

ZONING ORDINANCE CHANGE PETITION REVIEW REPORT

Petition Number: Z13-08

Petitioner: Mr. Timothy Martin
McKelvey Homes, LLC
218 Chesterfield Towne Center
Chesterfield, MO 63005
636-530-6900

Agent: None

Project Name: The Enclave at Lucerne

Location: 628-630 Kehrs Mill Rd.

Petition Date: 5/24/13

Review Date: 5/29/13

Requested Action: Zoning District Change from R-1 and R-2 to PSD.

Code Section: Zoning Ordinance
Articles IV, VI, XIIA and XXIII

Existing Land Use/Zoning: Single Family / R-1 & R-2

Surrounding Land Use/Zoning: Northwest – Single Family / R-2
Southwest – Single Family / R-2
Southeast – Single Family / R-2
Northeast – Single Family / R-1

Proposal Description:

McKelvey Homes is proposing to change the zoning district classification of this 3.8 acre site from R-1 (the northeastern 200' of this site is zoned R-1) and R-2 (the balance of the site is zoned R-2) to PSD. A 9 lot detached single family subdivision with vehicular access via the extension of the street stub of Log Hill Ln. coming through the adjoining Log Hill subdivision and extending to Lucerne Place Dr. is proposed.

The site is irregular in shape with a frontage of approximately 180 feet along Kehrs Mill Rd and approximately 250' of frontage on Lucerne Place Dr. The site abuts Log Hill subdivision on the northwest for a distance of about 521', the Gary and Glenda Mertz property for about 367', the Log Hill Estates Subdivision on the southwest for a distance of 182' and the Lucerne Place subdivision on the southeast for a distance of about 417'.

The high point of the site is near the northernmost corner near Kehrs Mill Rd. with an elevation of 670'. The lowest point of the site is at the southwest corner with an elevation of 638'. The site has no defined natural drainage ways, but runoff sheet flows in a generally southwestern direction into the adjoining Log Hill Estates and Lucerne Place subdivisions. The runoff enters the drainage systems in these adjoining subdivisions which eventually drain into a tributary of Fishpot Creek in Birchwood Acres Subdivision. The tributary enters the main channel of Fishpot Creek behind Central Plaza. Fishpot Creek flows southeastwardly through Ballwin, Manchester and unincorporated St. Louis County and eventually joins with the Meramec River in Valley Park.

Plan Designation:

The Comprehensive Community Plan recommends low density residential development for this site. This is defined as single family development with a density of no more than 3.5 units per acre. This would yield a theoretical maximum density of about 13 lots. The plan goes on to say that the overall density of an infill low density site should not exceed 125% of the average density of the surrounding residential development, so the neighborhood context is considered critical to guiding the determination of the appropriate density for a PSD site. The surrounding properties are zoned exclusively for single family residential uses with the R-1 and R-2 single family districts both being represented in relatively close proximity to this site.

The Log Hill, Log Hill Estates and Lucerne Place subdivisions to the northwest, southwest and southeast sides of the site respectively are developed in the R-2 zoning. This zoning allows lots as small as 12,500 square feet. Kehrs Mill View Subdivision is across Kehrs Mill Rd. from this site. It is zoned R-1 which allows minimum lot sizes of 20,000 square feet.

The proposed 9 lot Enclave at Lucerne subdivision has lot sizes that vary from 12,515 to 15,800. The average lot size of 13,668 square feet is well in excess of the 12,500 square foot minimum of the R-2 district which is the predominant zoning classification in the subdivisions surrounding this site.

The proposed PSD zoning adds some additional criteria beyond the R-2 district, but it also allows certain flexibility in locating the house on the lot that R-2 does not allow. There is more discussion of this issue in the Zoning Review below.

Planning and Plan Review Considerations

This review report covers the issues of the Planned Single Family Dwelling Development District regulations. This petition has been submitted in conjunction with an accompanying subdivision petition (SUB 13 - 02). Please reference the associated review report for a fuller understanding of the issues of the subdivision proposal.

