

To: Upper Arlington Board of Zoning & Planning (BZAP)

From: Chad Gibson, AICP, Development Director (cgibson@uaoh.net)
Alyssa Kelly, AICP, Planning Officer (akelly@uaoh.net)

BZAP Meeting Date: Wednesday, May 18, 2022

Subject: BZAP review and recommendation of a proposed rezoning of five parcels (1.92 acres) from R-1b (One-Family Residence District) to RCD (Residential Community Development District).

Action Requested: Positive recommendation of a rezoning to City Council

Master Plan Objectives: ***Housing D3c** - Locate alternative and senior housing that is convenient to retail, medical, personal services, educational and cultural facilities.
Housing D5b - Identify, assemble and promote potential parcels as possible sites for new construction to address community housing demands.*

Introduction/Executive Summary

Mr. Ohm Patel of Moment Development (and Fairlington Heights, LLC) is requesting a formal recommendation from the Board on an amended proposal for a 22-unit condominium project at the northeast corner of Fishinger Road and Fairlington Drive. A rezoning application was submitted on February 7, 2022 and has since been revised to request a zoning change for five parcels along Fishinger Road from R-1b, One-Family Residence District, to RCD, Residential Community Development District. [Unified Development Ordinance \(UDO\) Article 4.04](#) outlines procedures for rezoning land in the city. Following BZAP's review and recommendation, City Council will ultimately hold three public readings and issue a decision (likely in June). This legislative decision is subject to referendum for a public vote within 30 days. Should the rezoning ultimately be approved, Building Permits would then be submitted based on the approved drawings and zoning text.

Pursuant to Article 5.02(C), this application includes a proposed zoning text that stipulates specific development standards (building setbacks, lot coverage, building heights and materials, landscaping, etc.) to be approved by BZAP for the project. Since initially introduced at the November 2021 Work Session, significant revisions have been made to the site plan and building elevations as a result of feedback from Staff, the Board and the public. The site to be rezoned has been reduced to 1.92 acres and includes the following properties: 2790 Fishinger Road (Fairlington Heights LLC), 2770 Fishinger Road (Fairlington Heights LLC) and 2750 Fishinger Road (McCurdy). The revised plan includes the construction of **22 condominium units**: seven two-story units with first floor master bedrooms (Unit A along the north side



of the site) and 15 three-story, row houses (Unit B along both street frontages). Each unit will have a two-car, attached garage (44 spaces) and there are 19 on-site guest parking spaces for a total of **63 parking spaces**. Sidewalks would be installed along both street frontages, and vehicular access would be from a right-in/right-out driveway along Fishinger Road and a full-access driveway on Fairlington Drive.

Work Session Review and Subsequent Changes

The applicant has attended multiple BZAP Work Sessions, most recently on April 7, 2022, where updates were presented since the original submission. The Chair allowed attendees to speak, all of whom were in opposition or shared concerns about the project. Noted concerns included: increased traffic and on-street parking, loss of privacy, insufficient guest parking, and incompatibility/encroachment into the existing neighborhood. The applicant met with several residents at the Daily Growler on May 4, 2022 to review potential revisions. As a result of input from the Board, Staff, and the public, several major changes have recently been incorporated since this meeting to address concerns:

- The site size has been reduced from 2.42 to 1.92 acres, as the 0.51-acre property at 2777 Donna Drive (Geissel) is no longer a part of the rezoning. This parcel will remain a single-family per the subdivision plat;
- The unit count has been reduced from 29 to 22, resulting in a density of 11.5 units per acre and slightly less than originally proposed with the expanded site;
- The row houses along Fishinger Road have been re-oriented to parallel the right-of-way, providing additional greenspace between the buildings and the properties to the north, though overall greenspace has been reduced;
- The amount of guest parking spaces has been increased from 13 to 19 spaces;
- The rooftop balconies have been re-oriented and moved from the north side of the buildings to the south side in response to privacy concerns; and
- Revised proposed zoning text and covenants have been submitted.

