record. Per Engineering Ref 9, Engineering requires a plat of the property to create a legal lot of record. Until a lot of record is established, the project is not approved for MH standards.				
	Comment					
		<i>Responded by: MARLOW BUILDERS - 10/28/25 1:45 PM</i> Plat is recorded. Instrument No. 20251024-0023855. <i>Reviewer Response: Samiul Haque - 9/11/25 11:16 PM</i> This review comment will be resolved once the Lot of Record status has been established. The plat will likely require an easement for the common pathway. <i>Responded by: MARLOW BUILDERS - 9/3/25 4:22 PM</i> A new survey plat has been submitted to Knox Planning by email dated 3 September 2025. A copy of that email is uploaded as file "Gmail - Plat submission.pdf" to the Document folder. Plat fee paid 3 September at 4:05pm Reference No. FP921925James <i>Responded by: MARLOW BUILDERS - 8/19/25 10:28 AM</i> MH Approved by Planning Commission 8-3 on 14 August 2024. Agenda item 31; file 8C25OB.				
	Ref.# 28	Planning Review	Lindsay Lanois	7/29/25 2:27 PM	Cycle 1	Type your response here.
	Unresolved	Article 4.6.A: The building is described as a triplex. The application does not propose units that are stacked on top of each other and does not meet the intent of the definition of triplex. The building features three units oriented perpendicular to the street with the units separated by party walls/shared side walls, which meets the definition of a DwellingTownhouse per article 2.3 and partially meets the definition of Townhouse (small) per Article 4.6.A.				
	Comment					
		<i>Responded by: MARLOW BUILDERS - 11/7/25 2:21 PM</i> Applicant maintains the appeal before Planning Commission on 14 August 2025, vote 8-3 resolved the Middle Housing issue. Forthcoming legal proceedings will ultimately resolve that issue. See Marlow Builders, Inc. v Knoxville-Knox County Planning, Knox County Chancery Court, No. 212010-2. <i>Responded by: MARLOW BUILDERS - 10/28/25 1:47 PM</i> Applicant maintains the appeal before Planning Commission on 14 August 2025, vote 8-3 resolved the Middle Housing issue. Forthcoming legal proceedings will ultimately resolve that issue. See Marlow Builders, Inc. v Knoxville-Knox County Planning, Knox County Chancery Court, No. 212010-2. <i>Reviewer Response: Samiul Haque - 9/11/25 10:52 PM</i> The development proposed is a slot house design. This is not a defined middle housing type and is not found in the immediately surrounding area of the neighborhood. A slot house does not meet the intent of Middle Housing as the buildings are oriented to the side lot line where the front porches, doors, and windows open into the sides of neighboring structures, which can cause a reduction in privacy for abutting neighbors on this side of the lot. <i>Responded by: MARLOW BUILDERS - 9/3/25 3:49 PM</i> Art. 4.6 definition of triplex does not require units to be stacked on top of each other. Planning Commission determined this design met the requirements of Art. 4.6 as a triplex upon appeal of an identical design, file number 8-C-25-OB, Agenda Item 31, heard by Planning Commission on 14 August 2025; vote approving this design as triplex 8-3. See https://www.youtube.com/watch?v=nl2UodcbZEo&list=PLHG8_5NdPaHaPC8FQ_0UBHKx3g1VzxBFc <i>Responded by: MARLOW BUILDERS - 8/19/25 10:28 AM</i> MH Approved by Planning Commission 8-3 on 14 August 2024. Agenda item 31; file 8C25OB.				
	Ref.# 29	Planning Review	Lindsay Lanois	7/29/25 2:27 PM	Cycle 1	
	Resolved	Article 4.6.E.5.c: The proposed design does not meet the requirement that townhouses shall not be oriented perpendicular to the street. The narrow side of townhouse units must face the street.				
	Comment					
		<i>Reviewer Response: Samiul Haque - 9/11/25 10:50 PM</i> See Ref. # 28. <i>Responded by: MARLOW BUILDERS - 9/3/25 3:49 PM</i> Plat is recorded. Instrument No. 20251024-0023855.				

Exhibit B. KnoxPlans Review Comments

		Planning Commission determined this design met the requirements of Art. 4.6 as a triplex upon appeal of an identical design, file number 8-C-25-OB, Agenda Item 31, heard by Planning Commission on 14 August 2025; vote approving this design as triplex 8-3. See https://www.youtube.com/watch?v=nl2UodcbZEo&list=PLHG8_5NdPaHaPC8FQ_0UBHKx3g1VzxBFc				
		Responded by: MARLOW BUILDERS - 8/19/25 10:28 AM MH Approved by Planning Commission 8-3 on 14 August 2024. Agenda item 31; file 8C25OB.				
	Ref.# 30	Planning Review	Lindsay Lanois	7/29/25 2:29 PM	Cycle 1	
	Resolved	Article 4.6.C: Provide actual front and side setbacks, measuring from the front and side property line to the front and side building lines, along with any encroachments.				
	Comment					
		Responded by: MARLOW BUILDERS - 9/3/25 3:29 PM See revised A101.				
		Reviewer Response: Samiul Haque - 8/27/25 9:03 AM Annotate the front setback measuring from the front lot line to the closest point (southeast corner) of the front facade of the principal structure.				
		Responded by: MARLOW BUILDERS - 8/19/25 10:28 AM See new A101				
	Ref.# 33	Planning Review	Samiul Haque	8/27/25 9:05 AM	Cycle 2	
	Resolved	Annotate the dimensions of the decks/patios on the floor plan.				
	Comment					
		Responded by: MARLOW BUILDERS - 9/3/25 3:56 PM Dimensions are on sheet A102 - Foundation and Flooring Plan.				
	Ref.# 34	Planning Review	Samiul Haque	8/27/25 9:21 AM	Cycle 2	
	Resolved	The labels for the left (south) and right (north) elevations should be revised to match the floor plans and the topography of the site.				
	Comment					
		Responded by: MARLOW BUILDERS - 9/3/25 9:30 PM See revised A201 (Both A201 sheets should be identical -- the file name got changed slightly and I can find no way to delete or remove the duplicate file).				
	Ref.# 36	Planning Review	Jake Beaumier	8/27/25 2:58 PM	Cycle 2	No response required.
	Info Only	This property is exempt from HP Overlay regulations per article 8.9.B.4 of the City of Knoxville zoning ordinance. "Lots that have been previously legally disturbed or developed would also be excepted provided that any new/additional disturbance does not exceed the previously-disturbed area."				
	Comment	If you have any questions, please contact Jake Beaumier with Knoxville-Knox County Planning. (865)215-3085 or jake.beaumier@knoxplanning.org				
	Ref.# 40	Planning Review	Samiul Haque	9/11/25 11:11 PM	Cycle 3	
	Resolved	Article 4.6.G: The application requests an administrative variation, reducing the required 5 interior side setback to 4. Administrative variations on side setbacks may only be granted if approved by Engineering; Engineering has not approved without a plat. This review comment will be resolved upon the Engineering department's approval of the item.				
	Comment					
		Responded by: MARLOW BUILDERS - 10/28/25 1:48 PM This comment is misleading and incorrect. Arguably evidence of malicious intent by Planning Staff. Engineering has no legal authority to grant or deny side setbacks easements. Engineering's sole role on this matter concerns utility and drainage easements -- which at the time of submission did not exist on this parcel. Moreover, having no legal basis to enforce utility and drainage easements against the property owner's objection Engineering agreed to the reduction as evidenced by the email from Chris Howley and no shown on the signed and recorded plat. Instrument No. 20251024-0023855.				

oysk³ architects
1545 Western Avenue, Suite 100
Knoxville, TN 37921
info@oysk3architects.com
(615) 522-1188



**JAMES AVE TRIPLEX
NEW RESIDENTIAL CONSTRUCTION**
921 James Ave, Knoxville, Tennessee 37921

Form 4-2	8-2011	8-2011	8-2011
10/17/2011	10/17/2011	10/17/2011	10/17/2011
11/16/2011	11/16/2011	11/16/2011	11/16/2011

G000

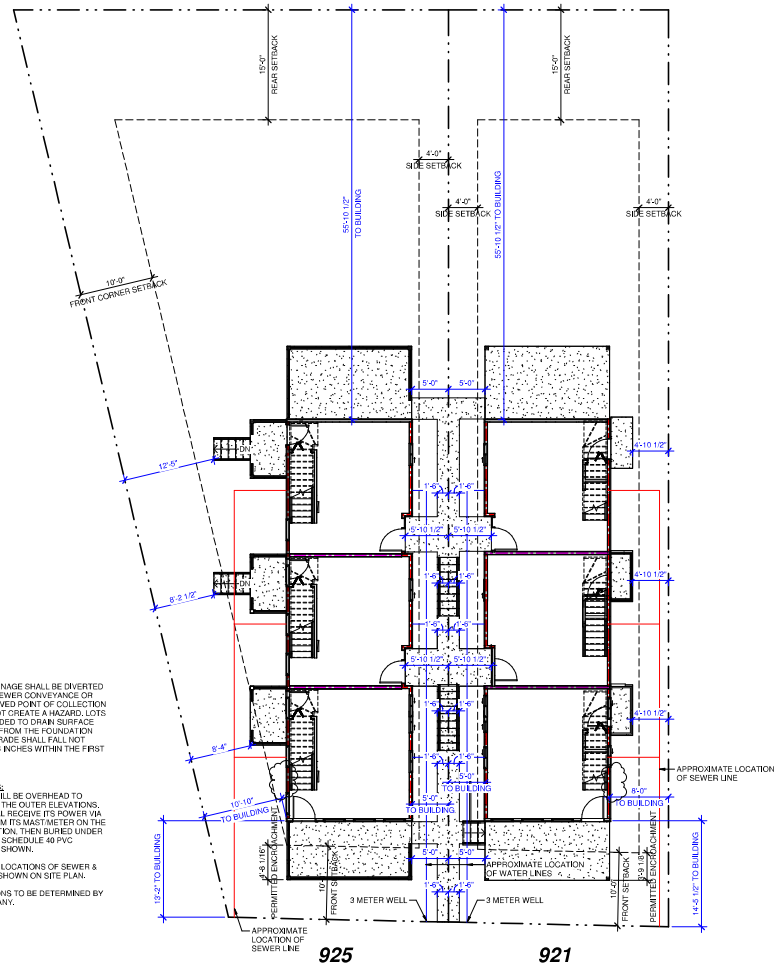
PROJECT : 25056

NOTE:
GENERAL CONTRACTOR TO DETERMINE THE FINAL LOCATION OF THE STRUCTURE ON THE SITE BASED ON SETBACK REQUIREMENTS OF THE LOCAL JURISDICTION.