Zoning Review

The main issue of any rezoning change petition is the question of the appropriateness of the new classification. Are the allowed uses in the new district acceptable within the area proposed for the change, are they consistent with the historic evolution of land uses in area, are they compatible with surrounding areas and are they consistent with the guidelines of Ballwin's comprehensive plan? There are several points that relate to this determination:

1. WILL THIS CHANGE CREATE AN ISOLATED LAND USE THAT IS ARBITRARILY ASSIGNED AND UNRELATED TO THE ADJACENT DISTRICTS AND DEVELOPMENT PATTERNS? This typically involves the following issues:

(1.) Is this the granting of a zoning classification which allows development that is inconsistent with surrounding development patterns? The petitioner has proposed to develop this site in a manner that is similar to the development pattern of the adjoining subdivisions developed in the 1970's and 1980's. The densities and lot sizes are very similar. In fact, the lots all meet the minimum dimensional requirements of the R-2 zoning district. The petitioner has however, requested PSD zoning which has a much smaller (15') front yard setback than does the R-2 districts. It has done this to permit a 25' front yard setback. The reason provided by the petitioner for the smaller front yard is to allow larger rear yards for the proposed lots. PSD also imposes no minimum lot size, although the submitted plan shows lots that are of an area and width that are in keeping with what is permitted in the R-2 district. I believe that there is evidence that this development is proposed in a manner that, although not 100% congruent with surrounding developments, is substantially consistent with the density and development patterns in the immediately surrounding neighborhoods.

(2.) The granting of a zoning classification which gives an economic advantage to a property owner that is not enjoyed by the owners of similar surrounding properties might suggest that a rezoning is inappropriate. The density and nature of development requested in this petition is very similar to that of the adjoining Log Hill, Log Hill Estates and Lucerne Place subdivisions. It is, however, more intensive than the density of the Kehrs Mill View subdivision to the northeast across Kehrs Mill Rd. One could contend that the PSD was chosen over the R-2 for economic reasons in that larger rear yards are more marketable than smaller yards and the proposed lots are otherwise consistent with R-2 zoning. From the perspective of lot yield, however, there does not appear to be an economic advantage being granted for the proposed subdivision that is any different from that which was granted as a part of similar rezoning petitions in the past.

(3.) The granting of a zoning classification for a property that is inconsistent with the surrounding land use pattern might be appropriate if the site has a unique character or physical / environmental situation that makes its development in a manner that is more consistent with the surrounding land use pattern impossible. The argument has been put forth that the somewhat unusual shape of the site constitutes a unique environmental circumstance that supports the PSD zoning to allow the smaller

front yard setbacks. The requested densities and lot dimensions, however, are consistent with R-2 district and the lots are big enough to allow the 40' front yards required by the R-1 and R-2 district, and the proposed houses, such that I question the validity of such an argument. This subsection is really intended to address physical environmental issues like creeks and unstable slopes. The setback issue is based on buyer preferences. It is an economics based argument. It has not been established that the site cannot physically be developed under the current zoning. Every parcel of land that is developed has some kind of issue that has to be overcome to allow development. It is the nature of the task. I maintain that no information has been provided that this parcel has any unique physical factors that justify the requested zoning under these criteria.

(4) The granting of a zoning classification that is inconsistent with the surrounding development patterns may be appropriate if it is recommended or allowed by the comprehensive plan. The density proposed for this site, as well as the proposed zoning district classification, appear to be consistent with the density and zoning recommendations of the comprehensive plan. The Low Density Residential classification discussed on page 8:5 clearly identifies PSD and R-2 zoning as comparable zoning to this classification, furthermore, the lot sizes are consistent with R-2 zoning.

2. IS THERE A JUSTIFICATION FOR THE ZONING DISTRICT CHANGE? Normally, the only justifications for a change in zoning are (1) an error in the original zoning designation, (2) the occurrence of a change in the general land use pattern of a neighborhood that makes the existing zoning inappropriate, (3) the existence of a significant natural physical characteristic of a site that prohibits the uses allowed in the existing district or (4) the adoption of a community plan that recommends a different land use such that a zoning district change is warranted.