Site Description/Zoning

The 1.92-acre subject site is located at the northeast corner of Fishinger Road and Fairlington Drive. The subject site includes five parcels (PID #s 070-007675, 070-007775, 070-007608, 070-014362 and 070-007804) with three houses at the following addresses: 2750, 2770 and 2790 Fishinger Road. [*The property at 2777 Donna Drive (Geissel) is no longer a part of this rezoning request.*] The applicant has purchased four of the five parcels and is in contract to acquire the fifth. These properties total 400 feet of frontage on Fishinger Road



Figure 1: UA GIS aerial photo showing parcel lines and ownership



and 207 feet of frontage on Fairlington Drive.



**Figure 2: Area zoning map
(PMUD to the west, PMUD/R-3/R-1c to the south, R-1b
to the north and east)**

Adjacent uses include single-family homes to the east and north, zoned R-1b, One-Family Residence District. To the west, across Fairlington Drive is the Scioto View Shopping Center, zoned PMUD, Planned Mixed-Use District; current tenants include the Daily Growler, Pet People, Panzera's Pizza and others. To the south, across Fishinger Road are the Golden Bear Shopping Center (which is scheduled to be redeveloped into a five-story mixed use building), zoned PMUD, Planned Mixed-Use District, the Fishinger Road Condominiums zoned R-3, Multi-Family Residence District, and single-family homes zoned R-1c, One-Family Residence District. Northwest of the site are one-story apartments and condominiums zoned PMUD.

The current R-1b zoning standards would allow for three (or four) single-family homes, with front yard setbacks of 40 feet along Fishinger Road, 20 feet along Fairlington Drive, 10 or 12 feet on the sides, 40 feet for the rear setback and 40 percent lot coverage.

Note: Fishinger Road is a major east/west arterial street, with an average daily traffic of over [16,000 vehicles per day](#). Per the City's approved Capital Improvement Plan, Fishinger Road is proposed to be fully reconstructed in two phases starting in 2022. In addition to the replacement roadway, these improvements include a new water line, an eight-foot wide sidewalk on the north side of the street and a five-foot wide sidewalk on the south side. Phase Two of this project is scheduled for 2023 and includes the roadway adjacent to this site. Should this project move forward, coordination will be necessary. Discussions have already started should this project be approved by Council, though construction of this project is not expected to start until fall 2023, toward the beginning of Phase Two.