NOTE:
SURFACE DRAINAGE SHALL BE DIVERTED TO A STORM SEWER CONVEYANCE OR OTHER APPROVED POINT OF COLLECTION THAT DOES NOT CREATE A HAZARD. LOTS SHALL BE GRADED TO DRAIN SURFACE WATER AWAY FROM THE FOUNDATION WALLS. THE GRADE SHALL FALL NOT FEWER THAN 6 INCHES WITHIN THE FIRST 10 FEET.

UTILITY NOTES:
ELECTRICAL WILL BE OVERHEAD TO MASTS ALONG THE OUTER ELEVATIONS. EACH UNIT WILL RECEIVE ITS POWER VIA A FEEDER FROM ITS MASTMETER ON THE OUTER ELEVATION, THEN BURIED UNDER THE SLAB IN 2" SCHEDULE 40 PVC CONDUIT. NOT SHOWN.

APPROXIMATE LOCATIONS OF SEWER & WATER LINES SHOWN ON SITE PLAN.
FINAL LOCATIONS TO BE DETERMINED BY UTILITY COMPANY.



1 ARCHITECTURAL SITE PLAN
A101 1/8" = 1'-0"

NOTE:
ALL WATER HEATERS TO BE 26 GALLON ELECTRIC.
DIMENSIONS: H 30", W 18.75", D 19.75"

WALL LEGEND	
	2x4 WOOD STUDS @16" O.C. WITH R-20 BATT INSULATION -1/2" GYP BOARD INTERIOR SIDE -1/2" PLYWOOD SHEATHING, TYVEK WEATHER BARRIER & Siding EXTERIOR SIDE (SEE EXTERIOR ELEVATIONS)
	2x4 WOOD STUDS @16" O.C. -1/2" GYP BOARD BOTH SIDES
	8" CMU FOUNDATION WALL
	2 HR. SEPARATION 2x4 WALL - UL U301
	1 HR. EXTERIOR 2x4 WALL - GPEWFW-02

WINDOW LEGEND:	
SH	SINGLE HUNG
S	SLIDING
T	TRANSOM

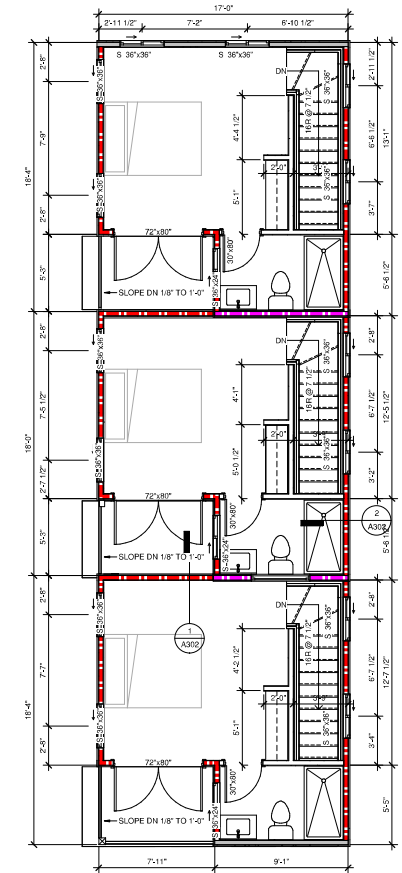
FLOOR PLAN NOTES:

TYPICAL BLOCKING NOTE:
PROVIDE WOOD BLOCKING IN THE WALLS AS REQUIRED TO SUPPORT & ATTACH ALL WALL HUNG ITEMS SUCH AS CABINETS, BRACKETS, HAND RAILS, GRAB BARS, ETC. THE BLOCKING & ITS ATTACHMENTS SHALL CARRY THE MINIMUM WEIGHT. VERIFY WITH MANUFACTURER.

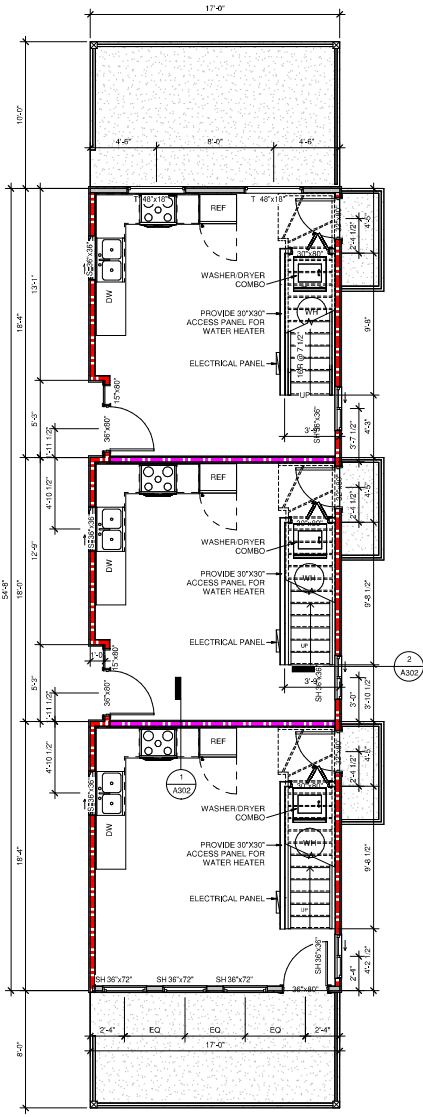
TYPICAL WINDOW NOTE:
GLAZING IN AN INDIVIDUAL FIXED OR OPERABLE PANEL THAT MEETS ALL OF THE FOLLOWING CONDITIONS SHALL BE CONSIDERED TO BE A HAZARDOUS LOCATION:
• THE EXPOSED AREA OF AN INDIVIDUAL PANE IS LARGER THAN 9 SQUARE FEET
• THE BOTTOM EDGE OF THE GLAZING IS LESS THAN 18 INCHES ABOVE THE FLOOR
• THE TOP EDGE OF THE GLAZING IS MORE THAN 36 INCHES ABOVE THE FLOOR
• ONE OR MORE WALKING SURFACES ARE WITHIN 36 INCHES, MEASURED HORIZONTALLY AND IN A STRAIGHT LINE, OF THE GLAZING
SEE R308.4.3 GLAZING IN WINDOWS FOR EXCEPTIONS (E.G. DECORATIVE GLAZING)

PLAN NOTE:
CABINETRY AND FURNITURE IS SHOWN FOR PLANNING PURPOSES ONLY. CONTRACTOR TO COORDINATE WITH OWNER.
ALL EXTERIOR DOORS TO BE INSULATED, AND HAVE WEATHER STRIPPING AND APPROPRIATE THRESHOLD.

TYPICAL DECKS, PATIOS & PORCHES:
DECKS, PATIOS & PORCHES TO BE 12" BELOW ADJACENT FINISHED FLOOR. PROVIDE FLASHING AT ALL FLOOR TRANSITIONS AT DECK, PATIOS, & PORCHES.
IF THE FINISHED FLOOR HEIGHT OF THE DECK IS 30" ABOVE GRADE, STAIRS AND RAILINGS TO GRADE MUST BE ADDED. RAILINGS TO BE 36" TALL WITH A MINIMUM OF 4" TOP AND BOTTOM RAILS WITH 2" POCKETS SPACED AT NO MORE THAN 3 7/8".
IMPERVIOUS SURFACES TO BE SLOPED AWAY FROM STRUCTURE @ 1/8" PER FOOT.



5 SECOND FLOOR PLAN
1/4" = 1'-0"



4 MAIN FLOOR PLAN
1/4" = 1'-0"

8/18/2025

JAMES AVE TRIPLEX
NEW RESIDENTIAL CONSTRUCTION
921 James Ave, Knoxville, Tennessee 37921

NAME	DATE	REMARKS
	18/07/2023	CODE N1
	18/07/2023	CODE N3
	11/08/2023	CODE N4

DRAWN BY: MB

EXTERIOR ELEVATIONS

A201

PROJECT : 25056

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NOTE:
ALL GUARDRAILS AND HANDRAILS SHALL BE
INSTALLED IN ACCORDANCE WITH
APPLICABLE CODE REQUIREMENTS.
GUARDRAILS SHALL BE A MINIMUM OF 36
INCHES IN HEIGHT, MEASURED VERTICALLY
ABOVE THE WALKING SURFACE OR
FINISHED FLOOR, AND SHALL BE
CONSTRUCTED TO RESIST A FORCE
GREATER THAN 4 INCHES IN DIAMETER
FROM PASSING THROUGH ANY OPENING.
MAXIMUM CLEAR SPACING BETWEEN
BALUSTERS OR INTERMEDIATE MEMBERS
SHALL NOT EXCEED 38 INCHES.