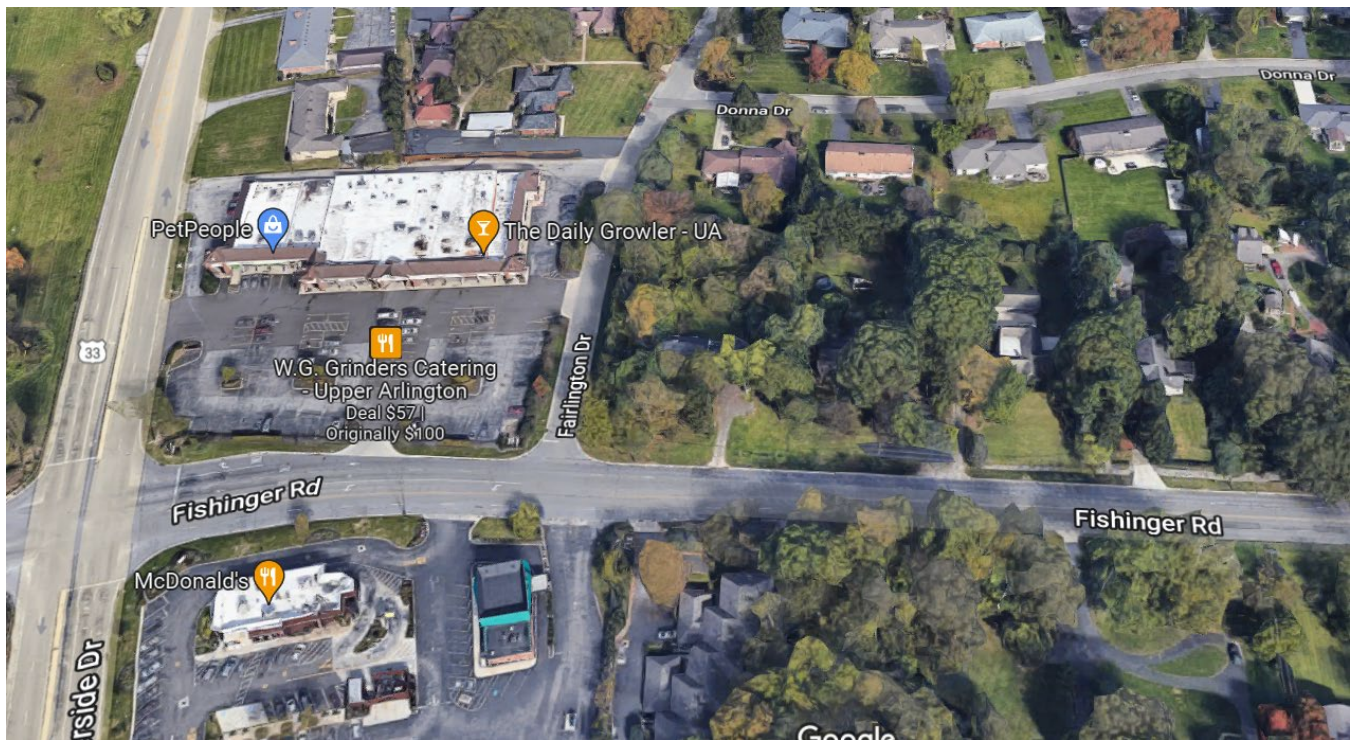


Figure 3: Google Maps aerial image (looking north)

Notification/Outreach

As required by the code, all property owners within 300 feet were notified of the rezoning application via Certified Mail. The City's "Ready for a Change?" signs were posted along the site's street frontages and directed interested parties to the City's active development project page for additional information. The City's robust e-mail newsletters and social media outlets have shared information about this project on multiple occasions; there has also been several articles written in various media publications. Staff has an email listserv of over 300 interested parties that have received periodic updates on the project. Moment Development held two virtual (Zoom) meetings with neighbors on February 21 and February 23, and an in-person meeting at the Daily Growler on May 4. Staff has received approximately 300 petition-style signed documents from individuals opposing the project (see attached) *before the most recent changes were made*; many of these notes of opposition are from residents located away from the project site and would not be considered aggrieved parties per the code. Staff has a meeting scheduled with several residents who have been active in opposing the project to review this Staff Report in advance of the BZAP hearing. There is a significant number of yard signs in the neighborhood opposing the project and a [website](#) has been created that states opposition is based on: *inconsistent look of the single-family neighborhood, insufficient parking, increased on-street parking, inadequate emergency vehicle access, increased crime, traffic concerns, precedent, and water and sewer concerns*. Staff has also received several messages in support of the project and expressed interest in this type of housing in the City (see attached).



Proposal

The proposal includes the demolition of three existing single-family homes (on five parcels) and the construction of 22 condominium units in two primary styles: 15 three-story row houses with roof decks (+/- 1,800 SF) and seven two-story units with first floor master suites (+/- 2,150-2,465 SF). Each unit will have a two-car, attached garage (44 spaces) and there are 19 on-site guest parking spaces for a total of 63 parking spaces. Access to the property will be from a full-service driveway from Fairlington Drive and a right-in/right-out driveway from Fishinger Road. The two main guest parking areas are located at the west and east sides of the site.



Figure 4: Site plan with row house units (B) and 1st floor master suite units (A)

An eight-foot tall wood fence with landscaping is proposed for screening along the east and north sides of the property. The zoning code includes a six-foot fence height maximum, but in this case, the taller fence height is addressed in the proposed zoning text, so no variance would be required. Greenspace is shown between the condominiums and the single-family home at 2777 Donna Drive- this space has been proposed as either as a dedicated, city owned and/or maintained park space or a privately owned and maintained greenspace with a public access easement that would allow public use. Staff is supportive of the latter, with the space remaining privately owned but publicly accessible, due to the location and size of the space. Programming of the space is yet to be determined but could include a gazebo, benches, picnic tables or other accessory structures complementary to a public park.

To align with the Fishinger Road reconstruction project, an eight-foot wide sidewalk is proposed along the north side of the street and a five-foot wide sidewalk is shown along the east side of Fairlington Drive.



This sidewalk will be extended northward to Donna Drive when the single-family home at 2777 Donna Drive is redeveloped as a new, single-family home in the future.

Within the proposed zoning text, the development standards match the proposed site plan and building elevations. The text prohibits string lights on rooftop patios and leases/rentals shorter than one year, which address concerns shared by residents and Staff. The proposed side and rear yard setbacks exceed those for the existing R-1 zoning district. Specifically, the two-story, first-floor master units are 52 feet from the north (rear) property line in the proposal, which is 12 feet greater than the 40-foot setback required under current zoning. On the east side of the property, the side yard setback is 61 feet at the three-story townhomes and increase to 73.5 feet at the two-story units, when a minimum 10-foot setback is the current zoning requirement.

Architecture

As stated, the plan includes two types of units: a three-story product and a two-story product, both with concealed rooftop patios and two-car attached garages with individual trash storage. The three-story units include 12 fronting along Fishinger Road and three along Fairlington Drive. These buildings are 33 feet tall with a rooftop patio and 44 feet tall to the ridge of the roof, which is oriented towards the center of the building to minimize ground-level view of mechanical units and rooftop patios. These units have been reduced in height by three feet since the original concept. *[Existing R-1 zoning of the property permits a maximum height of 35 feet.]* The front elevation includes a walk-up stair to the front porch. Brick is included on the front and side elevations; fiber cement panels will be used on the rear alley elevation.



Figure 5: Proposed building elevations (B)

The two-story units include a total of six (two units in three buildings) located along the north end of the site and one at the corner of Fishinger Road and Fairlington Drive. These buildings are 24'-8" tall and have been reduced in height by seven feet since the original concept. *[Existing R-1 zoning of the property permits a maximum height of 35 feet.]* They are 52 feet from the northern property line and 73 feet from the east. The front elevation includes a side front-entry and front porch. Brick is included on the front-facing north elevation and sides; fiber cement panels will be used on the rear alley elevation.





Figure 6: Proposed building elevations (A)

Traffic/Access/Parking

The City Engineer has reviewed the application and has found no major concerns with this project related to traffic, access, or parking. *[This is inclusive of a review with the Fishinger Road reconstruction project and proposed redevelopment of the Golden Bear Shopping Center.]* The last traffic count for Fishinger Road occurred in 2018 and showed average daily trips (both directions) of 16,777 vehicles, an increase from 14,552 in 2015. A traffic impact study was not required because the area is not classified as a “High Traffic Impact Area” that would warrant a full traffic study. It is the City Engineer’s opinion that the area is not experiencing problematic circulation patterns, burgeoning traffic operations problems, or other traffic conditions of special concern. If such conditions were present, a deeper analysis would be required by the applicant. Standard trip generation data for the proposed development shows a peak of 12 trips in the morning and 16 in the afternoon, which is considered negligible on existing (and future) traffic volumes. The Fishinger Road access point for the Golden Bear Shopping Center to the south will be aligned with Fairlington Drive, allowing for acceptable levels of service on the north side.

The Ohio Department of Transportation (ODOT) controls State Route 33 (Riverside Drive) and recently performed a major upgrade to the Fishinger Road intersection, adding both northbound and southbound turn lanes to reduce lengthy turning queues at rush hour. However, access onto Fishinger Road from Fairlington Drive can sometimes be challenging at peak hours. There have been concerns about increased traffic through the adjacent neighborhood as a means to get to Kioka Avenue. Kioka Avenue is classified as a collector road, which is intended to collect traffic from the neighborhood in order to provide access to Fishinger Road in a more controlled manner. As with any collector street, if increased congestion and/or speeds become an issue, traffic calming measures can be utilized to mitigate these issues. The City Engineer has requested minor revisions to the sidewalk plan along Fishinger Road, including moving the sidewalk back so it abuts the right-of-way line and ensuring the crosswalk at the southeast entrance matches the sidewalk width. The Fire Division has reviewed the access plan and has also requested minor changes so that adequate access exists. “No Parking” signage will most likely be needed in the drive immediately adjacent to garage entrances to ensure emergency vehicles are free to navigate the lot.