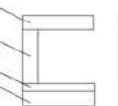
EXTERIOR ELEVATION KEYNOTES

1. FIBER CEMENT SIDING TBS BY OWNER
2. PRIMER COAT ON EXPOSED GYU
3. 6x6 P.T. WD POST ON GALVANIZED COMPSON STRONG TIE POST BASE
4. FIBER CEMENT FASCIA W/ PREFINISHED DRP EDGE
5. METAL GUTTER TO DOWNSPOUT, TYP.
6. METAL ROOF, COLOR & STYLE TBS BY OWNER

TRANSPARENCY CALCULATIONS:

FRONT FACADE: 251 SQFT
TRANSPARENCY: 80 SQFT
31% TRANSPARENCY PROVIDED

- 1 X 4 HARDIE TRIM
1 X 4 HARDIE TRIM
2 X 2 HARDIE TRIM
1 X 4 HARDIE TRIM



EXTERIOR ELEVATION NOTES

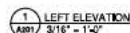
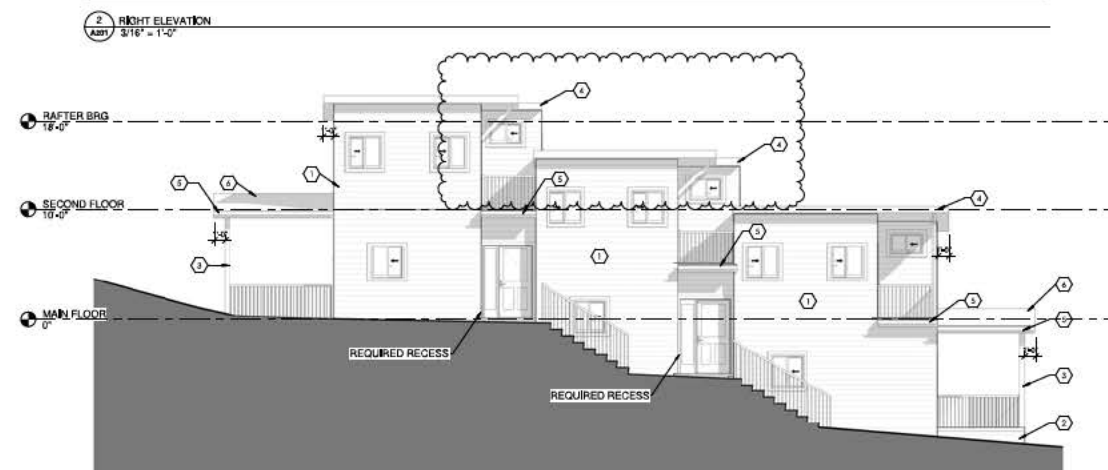
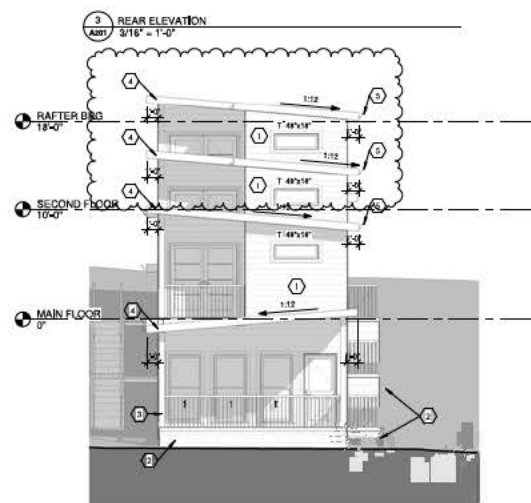
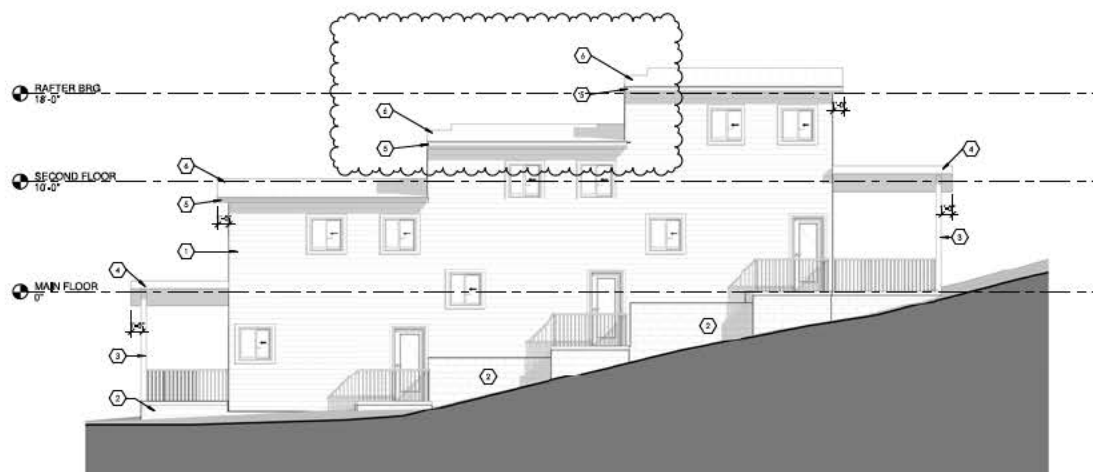
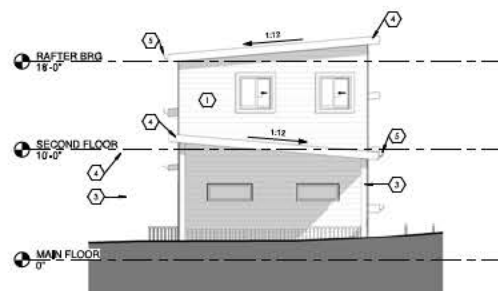
APPROXIMATE SITE LOCATION AND TOPOGRAPHY. GENERAL CONTRACTOR TO WORK WITH C&E AND STRUCTURAL TEAM TO CLARIFY HOME LOCATION ON PROPOSED SITE AND ANY RETAINING REQUIREMENTS. CONFIRM ANY BUILDING ADJUSTMENTS WITH ARCHITECT BASED ON LOCATION WITHIN SETBACK REQUIREMENTS AND ANY CITY, CODE OR SEPTIC REQUIREMENTS PRIOR TO SUBMISSION.

DESIGN ELEMENTS

DESCRIPTION OF IMPROVEMENTS:
 1. J.J. A.B. ROOF: ARTICULATED; 2 PITCHES WITH 2 HORIZONTAL DIRECTIONS
 VISIBLE FROM THE FRONT;
 2. J.J. A.B. MASONRY FENCE DIVIDING PATIOS ON ONE SIDE; CANTILEVERED
 OVERHANGS AND CONCRETE STAIRS ON THE OTHER SIDE;
 3. J.J. A.B. DECK: 10' DEEP, 10' WIDE, 10' LONG ENTIRE WIDTH OF BUILDING; 1. LEAVE
 OVERHANGS 12" V. PROJECTING ENTRY FEATURE & COVERED PORCH; VI.
 ARTICULATED WINDOW AND DOOR TRIM,
 4. J.J. A.B. ONE UNIT FACES THE STREET.

5 ARTICULATED WINDOW & DOOR TRIM DETAIL
A201 NTS

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466
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Appeal of Decision

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

Type: ☐ Plan Amendment ☐ Rezoning ☐ Certificate of Appropriateness

☐ Street Name Change ☒ Other: MH Denial

Decision By: ☒ Planning Staff ☐ Planning Commission ☐ Other: _____ ☐ Date of Decision: _____

Jurisdiction: ☐ City ⁶ _____ Council District ☐ County _____ Commission District

IRC-NEW-25-0543

R. Bentley Marlow

Original File Number Being Appealed

Original Applicant Name

Marlow Properties, LLC

094CK018 / 921 James Ave.

Name of Owner of Subject Property

Parcel Number of Subject Property

MH Denial

Decision Being Appealed

Reason for the Appeal:
(Attach additional pages,
if necessary.)

Staff arbitrarily and capriciously ignores Planning Commission's prior holdings interpreting "intent" and the definition of "triplex." See 8C250B (vote 8-3) & 3A260B (Vote 11-1).

PETITIONER INFORMATION

R. Bentley Marlow

Name of Petitioner

Signature of Petitioner

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

Property Owner, General Contractor of Record

All correspondence
should be sent to:

R. Bentley Marlow

865-607-4357

Name (Print)

Phone

Email

322 Douglas Avenue

Knoxville

Tennessee 37921-4813

Address

City

State

ZIP

STAFF USE ONLY

Shelley Gray

Application Accepted by Planning Staff Member

\$250.00

Appeal Fee Amount

03/17/2026

Date Appeal Received

Paid 03/17/2026, SG

APPEAL MEETING INFORMATION

City
Council - 6 p.m. _____
Month | Date | Year

County
Commission - 5 p.m. _____
Month | Date | Year

Knoxville-Knox
County Planning
Commission - 1:30 p.m. *04 09 2026*
Month | Date | Year

Type: ☐ Plan Amendment ☐ Rezoning ☐ Certificate of Appropriateness

☐ Street Name Change ☒ Other: Middle Housing

New File #8-B-25-OB

Decision By: ☒ Planning Staff ☐ Planning Commission ☐ Other: _____ ☐ Date of Decision: 27 June 2025

Jurisdiction: ☒ City ⁶ _____ Council District ☐ County _____ Commission District

R. Bentley Marlow

5-A-25-MH

Applicant Name

Original File Number

R. Bentley Marlow

094FQ017

Name of Owner of Subject Property

Parcel Number of Subject Property

Denial of Middle Housing

Decision Being Appealed

Reason for the Appeal:
(Attach additional pages,
if necessary.)

Arbitrary and Capricious See First Review Comments -- the requested revisions were made -- application meets all requirements of Middle Housing Article 4.6 as enacted.

PETITIONER INFORMATION

R. Bentley Marlow

Name of Petitioner

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

Owner and Builder (Note I do not see a space to sign this form -- consider this form signed.)

All correspondence should be sent to:	R. Bentley Marlow	865-607-4357	[REDACTED]
	Name (Print)	Phone	Email
322 Douglas Avenue	Knoxville	TN	37921
Address	City	State	ZIP

STAFF USE ONLY

<i>Shelley Gray</i>	\$250 / pd 07/01/2025, SG	06/29/2025
Application Accepted by Planning Staff Member	Appeal Fee Amount	Date Appeal Received

APPEAL MEETING INFORMATION

Planning Commission - 1:30 pm August 14, 2025

City Council - 6 p.m. n/a	County Commission - 7 p.m. n/a	City BZA - 4 p.m. n/a
Month Date Year	Month Date Year	Month Date Year



Middle Housing Denial

5-A-25-MH

Property Address: 1214 Callaway St

Parcel ID: 094FQ017

Zoning District: RN-4

Owner: R. Bentley Marlow

Applicant: R. Bentley Marlow

Project Type: New construction

Middle Housing Type: New townhouse (large)

Brief Description: Construction of a 2.5-story, five-unit townhouse building with four units facing the side elevation.

Additional Notes: Project described in application as multiplex. Lot to receive new construction is a 30' wide non-conforming lot of record. Application also requested an administrative variation, reducing interior side setbacks to 4'.

Action:

The project as presented in the attached application does not meet the applicable standards per Knoxville City Code, Appendix B, Zoning Code, Article 4.6. The building does not meet the design standards for townhouses (Article 4.6.E.5.c), and does not meet the intent of the Middle Housing Standards (Article 4.6: "intended to promote the development of neighborhood-scale housing forms which are compatible with existing housing in the surrounding area;" Article 4.6.E.4: "to generate new Middle Housing buildings that are similar in footprint, height, and setbacks with the existing neighborhood;" Article 4.6.G: "the intent of Article 4.6 is to allow middle Housing types which are in harmony with the surrounding neighborhood and will not be injurious to it or the public welfare.")