At 2.86 spaces per unit, the project exceeds typical minimum zoning code standards for on-site parking, which is generally 1.5 spaces per unit for multi-family residential. Therefore, parking is expected to be fully accommodated on-site. No on-street parking is permitted on Fishinger Road or Fairlington Drive, and their respective speed limits of 35 mph and 25 mph will remain. On-street parking on Donna Drive is permitted and will remain.

Utilities

The City Engineer has found that proposed utility plans are adequate, although minor modifications to the plan have been requested. There are several utility easements located on the property; the City will not allow any structures to be located atop existing or proposed utilities and/or easements, and adequate clearance will be needed from the buildings to underground infrastructure and property lines per the Ohio Building Code. Best management practices must be used in all aspects of utility work. Additional City review of utility work will occur during the Building Permit review stage; other permits will be needed as well, including a Stormwater Management Permit. Stormwater drainage will be captured underground at the east (uphill) end of the site due to the pipe elevation of the outlet structure. Staff has no concerns with the location of this storage assuming it functions as intended. The project must adhere to City of Upper Arlington stormwater regulations.

The proposed sanitary outlet (10-inch diameter concrete) and existing water line (six-inch diameter) can handle the proposed additional 19 units. The six-inch waterline on Fairlington Drive, from Kioka Avenue to Fishinger Road is proposed to be replaced in 2024 in the City's current Capital Improvements Program (CIP). The applicant noted American Electric Power (AEP) has adequate power facilities located nearby. Columbia Gas has a gas main located along Fishinger Road. The existing gas main would be tapped to provide any needed gas service. The applicant intends to bury the overhead wires located along Fishinger Road, though this is not a zoning code requirement. The zoning code requires all new wires to be buried, while existing wires are permitted to remain above ground.

Landscaping

A conceptual landscape plan has been submitted and an initial review has been performed by the City Forester. The City Forester will review and approve final landscape design and species selections during Building Permit review. The final design of the 5,700 square-foot public greenspace must also be approved by the City; this area should contain elements and amenities for property owners and the community (i.e. benches, picnic tables, trash receptacles, etc.). The eight-foot wide City sidewalk must curve to 1'-6" within the right-of-way limit after the existing property at 2732 Fishinger, but east of Fishinger Road driveway entrance to development. All trees indicated 'to be saved' must have specified tree and tree root protection zones during demolition and construction; design specifications must be indicated on the plans. Several species shown on the conceptual plan will not work and adjustments are needed. The zoning text indicates that up to 70 percent of the site will be hardscape, which is higher than the original plan because it does not include the 2777 Donna Drive parcel.



Outdoor Lighting

The submitted outdoor lighting plan needs minor adjustments in order to meet the City's Dark Sky standards, which limit off-site light and preserves access to the night sky. A total of 18, 25-foot tall light poles with LED fixtures are proposed, as well as building-mounted fixtures for each unit. The plan needs updated to stay within code limits for lighting uniformity standards, as well as light trespass. *Staff would request that shorter light poles be used and ensure that house-side shields are utilized on all fixtures located on the periphery of the site. These changes, plus slight pole relocations, should bring the outdoor lighting plan into full compliance with City standards.*

Financial Implications and Master Plan

As with any significant development proposal, the City is assessing the potential financial implications of this development on City services, revenues, and schools with the proposed two-and-three bedroom condominiums, expected to have an average value of \$750,000. In considering the proposed floor plans of these condominiums, most homeowners are expected to be empty nesters and young professionals, and an influx of school-aged children is not expected. Staff has not had the opportunity to complete a full fiscal analysis prior to publication of this report. That analysis will be completed in time for the presentation to City Council.