Certified By: Lindsay Lanois

Date Certified: June 27, 2025

Middle Housing Staff Review

TO: R. Bentley Marlow, Property Owner
FROM: Lindsay Lanois, Principal Planner
DATE: June 27, 2025
SUBJECT: Middle Housing Review – 5-A-25-MH
ADDRESS: 1214 Callaway St (Parcel ID 094F17)

STAFF DETERMINATION:

Deny the request for a five-unit townhouse because the project does not meet the following applicable standards per the Knoxville city Code, Appendix B, Zoning Code, Article 4.6:

- The building is described as a “multiplex,” which is defined in Article 4.6 as a small-to-medium-sized structure that consists of five to ten units arranged side-by-side and/or stacked, often with a shared entry on the ground floor. The building does not have a shared entry on the ground floor and does not meet the intent of the definition of multiplex.
 - The building instead features five units separated by party walls/shared side walls, which meets the definition of a **townhouse (large)** (definition below for comparison).
 - Article 4.6.A – Townhouse (large): “a medium-sized structure up to 2.5 stories with up to eight units, featuring shared side walls between units. The narrow side of the unit faces the street, with an entry oriented towards the street, and the larger side attached side along the depth of the lot.”
- The proposed design does not meet the zoning standard in Article 4.6.E.5.c, “townhouses shall not be oriented perpendicular to the street. The narrow side of townhouse units must face the street.”
 - The proposed building features four units oriented perpendicular to the street, fronting the side elevation.
- The proposed 2.5-story, 5-unit townhouse does not meet the intent of Middle Housing standards “to promote the development of neighborhood-scale housing forms which are compatible with existing housing in the surrounding area” (Article 4.6). The building is not “similar in footprint, height, and setbacks with the existing neighborhood” (Article 4.6.E.4). This is also stated in Article 4.6.G as “the intent of Article 4.6 is to allow Middle Housing types which are in harmony with the surrounding neighborhood and will not be injurious to it or the public welfare.”

- o The building is 2.5 stories tall on a block characterized by 1-story shotgun houses. The building is 80' deep, the maximum building depth for a multiplex, and will be deeper than the context. The side elevations feature massings which cantilever an additional 1' outwards from the building.

ADDITIONAL COMMENTS:

- The property is zoned RN-4 within the TDR land use area. The lot frontage on Callaway Street is 30' wide with an alley. The proposed lot does not meet the minimum lot width for a multiplex in Table 4-4 of Article 4.6 (70' with an alley). The application uses Article 17.3.B to allow development of a non-conforming lot of record, which "must meet all applicable dimensional and design requirements of the district in which it is located," with the exception of lot width. The application proposes the largest form of Middle Housing.
- Article 4.6.E.4.b requires "recesses or projections in the building wall of any front or side elevation that exceeds a length of 50'," which shall be at least 2' wide. The proposed projections take the form of cantilevered massings which do not extend to the foundation. The first story contains no recesses or projections in the building wall.
- The application requests an administrative variation, reducing the required 5' interior side setback to 4'.



NOTE:

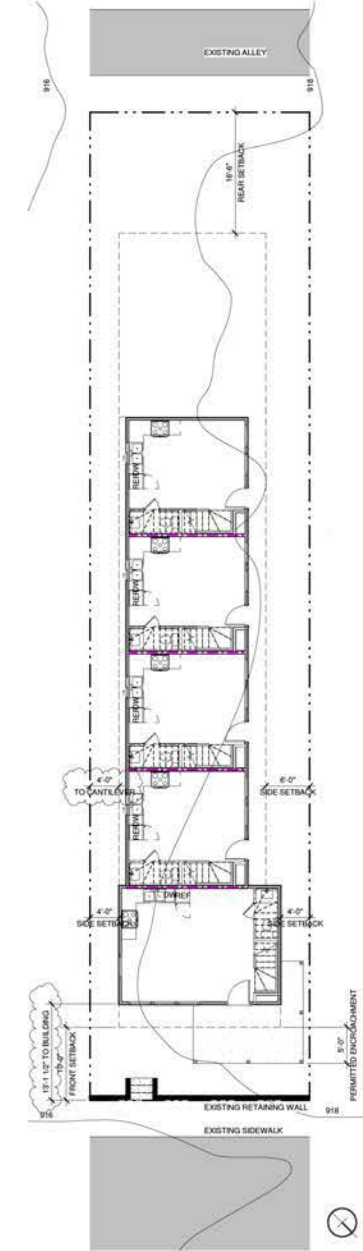
GENERAL CONTRACTOR TO DETERMINE THE FINAL LOCATION OF THE STRUCTURE ON THE SITE BASED ON SETBACK REQUIREMENTS OF THE LOCAL JURISDICTION.



3 SECOND FLOOR PLAN
A101 1/4" = 1'-0"



2 MAIN FLOOR PLAN
A101 1/4" = 1'-0"



1 ARCHITECTURAL SITE PLAN
A101 1/8" = 1'-0"

**CALLAWAY MULTIPLEX
NEW RESIDENTIAL CONSTRUCTION**
1214 Callaway Street, Knoxville, Tennessee 37921

DRAWN BY: MB
ARCHITECTURAL
SITE PLAN & FLOOR
PLANS

A101

PROJECT : 25048
© COPYRIGHT 2024

EXTERIOR ELEVATION NOTES

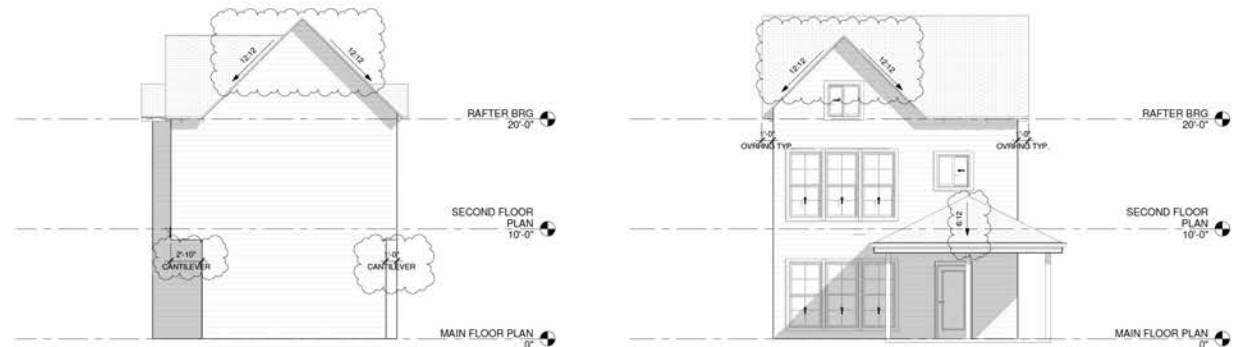
APPROXIMATE SITE LOCATION AND TOPOGRAPHY. GENERAL CONTRACTOR TO WORK WITH CIVIL AND STRUCTURAL TEAM TO CLARIFY HOME LOCATION ON PROPOSED SITE AND ANY RETAINING REQUIREMENTS. CONFIRM ANY BUILDING ADJUSTMENTS WITH ARCHITECT BASED ON LOCATION WITHIN SETBACK REQUIREMENTS AND ANY CITY, CODE OR SEPTIC REQUIREMENTS PRIOR TO SUBMISSION.



4 LEFT ELEVATION
 A201 3/16" = 1'-0"



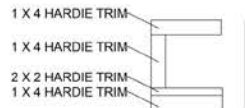
3 RIGHT ELEVATION
 A201 3/16" = 1'-0"



DESIGN ELEMENTS:
 ARTICULATED WINDOW TRIM
 8" DEEP COVERED PORCH
 12" EAVE OVERHANG

FACADE CALCULATIONS:

FRONT FACADE: 528 SOFT
 TRANSPARENCY: 144 SOFT
 27% TRANSPARENCY PROVIDED



ARTICULATED WINDOW & DOOR TRIM DETAIL
 NTS

2 REAR ELEVATION
 A201 3/16" = 1'-0"

1 FRONT ELEVATION
 A201 3/16" = 1'-0"

IN THE CHANCERY COURT FOR KNOX COUNTY, TENNESSEE
PART 2

MARLOW BUILDERS, INC. AND
1216 CALLAWAY, LLC.
Petitioner,

vs.

Civil Action No. 212010-2

AMY BROOKS, Executive Director,
Knoxville-Knox Planning Commission

Respondent.

FILED
CLERK OF COURT
25 DEC -1 PM 1:24
J. SCOTT GRISWOLD

PETITIONERS MEMORANDUM IN SUPPORT FOR *MANDAMUS*

This memorandum in support of petitioner's response to Petitioner's motion to dismiss is necessary to set forth the argument of the Petitioners. Marlow Builders, Inc. is a Tennessee corporation and R. Bentley Marlow is the President and sole shareholder. 1216 Callaway, LLC, is a Tennessee limited liability series company and R. Bentley Marlow is the managing member. This limited liability company is one of several serial limited liability companies that R. Bentley Marlow is the managing member. The "master" entity of these series of limited liability companies is Marlow Properties, LLC. Marlow Properties, LLC, is also a Tennessee limited liability company and R. Bentley Marlow is the sole owner and managing member of that entity. R. Bentley Marlow has multiple applications for building permits pending before the Knoxville-Knox Planning Commission in various legal entities (limited liability companies) as the managing member.

The structure proposed for 1216 Callaway was crafted by a local license professional architectural firm- as well as the other pending applications for building permits.¹ This firm has

¹ 1. 210 Cansler Avenue. Duplex. File No. IRC-NEW-25-0539. Middle Housing Approval PENDING; Building Permit PENDING.

2. 216 Cansler Avenue. Duplex. File No. IRC-NEW-25-0540. Middle Housing Approval GRANTED; Building Permit APPROVED.

previously stated to the Planning Commission that they prepared the drawings to fully meet all of the criteria in the local building and zoning codes for the City of Knoxville, Tennessee.

I. Local Level Appellate Review

Petitioner sought local level appellate review for the project next door at 1214 Callaway and a project a few blocks away at 1403 Moses. The basis of denial for all projects are identical: failure to meet the “intent” of Article 4.6 of the Knoxville Zoning Ordinance and the failure to meet the standard for either a “multiplex (small)”, “triplex”, or (townhouse)². At the August 14, 2025 Planning Commission meeting these topics were discussed at length (for nearly an hour)³. Below are excerpts from the 1214 Callaway (1214 Callaway and 1216 Callaway are similarly designed structures, on lots that are zoned identically and side-by-side thus they are a direct comparison⁴) appeal. Importantly, Petitioner is not attempting to “disturb

3. 1403 Moses Avenue. Triplex. File No. IRC-NEW-25-0541. Middle Housing Approval GRANTED; Building Permit APPROVED. NOTE: Middle Housing Denial overturned by Knoxville-Knox County Planning Commission, August 14, 2025, vote 8-3.

4. 1411 Moses Avenue. Triplex. File No. IRC-NEW-25-0542. Middle Housing Approval PENDING; Building Permit PENDING.

5. 921 James Avenue. Triplex. File No. IRC-NEW-25-0543. Middle Housing Approval PENDING; Building Permit PENDING.

6. 925 James Avenue. Triplex. File No. IRC-NEW-25-0544. Middle Housing Approval PENDING; Building Permit PENDING.

7. 1214 Callaway. Street. Multiplex (small). File No. IRC-NEW-25-0545. Middle Housing Approval GRANTED. Building Permit APPROVED. NOTE: Middle Housing Denial overturned by Knoxville-Knox County Planning Commission, August 14, 2025, vote 10-1.

8. 1216 Callaway Street. Multiplex (small). File No. IRC-NEW-25-0546. Middle Housing Approval DENIED. Building Permit PENDING.

9. 1204 Callaway Street. Triplex. File No. IRC-NEW-25-0547. Middle Housing Approval PENDING; Building Permit PENDING.

10. 1409 W. Fifth Avenue. Triplex. File No. IRC-NEW-25-0549. Middle Housing Approval PENDING; Building Permit PENDING.

11. 1415 W. Fifth Avenue. Triplex. File No. IRC-NEW-25-0550. Middle Housing Approval PENDING; Building Permit PENDING.

² In the case of 1403 Moses the basis concerned the definition of “triplex” or “townhome”.

³ The Planning Commission heard a second appeal, 1403 Moses, immediately following this appeal which concerned a “triplex” design which Planning Staff had denied on the identical grounds of “intent” and ambiguity on the definition of “triplex” vs. “townhome.” Petitioner prevailed on that appeal 8-3; further evidencing the precedent set in the appeal of 1214 Callaway.

⁴ Petitioner maintains that because both 1214 Callaway and 1216 Callaway are zoned RN4, propose a “multiplex (small)” building design that is by-and-large a copy of one another, and are physically adjoining parcels the two are

the decision and action” of the Knoxville-Knox County Planning Commission, rather, the Petitioner is seeking to have that prior judgement enforced upon Respondent because of her “arbitrary and oppressive” refusal to grant unto Petitioner a “right [that] has been clearly established.”⁵

A court will not, by mandamus, disturb the decision and action of boards and officers vested in discretionary powers, “except where they act in an arbitrary and oppressive manner [citation omitted], or act beyond their jurisdiction [citation omitted], or where they refuse to assume a jurisdiction which the law devolves upon them [citation omitted].” *Peerless Const. Co. v. Bass*, 158 Tenn. 518, 14 S.W.2d 732 (Tenn.1929).⁶

Mandamus is a summary remedy, extraordinary in its nature, and to be applied only when a right has been clearly established. *Peerless*, 14 S.W.2d at 733. The writ of mandamus will not lie to control official judgment or discretion, but it is the proper remedy where the proven facts show a clear and specific legal right to be enforced, or a duty which ought to be and can be performed. *State ex rel. Weaver v. Ayers*, 756 S.W.2d 217, 221 (Tenn.1988), citing *State ex rel. Ragsdale v. Sandefur*, 215 Tenn. 690, 696, 389 S.W.2d 266, 269 (1965).⁷

Petitioner notes that the following officials were present for the appeals of 1216 Callaway and 1214 Callaway before the Knoxville-Knox County Planning Commission, sitting up front at the desk for the duration of both appeals without ever offering testimony and were never questioned by Commissioners. Mr. Peter Ahrens, City of Knoxville Director of Plans, Review & Inspections⁸ and the City of Knoxville Zoning Administrator, Mr. Mark Riehl, City of Knoxville Zoning Division Chief, Mr. Austin Boswell, PE, City of Knoxville Engineering, and Ms.

“similarly situated” and the application of different standards would be tantamount to unreasonable discrimination. See *Board of Commissioners of Roane County v. Parker*. 88 S.W.3d 916 (Tenn. Ct. App. 2002)

⁵ *State ex rel. Weaver v. Ayers*, 756 S.W.2d 217, 221 (Tenn.1988).

⁶ *Tusant v. City of Memphis*. 56 S.W.3d 10 (Tenn. Ct. App. 2001).

⁷ *Id.*

⁸ Mr. Ahrens had the authority to interpret the zoning ordinance but failed to offer any such official interpretation in the appeals of 1216 Callaway and 1403 Moses. See Knoxville Zoning Ordinance Article 14.4.C.

Christina Veneciano Magráns-Tillery, Staff Attorney for the City of Knoxville, and is now representing the Knoxville-Knox County Planning in this proceeding. Also in attendance, but not sitting at the table with the aforementioned, was Ms. Cheryl Ball, City of Knoxville Chief Policy Officer.

A. "Intent"

Director Brooks elaborated the staff denial basis in response to questions from the Planning Commission.⁹

Director Brooks beginning at 2:08:43 through 2:09:28:

Similar to previous appeals you have seen the denial relates foremost to the intent of Middle Housing standards. Article 4.6 says the standards in this section are intended to promote the development of neighborhood scale housing forms which are compatible with the existing housing in the surrounding area. And it goes on to say in 4.6.E.4 the design standards intend to generate Middle Housing buildings that are similar in footprint, height, and setbacks with the existing neighborhood.

Important to note here that both 1214 Callaway and 1403 Moses had been evaluated by Planning Staff, as has 1216 Callaway, and all have been found to comply with both the dimensional standards (footprint, height, and setbacks) and the design standards (concerning recesses, projections, roof pitch, door orientation, percentage of windows facing the street, trim details, siding material specifications, etc.) for a building type identified in the Zoning Ordinance as a "multiplex (small)". At this time Planning Staff has completed multiple reviews of the 1216 Callaway proposal and they have certified that the projects satisfy both the dimensional standards and design standards. Every objective requirement of the Zoning Ordinance is

⁹ This is an unofficial transcript prepared by Petitioner taken from the official video of the 14 August 2025 meeting posted on Knoxville Community Media's Youtube channel. <https://www.youtube.com/watch?v=nl2UodcbZEO>

satisfied in the proposal. The official review comments from the relevant projects are attached, to wit: EXHIBIT 1 - 1214 Callaway; EXHIBIT 2 - 1216 Callaway; EXHIBIT 3 - 1403 Moses; EXHIBIT 4 - 1411 Moses; EXHIBIT 5 - 921 James; EXHIBIT 6 - 925 James; EXHIBIT 7 - 1409 W. Fifth; EXHIBIT 8 - 1415 W. Fifth.

Commissioner Gill highlights the fact that the proposal satisfies every requirement of the Zoning Ordinance and he dismisses the notion of "intent" not being met. Beginning at 2:20:18 through 2:20:58:

I think Mr. Marlow is right in saying, "I met the letter as written before you've made any of your changes and it meets the standards without variance. Why can't I build that?" Specifically, when there's any ambiguity we're supposed to side with the developer. I think that's a compelling argument. And I'm struggling with why we shouldn't do this. So, **the only question I would have why is this not a multiplex vs. why is it not a townhome?** We have not solved that in our current revisions in our code. So, is there a definitive reason why we can't say this is a multiplex? Based in the code?" (Emphasis Added).

Director Brooks responded to Mr. Gill's question beginning at 2:21:00 through 2:21:38:

So, in the staff report it says the building is described as a multiplex which is defined in article 4.6 as a small to medium sized structure that consists of 5 to 10 units arranged side by side often with a shared entry on the ground floor. The building does not have a shared entry on the ground floor and does not meet the intent of the definition of a multiplex. **So this again, this goes back to you all to make a call here.** But this is staff's recommendation. This is our analysis. Um the building instead features five units separated by party walls, shared walls, which meets the definition of townhouse large. And then we have a definition below that references back to 4.6.A [...] (emphasis added).

Commissioner Gill pushes back at 2:21:38 through 2:22:34:

I guess what I'm saying is that we say side by side in that and then we said a shared entrance. I'm kinda struggling to how you could have side by side stacked units with a shared entrance. So are we

talking like a completely blank wall with one in the middle and then have stacked side by side units. I mean this is, this is just pretty unclear. It's about as clear as mud in this case. [...] it says side by side and does not say **MUST** have a shared entrance, it says often does. This one doesn't but it's still side by side. They're five units. They're not townhomes. Give me a reason why that isn't a multiplex. **And it sounds like it's not based on your interpretation**, which I think is, carries a lot of weight, but I'm struggling with this one. (Emphasis added).

Chair Huber then asked Director Brooks to comment and Director Brooks adds at 2:22:36 through 2:22:46:

I just want to clarify. It is just one element of our denial. Um it also goes back to the primary one which is you know the basis of the other ones that you've seen come before you which is the intent of middle housing. What is the intent?

Commissioner Anderson added to the conversation dismissing the "intent" basis of the denial beginning at 2:22:52 through 2:23:32:

I'm just going to say I'm pretty aligned with Commissioner Gill on this. I hate that we have the situation that we have in front of us. But we really have a proposal to do both a large townhouse development and a multiplex as its written. And I just, I think people have to be able to rely on what's out there in terms of written guidance and in our ordinances. It's hard for me to justify not approving this request.

Commissioner Adams provided some discussion about the "intent" at 2:23:38 through 2:25:22, but ultimately voted to approve this appeal—thereby indicating the "intent" was satisfied:

I'm looking at the Streetview here for the property ... what I keep getting hung up on is how this particular form fits in this neighborhood. And I'm looking at how, trying to imagine how, that feels like to the person living in the houses right beside this proposed new property. And there is a house with a porch to the side, there's two of them actually, three of them, and the porches face right into the house's windows right beside it, it feels a little awkward. **But it's been a housing type there for a long time** and then I look at this structure that would be having numerous

entrances, and um, you know individual along that entire house front and I'm wondering about the height and how all that feels. That's where I'm getting hung up like with all of these different definitions. Ms. Brooks said it, the intent like that is the sort of overarching component for missing middle like to have it fit in really fluidly with the rest of the neighborhood and that's where my question mark comes in. Like trying to visualize this and does it fit there? (emphasis added)

Commissioner Butler adds to the discussion expressing reservations about the "intent" but concluding that the project meets all applicable guidelines at 2:25:30 through 2:25:58 (Commissioner Butler voted to approve the appeal, providing further evidence the "intent" denial basis was not valid):

I concur that um I feel like we have clarity that is needed um in the language still and we'll find that out as we move along but I too am concerned about the scale of this not meeting the spirit of what is intended for the um missing middle. So, um, just wanted to go on record saying I understand and I do not feel this meets the spirit, but, um may **meet the actual guidelines as currently written**. (emphasis added).