The City's [Master Plan](#) offers the following guidance for an application such as this (page numbers related to online PDF):

- Community appearance will be enhanced in commercial and residential areas (p. 8);
- Preserve residential neighborhoods (p. 12);
- Enhance redevelopment and revitalization that is appropriate to Upper Arlington (p. 14);
- Two-family and multi-family structures will continue to serve as transitional uses between single-family neighborhoods and commercial areas; multi-family developments will continue as contained developments (p. 24);
- Locate alternative and senior housing that is convenient to retail, medical, personal services, educational and cultural facilities (p. 76);
- Identify, assemble and promote potential parcels as possible sites for new construction to address community housing demands (p. 76); and
- Consider the feasibility of incorporating higher density housing options with revised land use guidelines (p. 77).



Comparator Projects

For the purposes of comparison, Staff has provided information on two condominium projects in the community. As you will see, one was selected due to its proximity to the subject property and the other due to its relatively recent construction. The eight, three-story condominiums on Westmont Boulevard near W. Lane Avenue also serve as a similar comparison, but are part of a much larger development project.

	Fishinger Road Condos. (2777-97 Fishinger Rd.)	London Court Condos. (Tremont Rd. at London Dr.)	Fairlington Heights (Proposed)
Site acreage	+/- 0.77 acres	+/- 1.7 acres	+/- 1.92 acres
Number of units	6 units	11 units	22 units
Units per acre (density)	7.8	6.5	11.5
Year constructed	1985	2014	--
Zoning	R-3 (from R-1c)	RCD (from R-1b)	RCD (from R-1b)
Most recent sale price	\$269,000 (2021)	\$715,000 (2020)	\$750,000 (prop. avg.)
Approximate unit size	1,800-2,500 SF	3,300 SF	1,800-2,465 SF
Developer	Savko	Fairway Realty	Moment Development
Original plat	Lot #21 of the River Ridge Subdivision (see Ordinance #77-76)	Lots 8-10 of the Rancho Estates Subdivision (see Ordinance #10-2013)	Unplatted

Table 1: Comparison of similar projects

UDO Standards of Approval

The Board must consider the UDO's standards of approval in its review and recommendation to City Council of this rezoning application. Staff has offered a response to each of these noted standards:

- (1) **That the zoning district classification and use of the land will not materially endanger the public health or safety.** *The proposed RCD text incorporates development standards which limit the project to a specific residential use, density, and layout. These standards provide adequate detail which will allow for appropriate protection of adjacent uses and facilitate future administration. The RCD District has been successfully implemented in other parts of Upper Arlington and allows for site-specific residential developments with customized standards.*
- (2) **That the proposed zoning district classification and use of the land is reasonably necessary for the public health or general welfare, such as by enhancing the successful operation of the surrounding area in its basic community function or by providing an essential service to the community or region.** *The proposal provides additional housing options for the community in a format that is lacking within the City's boundaries. It also provides for reinvestment of properties along a major corridor and acts as a buffer between an adjacent commercial area and single-family neighborhood.*
- (3) **That the proposed zoning district classification and use of the land will not substantially injure the value of the abutting property.** *The proposed zoning district and use of land include units that will be advertised to be sold for an average sales price that is in-line or*



above those single-family homes found in the neighborhood to the north and east. The plan includes extensive landscaping and buffering to mitigate views and other possible impacts. Redevelopment in Upper Arlington has historically not reduced the value of adjacent single-family residential property.