Commissioner Biggs responds to discuss the "scale" and how it relates to "intent" beginning at 2:26:00 through 2:26:25:

I guess just a question on kind of the scale piece. I, you know, agree in looking at Streetview, like everything's like one level. Like if somebody were to build like a two-story Craftsman or Victorian there, like would we be having the same concern if it was a single-family house? Like is it scale from the street, scale from the side yard? Because I think you've got different streets where you've got one story, two story, so.

Commissioner Adams then responds beginning at 2:26:25 through 2:27:06:

I'm going to throw in, to me, it doesn't, my opinion, it's not anything about how many persons live there. It's like that feeling of how it is with the houses beside it and how it is with the street. For example, you said Craftsman specifically, um, they are great at being they can be deceptively large. You look at them and you

think "Oh, its kinda a smaller house" and then you walk up on the porch and you're like "whoa, no it's not, this is much larger." So I think that there are housing types that are deceptive in how much space they actually provide and how they feel to the other structures around them that scale. I'm not sure that the proposed property that is in front of us is one of those.

Commissioner Biggs replies at 2:27:06 through 2:27:28:

Right. And I guess I'm thinking to about like I agree Craftsman are kinda low profile but like Victorians are typically like pretty broad and you see a mix of Craftsman and Victorian in those traditional neighborhood districts. And so yeah, I'm, I guess I'm not sold on the scale being like inappropriate for the area given the mix of uses.

Commissioner Gill then adds to this discussion beginning at 2:27:28 through 2:28:45

I was just going to say, just as a reminder that even under what we passed today and moving forward that, you know, stacked duplexes are a two-story building. There could be two units there and he could put a stacked duplex in a lot like this. We don't have restrictions on having two story buildings just because the one next door is a one-story. So that's the issue at hand here isn't necessarily that it's two stories. That's kinda allowed. I mean, I get that we are trying to say scale needs to match the neighborhood but that's really difficult to do. [...] There are other housing forms that could be, he could put here that would be from the front as he has shown on his drawing would look the exact same in terms of scale. It's the difference is that when you go into the backyard now you still have two story building that goes all the way the length of the lot. I mean he could have put two story building that's this long and made it a single-family house and it would be allowed there. So, as much as I'm not in love with this housing form, **it meets the code**. (Emphasis added).

Commissioner Gill ultimately motioned to approve 1214 Callaway, Commissioner Anderson seconded the motion. Importantly, the vote was 10-1, and the only no vote was Commissioner Midis who did not raise any questions nor offered any comments during the discussion.

As was noted by multiple Commissioners the proposed drawing met the requirements of the code. (Planning Staff conducted multiple reviews of this proposal prior to issuing the denial but Staff never alleged the proposal failed to satisfy the objective criteria specified in Article 4.6.) That is the proposal met the dimensional standards of Article 4.6.C which specifies the minimum and maximum building widths, depths, heights as well as front, rear, side setbacks. The proposal also met the design standards of Article 4.6.E which specify roof pitches, recesses and projections, and a list of design elements that must be included in each proposal. A result of the Planning Commission's holding was that compliance with the dimensional and design standards meet the intent of the code.

Thus, the Petitioner has already exercised the administrative remedy, thereby availing himself to "the benefit of [Knoxville-Knox County Planning Commission's] experience and expertise."¹⁰ The Respondent, without any authority, rejects the wisdom of the Planning Commission as evidenced by the Respondent's willful failure to apply the precedent established by the Planning Commission. Respondent is dissatisfied and/or disappointed in the prior ruling by the Planning Commission and is attempting to force the Petitioner to subject himself to numerous new appeals—each costing both time and money—hoping for a different result that better aligns with Director Brooks' "interpretation."

This is an improper approach. The proper procedure was for Respondent to appeal the Knoxville-Knox County Planning Commissions holding in the appeals of 1214 Callaway and 1403 Moses. Respondent failed to timely file any such appeal and Respondent is now time-

¹⁰ *State ex rel. Moore & Associates, Inc. v. West*, 246 S.W.3d 569, 575 (Tenn. Ct. App. 2005); see also *McCallen v. City of Memphis*, 786 S.W.2d 633, 641-42 (Tenn. 1990); *Whitemore v. Brentwood Plan Comm'n, City of Brentwood*, 735 S.W.2d 11, 15 (Tenn. Ct. App. 1992).

barred.¹¹ Respondent is now attempting to arbitrarily, capriciously, and perhaps maliciously, abuse the powers at her disposal to circumvent precedent—effectively nullifying *res judicata*—in order to obtain another bite at the apple.

B. Ambiguity between “Multiplex (small)”, “Townhome”, “Triplex”

From the discussion before Planning Commission the larger debate concerned the ambiguity in the terms of “multiplex (small)”, “townhomes” and “triplex” and are fairly well covered in the above section where the separate issue of “intent” was woven in around the discussion about “multiplex (small)” and “townhomes.” Director Brooks best summarizes this issue during the appeal of 1214 Callaway at 2:09:35 through 2:10:15:

There is significant discrepancies in descriptions of middle housing types as we discussed earlier today as well in the annual report and last month. The descriptions of Middle Housing types in particularly triplexes and multiplexes have unintended ambiguity that allows applicants to interpret both types as town homes townhouses in order to maximize the amount of units that can fit on one lot. I want to emphasize applicants interpret that um staff per this denial have interpreted that a different way. So for both applications that you'll be hearing today, this one um 1214 Callaway um the applications do not meet the intent or standards of either type.

The ambiguity and the challenges it presented the Petitioner were explained by Marlow beginning at 2:13:45 through 2:14:57:

This is the fifth version of a development on this very lot. This is the second or perhaps third appeal to this board for a development on this very lot. At some point the ambiguity has to be rectified and state law or the Tennessee Supreme Court has said the ambiguity should go in my favor. So we ask for no administrative variances here. We check every requirement. We have our recesses and our projections along the deep side. We're exactly within the length allowed for a multiplex. We're within the width

¹¹ Knoxville Zoning Ordinance Article 16.12.B.5: “A decision of Knoxville-Knox County Planning Commission or the Board of Zoning Appeals may only be appealed if an application is filed within 15 days of the date the decision is made.”

allowed for a multiplex. We have the roof pitches at the right uh steepness. We have the mix of materials, the articulated window trim, we have the front unit facing the door [street]. We have every requirement as plainly written in the currently enacted middle housing article 4.6. So this is truly a question about ambiguity. What is a triplex? What is a multiplex? What is a town home? This has five units, which is the required minimum for a multiplex.¹² So we hit every single requirement. I should not be penalized for any ambiguity in the ordinance.”

It is important to note that having acknowledged the ambiguity Executive Director Amy Brooks intentionally ignored well settled precedent that requires ambiguities to be decided in the favor of the property owner.¹³ Nevertheless in deference to local authority Petitioner expended time and money and sought an administrative remedy in order to allow Knoxville-Knox County Planning the opportunity to “have an opportunity to correct its own errors; (2) afford the parties and the courts the benefit of its experience and expertise without threat of litigious interruption; and (3) compile a record, which is adequate for judicial review.”¹⁴

Planning Commission rightly resolved the ambiguity by determining that a “multiplex (small)” designed with shared walls and no common entry (as both 1214 and 1216 Callaway are designed) constitute a “multiplex (small).” Planning Staff is intentionally ignoring the determination made by the Knoxville-Knox County Planning Commission on the appeals of 1214 Callaway and 1403 Moses on August 14, 2025.

Thus, the Petitioner has already exercised the administrative remedy, thereby availing himself to “the benefit of [Knoxville-Knox County Planning Commission’s] experience and

¹² Planning Staffer Michelle Portier incorrectly stated to Planning Commission that this proposal did not have five units and therefore did not meet the definition of “multiplex (small)” See video at 2:10:21 through 2:10:34.

¹³ “Any ambiguity in a zoning ordinance should be resolved in favor of an owners unrestricted use of his or her property.” *State v. ex rel. Morris v. City of Nashville*. 207 Tenn. 672, 680, 343 S.W.2d 847, 850 (1961); *State ex rel. Wrigth v. City of Oak Hill*, 204 Tenn. 353, 356, 321 S.W.2d 557, 559 (1959).

¹⁴ *Moore*, 246 S.W.3d 569, 575 (Tenn. Ct. App. 2005); see also *McCallen v. City of Memphis*, 786 S.W.2d 633, 641-42 (Tenn. 1990); *Whitemore v. Brentwood Plan Comm’n. City of Brentwood*, 735 S.W.2d 11, 15 (Tenn. Ct. App. 1992).

expertise.”¹⁵ The Respondent, without any authority, rejects the wisdom of the Planning Commission as evidenced by the Respondent’s willful failure to apply the precedent established by the Planning Commission.

Respondent is dissatisfied and/or disappointed in the prior ruling by the Planning Commission and rather than properly seeking redress by appealing the Petitioner’s successful appeal, Respondent is abusing her authority and attempting to force the Petitioner to subject himself to numerous new appeals—each costing both time and money—hoping for a different result that better aligns with Director Brooks’ “interpretation.” This is an improper approach. The proper procedure was for Respondent to appeal the Knoxville-Knox County Planning Commissions holding in the appeals of 1214 Callaway and 1403 Moses. Respondent failed to timely file any such appeal and Respondent is now time-barred.¹⁶ Respondent is now attempting to arbitrarily, capriciously, and perhaps maliciously, abuse the powers at her disposal to circumvent precedent—effectively nullifying *res judicata*—in order to obtain another bite at the apple.

II. Administrative Remedy is Not Mandatory.

This project at issue—1216 Callaway—is a Middle Housing project that is subject to Article 4.6 of the Knoxville Zoning Ordinance. The relevant provision providing administrative remedy is found in Art. 4.6.G.3 which reads: “Any person *MAY* appeal a Planning staff approval or denial under Article 4.6 to the Knoxville-Knox County Planning Commission as provided in Article 16.12.A.” (Emphasis added). The Knoxville Zoning Ordinance provides the following definitions in Article 2.1.D: “The terms “must,” “shall,” and “will” are mandatory, while the word “may” is permissive.”

¹⁵ *Id.*

¹⁶ Knoxville Zoning Ordinance Article 16.12.B.5.

“Nevertheless, unless the statute providing for an administrative remedy requires exhaustion “by its plain words,” an administrative appeal is not mandatory.”¹⁷ The very provision of the Zoning Ordinance the Respondent recites in its’ Motion to Dismiss does not require an exhaustion of administrative remedies “by its plain words.” Thus, the Middle Housing application at issue here need not exhaust administrative remedies.

“Absent a statutory mandate, the exhaustion of the administrative remedies doctrine is a matter of judicial discretion.”¹⁸ “A factor for consideration is whether judicial review would “prematurely interrupt the administrative process.”¹⁹ In the instance case the judicial review does not interrupt the administrative process as the Knoxville-Knox County Planning Commission has already reviewed the underlying definition and “intent” criteria previously. This Petition merely seeks the uniform application of already decided administrative rulings; that is, Petitioner seeks *res judicata*.

III. Lack of Discretionary Review

Respondent states “Middle Housing regulations, however, require review by the Knoxville-Knox County Planning Staff for appropriateness.” However, the word “appropriateness” does not appear anywhere in the language of Article 4.6 of the Knoxville Zoning Ordinance. The Respondent goes on to say “[f]or example, building footprints and overall scales must be comparable to single-family houses” and “the regulations are intended to promote the development of “neighborhood-scale housing forms which are compatible with existing housing in the surrounding area.” Respondent correctly notes that Article 4.6 of the

¹⁷ *Thomas v. State Bd. of Equalization*, 940 S.W.2d 563, 566 (Tenn. 1997); see also *Reeves v. Olsen*, 691 S.W.2d 527, 530 (Tenn. 1985); *Bracey v. Woods*, 571 S.W.2d 828, 829 (Tenn. 1978).

¹⁸ *Ready Mix, USA, LLC v. Jefferson County* (Tenn. 2012) at 12 citing *Thomas*, 940 S.W.2d at 566 n.5; *Reeves*, 691 S.W.2d at 530; *State ex rel. Moore & Assocs., Inc. v. West*, 246 S.W.3d 569, 577 (Tenn. Ct. App. 2005).

¹⁹ *Moore*, 246 S.W.3d at 577-78.

Zoning Ordinance specifies the allowable dimensional and itemizes design standards but they claim these "do not represent a simply ministerial checklist."

The distinction between ministerial duties and discretionary acts is generally "that, where the law prescribes and defines the duties to be performed with such precision and certainty as to leave nothing to the exercise of discretion or judgment, the act is ministerial, but where the act to be done involves the exercise of discretion and judgment it is not deemed merely ministerial."²⁰

Respondent conveniently ignores the ruling from the Knoxville-Knox County Planning Commission on appeals of 1214 Callaway and 1403 Moses where the Planning Commission determined the "intent" of the Zoning Ordinance is in fact satisfied by a ministerial checklist as found in the dimensional and design standards codified in the Zoning Ordinance. Thus, the Planning Commission's ruling in the appeal interprets the "intent" of the Zoning Ordinance as being a function of comparing the proposed drawings to the objective checklist of requirements as specified in Article 4.6. of the Zoning Code. Those requirements are:

4.6.C. Middle Housing Dimensional Standards

1. The dimensional standards of this Section supersede the base zoning district dimensional standards as defined in Article 4.
2. Table 4-4: Middle Housing Dimensional Standards establishes the dimensional standards for new construction of Middle Housing types within the permitted area.
3. Building setbacks:
 - a. Front setbacks for Middle Housing types shall be the average of the blockface, plus or minus five feet, in no case less than 10'.
 - b. Rear setbacks for Middle Housing types shall be no less than 15 feet.
4. Building heights shall not exceed the maximum building height of the base zoning district, or the maximum height in stories as noted in Table 4-4, whichever is less. For Middle Housing types, story and half-story are defined below.
 - a. Story: the portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above, the space between the floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than six feet above grade for more than 50 percent of the total perimeter, such basement or cellar shall be considered a story.
 - b. Half-Story: conditioned space that rests primarily underneath the slope of the roof, usually having dormer windows. The half story is identified by the ".5" in the description of maximum

²⁰ *State Ex Rel. Weaver v. Ayers* 756 S.W.2d 217 (Tenn. 1988) citing *State ex rel. Millers National Ins. Co. v. Fumbanks*, 177 Tenn. 455, 462, 151 S.W.2d 148, 150-151 (1941).

height (e.g., 2.5). A half-story is considered a story when its top wall plates, on at least two opposite exterior walls, are four feet or more above the floor of such story.

5. Dormers:
 - a. The combined width of dormers shall not exceed 50% of the width of the wall area beneath.
 - b. Dormers shall be set back from the nearest rake or eave by at least two feet.
6. Building width for Middle Housing types is defined as follows: the length of the building façade wall that does not include permitted encroachments, as measured along the foundation that generally faces the front lot line or a public space.
7. Building depth for Middle Housing types is defined as follows: the length of the building façade wall that does not include permitted encroachments, as measured along the foundation that generally faces an interior or corner side lot line or a public space.

Table 4-4: Middle Housing Dimensional Standards

Middle Housing type	Lot width with alley (min., ft.)	Lot width without alley (min., ft.)	Building height (max. stories)	Building width (max., ft.)	Building depth (max., ft.)	Interior side setbacks	Corner side setbacks
Duplex (side-by-side)	45'	50'	2	40'	55'	5'	8'
Duplex (stacked)	45'	50'	2	35'	50'	5'	8'
Triplex	45'	50'	2.5 -3	40'	55'	5'	10'
Fourplex	45'	50'	2.5	45'	60'	5'	10'
Townhouse (small)	18'/du	20'/du	2	25'/du	50'	5'	12'
Townhouse (large)	18'/du	20'/du	2.5	25'/du	55'	5'	12'
Multiplex (small)	70'	80'	2.5	75'	80'	5'	12'

4.6.E. Middle Housing Design Standards

1. The following standards apply only to new construction of Middle Housing types and are intended to promote the development of neighborhood-scale housing forms which are compatible with existing housing in the surrounding area.
2. New construction and certain expansion and exterior alteration actions within the IH, NC, and H overlays, as described in Sections 16.6 and 16.8, are subject to review and approval by the Design Review Board or Historic Zoning Commission, per Sections 16.6 and 16.8.
3. The principal use standards for two-family, multi-family, and townhouse dwellings, as described in Sections 9.3.I and 9.3.J, apply alongside the below design standards.
4. In order to generate new Middle Housing buildings that are similar in footprint, height, and setbacks with the existing neighborhood and increase visual interest, yet allow for flexibility in design, the following requirements apply to all Middle Housing types:
 - a. Rooflines must be either:
 - i. Flat, featuring a cornice, parapet, or decorative band to serve as a building cap for portions of the roof visible from the street;
 - ii. Steep, with a roof pitch of 6/12 or more;
 - iii. Articulated, with at least two pitches, planes, or ridge line directions, or displaying hips and valleys.
 - b. Recesses or projections in the building wall are required in the horizontal plane of any front or side elevation that exceeds a length of 50 feet. Each recess or projection shall be at least two feet.
 - c. The front façade must contain (1) a porch or stoop, and (2) at least three of the following design elements:

- i. Dormer(s);
 - ii. Eave overhangs, a minimum of 12 inches;
 - iii. Decorative cornice;
 - iv. Covered porches at least eight feet in depth, composing a minimum of 25% of the width of the street facing elevations (this item may satisfy the requirement for a porch or stoop, and one design element);
 - v. A recessed or projecting entry feature of 18 inches or more in depth, and of at least six feet in width;
 - vi. A bay window projecting a minimum of 12 inches from the front façade;
 - vii. Articulated window and door trim, a minimum of 3.5 inches in width, to include projecting window sills;
 - viii. Brick masonry composing at least 25% of any street-facing elevation.
5. Building Orientation to Street
- a. Middle Housing types shall be oriented with their front elevations facing the street. At least one ground-level entrance must be oriented towards the street.
 - b. Townhouses shall not be oriented so the fronts of units face the rear elevations of units.
 - c. Townhouses shall not be oriented perpendicular to the street. The narrow side of townhouse units must face the street.

These requirements contain “such precision and certainty as to leave nothing to the exercise of discretion or judgment” and are therefore reviewing a proposed project for compliance with these standards is a ministerial action. This is further supported by the holding of the Knoxville-Knox County Planning Commission on the appeals of both 1214 Callaway and 1403 Moses.

Here, the Planning Commission has already interpreted Article 4.6—including the meaning of “multiplex (small),” “intent,” “compatibility,” and the applicable dimensional and design standards—through its 10-1 decision on the 1214 Callaway appeal and 8-3 on the 1403 Moses appeal. When a superior administrative body has exercised interpretive discretion, subordinate staff’s role becomes purely ministerial. Staff is not free to ignore that interpretation, reinterpret the ordinance differently for a subsequent application, or apply an entirely new set of subjective, unwritten metrics to justify denial. Doing so is not the exercise of discretion; it is the repudiation of the Planning Commission’s binding ruling.

Notwithstanding the argument above, even the plan review process is discretionary in nature, as Respondent alleges—that discretionary review has already been performed and deemed compliant with the requirements of the Zoning Ordinance as Planning Staff has

reviewed 1216 Callaway on three cycles and have found no violations with the dimensional nor design standards.²¹ In fact, the only review comment the Knoxville-Knox County Planning Staff have provided for the basis of denial is²²:

Reviewer: Samiul Hague – 8/6/25 1:40 PM

PLANNING -- Article 4.6.A (Middle Housing Types): The building is described as a multiplex. The application does not propose units that are arranged side-by-side and/or stacked with a shared entry on the ground floor, with building footprint and overall scale comparable to single-family houses, and does not meet the intent of the definition of multiplex. The building features eight units with individual entrances, with the units separated by party walls/shared side walls, which partially meet the definition of a Dwelling Townhouse per article 2.3.