- (4) **That the proposed zoning district classification and use of the land will be in harmony with the scale, bulk, coverage, density, and character of the area the neighborhood in which it is located.** *The proposed location of the rezoning is across the street from both mixed-use and multi-family zoning, and is slightly denser than a nearby condominium development. The proposed design is more modern and urban in nature, but complements the proposed design of the (future) redeveloped Golden Bear Shopping Center. The property abuts single-family neighborhoods to the north and east; it would serve as a quality transition from commercial development to these homes, and the design of the development includes a step-down in height towards the north and includes a landscape buffer from existing single-family homes. The units closest to single-family zoning are more than 10 feet below the City's maximum height limit in the R-1 district.*
- (5) **That the proposed zoning district classification and use of the land will generally conform with the master plan and other official plans of the City.** *The proposed zoning district aligns with many Master Plan objectives, including providing alternative housing options and protecting residential neighborhoods.*
- (6) **That the proposed zoning district classification and use of the land are appropriately located with respect to transportation facilities, utilities, fire and police protection, waste disposal, and similar characteristics; and The proposed zoning district and use of land are located adequately for City services to be provided.** *Impacts on traffic and utilities are expected to be negligible, as well as concerning fire and police protection.*
- (7) **That the proposed zoning district classification and use of the land will not cause undo traffic congestion or create a traffic hazard.** *Based on a review by the Engineering Division, the addition of 22 condominium units, even in addition to the redeveloped Golden Bear Shopping Center to the south, will not create a traffic hazard or significantly increase traffic congestion beyond what exists today.*

Summary/Recommendation

This revised rezoning application proposes 22 condominium units in place of three existing single-family homes, for a density of 11.5 units per acre, along a major thoroughfare thru Upper Arlington and near a busy State Route. During previous iterations of the proposed plans, Staff identified significant concerns, including the development encroaching into an existing single-family neighborhood, privacy concerns for the surrounding neighbors, especially from rooftop decks, the lack of guest parking spaces, and the lack of dedicated greenspace, among other items. The developer has made significant changes to address each of these issues with the current proposal:

- The 0.51-acre property at 2777 Donna Drive will remain a single-family parcel and will include a public greenspace;
- The unit count has been reduced from 29 to 22, resulting in a density of 11.5 units per acre;
- The row houses along Fishinger Road have been re-oriented to parallel the right-of-way, providing additional greenspace between the buildings and the properties to the north;
- The amount of guest parking spaces has increased from 13 to 19 spaces;
- The rooftop balconies have been re-oriented and moved from the north side of the buildings to the south to address privacy concerns;



- The building elevations have been revised to lower building height and provide additional brick and front porch space; and
- Revised proposed zoning text and covenants have been submitted, though minor adjustments are still needed.

Staff has found that there are many elements of the proposed plan that support the City's Master Plan objectives. Additionally, the development will provide a needed housing type within the City and broader region. Specifically, condominium developments with first-floor master suites are highly sought after by older adults seeking to safely remain in the City as they age. Also, denser multi-family housing is commonly used as a transition between commercial or mixed-use development and single-family residential neighborhoods. There is precedent for such a transition directly to the south of the subject site (Fishinger Road condominiums) where City Council rezoned a large residential lot to accommodate six condominiums behind the Golden Bear Shopping Center with no perceptible negative impacts. This has also successfully occurred near Lane Avenue for the Westmont at the Lane project, where eight townhomes provide a transition from mixed-use development on Lane Avenue to the single-family residential neighborhood.

After a thorough analysis of the revised proposal, Staff believes that the application does not conflict with the standards of approval for a rezoning listed in UDO Article 4.04 (see above). Should the Board recommend approval of the proposed rezoning application, Staff recommends the following stipulations be considered:

- 1) That the applicant continue to coordinate with the Engineering Division on the scheduling of the project in relation to Phase 1 and 2 of the Fishinger Road reconstruction project;
- 2) That the civil plans be modified per the Engineering Division's recommendations before City Council review;
- 3) That the access plan be modified per the Fire Division's recommendations before City Council review;
- 4) That the outdoor lighting plan be revised to be fully compliant with City standards before City Council review;
- 5) That a final landscape plan be reviewed and approved by the City Forester prior to zoning approval of any Building Permit application; and
- 6) That the public access easement for the proposed greenspace at 2777 Donna Drive be submitted for review and approval by the City Attorney prior to zoning approval of any Building Permit application.

Staff notes that a full analysis of the fiscal impact of the rezoning application and subsequent redevelopment will be completed prior to presenting the proposed rezoning to City Council.