Responded by: MARLOW BUILDERS - 9/3/25 8:42 PM

The definition of a multiplex does not require units to be stacked; nor does it require a shared entrance. This design complies with the building width and depth for a MULTIPLEX as specified in Art. 4.6. Planning Commission determined this design met the requirements of Art. 4.6 as a MULTIPLEX upon appeal of similarly designed structure located next door at 1214 Callaway Street, file number 8-B-25-OB, Agenda Item 30, heard by Planning Commission on 14 August 2025; vote approving this design as MULTIPLEX 10-1. See https://www.youtube.com/watch?v=nl2UodcbZEo&list=PLHG8_5NdPaHaPC8FQ_0UBHKx3g1VzxBFc

Reviewer Response: Samiul Hague - 9/12/25 4:10 PM

The project as presented does not meet the intent of Middle Housing Standards and contradicts the following sections of the Zoning Ordinance.

- “promote the development of neighborhood-scale housing forms which are compatible with existing housing in the surrounding area.” (Article 4.6 - Middle Housing Standards, Article 4.6.E.1 - Middle Housing Design Standards)
- “generate new Middle Housing buildings that are similar in footprint, height, and setbacks with the existing neighborhood.” (Middle Housing Design Standards, Article 4.6.E.4)
- “the intent of Article 4.6 is to allow middle Housing types which are in harmony with the surrounding neighborhood and

²¹ See the Plan Review Comments attached as EXHIBIT 2 at Ref. 33, 35, & 35.

²² See the Plan Review Comments attached as EXHIBIT 2 at Ref. 32.

will not be injurious to it or the public welfare.” (Administrative Variations, Variances, and Appeals, Article 4.6.G)

The application generates a housing form that does not meet the intent of the Multiplex (small) type, which is to create neighborhood-scale, multi-unit buildings compatible with the existing neighborhood. The large, asymmetrical, U-shaped design with a continuous, 2.5-story mass fails to create the incremental scale transition between single-family homes and larger multifamily structures. It is not a neighborhood-scale housing form found in the surrounding or broader TDR area.

Please revise the plans to meet Article 4.6. Alternatively, you could develop the property under the base RN-4 district standards (Article 4.3) or Cottage Court standards (Article 4.7).

Responded by: MARLOW BUILDERS - 9/30/25 12:14 PM
This design--namely shared walls with no common entry--was approved by Planning Commission on 14 August 2025, Agenda Item 30, Vote 10-1. That appeal dealt with the definition of MUTLIPLEX and determined that this design--shared walls and no common entry--to comply. Accordingly, no further appeal is necessary. Additionally, at that hearing Planning Staff, including Director Brooks, made the argument about intent HOWEVER Planning Commission rejected that argument 10-1. Planning Staff is attempting to relitigate already decided designs.

Reviewer Response: Samiul Haque - 10/8/25 3:05 PM
Revised plans not submitted.

IV. Question of Law

“In any event, the exhaustion of an administrative remedy is not required when the party seeking judicial review presents questions of law rather than questions of fact.”²³ The facts are undisputed. Mandamus is appropriate because the questions at issue here are legal questions:
Namely:

²³ *Ready Mix*, citing *Bracey v. Woods*, 571 S.W.2d 828, 829 (Tenn. 1978), 571 S.W.2d at 830; *Fentress Cnty. Bank v. Holt*, 535 S.W.2d 854, 857 (Tenn. 1976).

1. Does the Planning Commission's ruling on appeal of 1214 Callaway that defined "multiplex (small)" create a precedent that applies to all projects arising pursuant to Art. 4.6?
2. Does the Planning Commission's ruling on appeal of 1214 Callaway and 1403 Moses that determined "intent" simply requires compliance with the dimensional and design standards specified in Article 4.6 create a precedent that applies to all projects arising pursuant to Art. 4.6?

"Because zoning laws are in derogation of the common law and operate to deprive a property owner of a use of land that would otherwise be lawful, such laws are to be strictly construed in favor of the property owner."²⁴ If the answer to either of those questions is 'NO' then it begs a constitutional question: absent any objective standards in a zoning code are such regulations even enforceable?

It is well settled that ordinances and statutes are vague and violate due process if their prohibitions are not clearly defined. *H & L Messengers, Inc. v. City of Brentwood*, 577 S.W.2d 444, 453 (Tenn.1979). If the ordinance is so vague that [persons] of common intelligence must necessarily guess at its meaning, it cannot pass constitutional scrutiny. *Davis-Kidd Booksellers, Inc. v. McWherter*, 866 S.W.2d 520 (Tenn.1993).²⁵

The interpretation of the Zoning Ordinance held by the Petitioner is identical to the interpretation held by multiple licensed professional architects. At the appeal of both 1214 Callaway and 1403 Moses Mr. Jonah Pruitt, an associate architect representing the architectural firm OYSK3 who prepared and stamped the drawings²⁶, stated at 2:01:22

²⁴ *Id.* citing *Edwards v. Allen*, 216 S.W.3d 278, 284 (Tenn. 2007).

²⁵ *Board of Commissioners of Roane County v. Parker*, 88 S.W.3d 916 (Tenn. Ct. App. 2002).

²⁶ Principal Architect Cara Knapp of OYSK3 stamped the drawings of all projects at issue herein. See <https://www.oysk3architects.com/>

through 2:02:30: “When working on this project we did our best to interpret the rules and spirit of the middle housing standards. [...] designed to meet the ambiguous requirements that were written at the time of the design and submission of the project.” It is worth noting that a professional architectural firm consisting of multiple licensed professional architects interpreted the Zoning Ordinance differently than Planning Staff; and it was that interpretation—shared by the Petitioner and his architects that were adopted upon appeal by the Knoxville-Knox County Planning Commission.

For Respondent to ignore that interpretation risks having the entirety of Article 4.6 be unconstitutional for vagueness. This Court must adopt the interpretation that preserves the Zoning Ordinance.

However, where an ordinance is susceptible of two constructions, the court will adopt the construction which would render it valid. *Hermitage Laundry Co. v. City of Nashville*, 186 Tenn. 190, 209 S.W.2d 5 (1948).²⁷

Accordingly, the questions presented above must be answered in the affirmative otherwise the application of the Middle Housing Zoning Ordinance “cannot pass constitutional scrutiny.”²⁸ There can be no discretion least the Zoning Ordinance be unconstitutional; there can only be a ministerial act of approving the Middle Housing Approval. Being a ministerial act the request before the Court here has a proper remedy in *mandamus*.

V. Conclusion

The Petitioner argues that the action of the Planning Commission in hearing 1214 Callaway and 1403 Moses did two important things: i. The Planning Commission interpreted “intent” to be an objective standard which is satisfied by complying with the specifications outlined in Article 4.6.C (dimensional standards) and also complying with Article 4.6.E

²⁷ *Tusant v. City of Memphis*, 56 S.W.3d 10 (Tenn. Ct. App. 2001).

²⁸ *Davis-Kidd Booksellers, Inc. v. McWherter*, 866 S.W.2d 520 (Tenn.1993).

(design standards); additionally, in so holding, the Planning Commission determined that evaluation for compliance with the dimensional and design standards is a ministerial act – one needs only to review the plans to see if it checks the required boxes. Moreover, Planning Staff has reviewed 1216 Callaway plans three times and have determined the proposed plans meet the dimensional and design standards required in Article 4.6 of the Zoning Ordinance. So even if this court were to disagree and find that review of plans for compliance with either the dimensional or design standards involve discretion—those reviews have already been performed and deemed to comply with the Zoning Ordinance.

The stated basis of Planning Staff denial of 1216 Callaway is identical to the basis of denial that were heard on appeal of 1214 Callaway and 1403 Moses. The language of the applicable Article 4.6 of the Knoxville Zoning Ordinance is unchanged; the holding of the Knoxville-Knox County Planning Commission's interpretation of "multiplex (small)", "triplex", "townhome" and/or "townhouse", and the objective criteria specified for determining "intent" and "appropriateness" are unchanged.

This prior review from the appeal of 1214 Callaway and 1403 Moses provided the "community decision-makers closest to the events, who have been given broad powers in the area, to make zoning and land use decisions."²⁹ The interpretation adopted by the Knoxville-Knox County Planning Commission comports with the interpretation not just licensed professional architects but also that of the Petitioner which preserves the validity of Article 4.6 of the Zoning Ordinance.

Petitioner believes the results of the appeals on 1214 Callaway and 1403 Moses—creating a clear definition of "multiplex (small)" and an objective checklist of criteria for determination of "intent" and "appropriateness"—exercised a quasi-judicial function involving

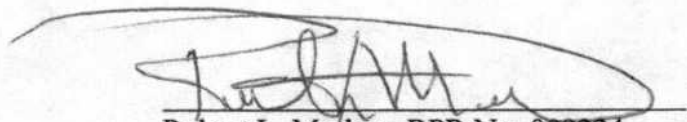
²⁹ *Moore*, 246 S.W.3d. 569, 575 (Tenn. Ct. App. 2005).

legislative interpretation and therefore create a precedent for all projects submitted pursuant to the same Zoning Ordinance. To apply a different standard of review to 1216 Callaway (or to 1411 Moses; 921 James; 925 James; 1409 W. Fifth; or 1415 W. Fifth) would constitute arbitrary, capricious, and perhaps malicious, discrimination.

The Respondent is dissatisfied with the decision reached by the Knoxville-Knox County Planning Commission; Rather than timely appeal the holding in 1214 Callaway and/or 1403 Moses³⁰ the Respondent simply chooses to ignore the precedent on this application for 1216 Callaway and Petitioner's five other pending projects, to wit: 1411 Moses; 921 James; 925 James; 1409 W. Fifth; and 1415 W. Fifth. The Respondent refuses to heed the wisdom of *Moore* and "refrain from substituting their judgement for that of" the Planning Commission which held by a vote 10-1 on 1214 Callaway (and 8-3 on 1403 Moses) an objective definition for "multiplex (small)" and an objective checklist for determining "intent" and therefore this Petitioner has no recourse but to seek *Mandamus* from this Honorable Court.

Respondent's motion to dismiss should be denied and a peremptory mandamus should issue requiring the issuance of Middle Housing Approval.

Dated: November 29, 2025.



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³⁰ An appeal of the Knoxville-Knox County Planning Commission holdings in 1214 Callaway and/or 1403 Moses were unlikely to prevail because, as Respondent quotes in their Motion to Dismiss: "Whether the action by the local governmental body is legislative or administrative in nature, the court should refrain from substituting its judgement for the broad discretionary authority of the local governmental body." *McCallen v. City of Memphis*, 786 S.W.2d 633, 641-642. (Tenn. 1990).