(1.) No evidence has been presented to show that there was an error in the establishment of the original zoning pattern in this neighborhood. **The R-1 and R-2 zoning classifications date to the 1960's when the properties on the southwest side of Kehrs Mill Rd. were predominantly large parcels with single houses. The petitioned site and the adjoining subdivisions to the northwest and southeast of the petitioned site were all zoned in the pattern of 200' of R-1 backed up by R-2. No evidence has been submitted that there was an error in this zoning plan and the continued existence of this pattern on the petitioned site for this long period of time supports the argument that there is not a fundamental error in the present zoning pattern.**

(2.) There has been a gradual change in the general land use patterns in the properties near this petition along the southwest side of Kehrs Mill Rd. The large parcels in this area have gradually been resubdivided and redeveloped into modern subdivisions with much smaller lots. The Kehrs Mill Ridge, the Kehrs Mill Ridge Addition and the Lucerne Crossing subdivisions were each allowed to be rezoned from R-1 to R-2 in the first 200' and subdivided according to the minimum lot sizes permitted in the R-2 district. Ballwin has also allowed R-2 zoning adjacent to Kehrs Mill Rd. in Claymont, Blue Ridge Place, Downing Square, White Tree and Pleasant Grove subdivisions which are similarly situated along Kehrs Mill Rd. **I believe that a fairly persuasive argument can be**

made that Ballwin has historically granted zoning district changes that have had the impact of gradually changing the character of this area to smaller lots. A change to zoning that allows a similar character of development does not, therefore, appear to be an unreasonable or inappropriate request.

(3.) As stated above in section 1 (3), the petitioner has presented no evidence supporting an argument that there is a significant natural feature or characteristic of this site that makes it undevelopable with its current zoning.

(4.) The 2007 plan recommends low density residential development for this site. This corresponds to a density of no more than 3.5 units per acre. The plan also contains language that would allow a maximum density of 125% of that on the surrounding properties in conjunction with an infill development. **The Log Hill subdivision has 37 units on approximately 15.18 acres which yields 2.44 units/acre. The Log Hill estates subdivision has 24 units on approximately 10.2 acres which yields 2.35 units per acre. The Lucerne Place subdivision has 16 units on approximately 6.7 acres which yields 2.38 units/acre. The proposed density of the Enclave at Lucerne is 2.37 units/acre, so the proposed density is well below the maximum allowed in the plan and is consistent with the density of the existing adjoining subdivision.**

3. IS THE CHANGE CONSISTENT WITH BALLWIN'S COMPREHENSIVE PLAN?

As described in section 2(4) above, the density proposed by this petition appears to be in compliance with the density recommendations of the Comprehensive Community Plan of 2007, discussed on pages 8:5, 8:14.

4. IS THE NEW ZONING IN KEEPING WITH THE CONTEXT OF THE NEIGHBORHOOD?

As stated in 2(4) above, the proposed development is virtually identical to that of the adjoining subdivisions. It is a single family detached development. I believe that a sound argument can be made that this zoning change is in keeping with the context of the neighborhood. **Context is more than density. It also includes issues of character. Density (units / acre), lot size, roadway frontage, setback, house size and architecture are all part of context. Many of these issues will be addressed more completely in the accompanying PSD analysis, but the issues of density, frontage, setback and lot size are significant here because they are fundamental to context and are something that is controlled by the selection of the zoning district. Other than a minimum floor area and compliance with the building code Ballwin does not regulate house size or architecture.**

Lot frontage (width) and size are both elements of density. As discussed earlier in this report, the proposed lots are all within the parameters of the R-2 district which is what most of the site is zoned and what the adjoining subdivisions are zoned. The density is therefore consistent with the context of the neighborhood. The issue of setback is where the PSD zoning departs from R-2 zoning. R-2 requires a 40' front yard and the front yard requested in the accompanying subdivision petition is for a 25' front yard. The yards are deep enough to permit the 40' front yards required in R-2, but the developer wants to provide deeper rear yards and limit pervious surfaces to keep storm water runoff down. The question to be resolved revolves around whether the shallower front yards in the Enclave

at Lucerne constitutes a sufficient departure from the context of the surrounding subdivisions to defeat the zoning request.

5. WILL THE REZONING ADVERSELY AFFECT THE VALUE OF SURROUNDING PROPERTIES? This issue is typically central to most zoning change debates.

Depending on one's perspective, convincing arguments can sometimes be made for both sides of the question. **Lacking a certified appraiser's study of the impact of the proposed subdivision on the values of nearby existing housing, the decision probably has to be made on the basis of what impact similar developments have historically had on adjoining properties. I am unaware of any similar development in Ballwin that has had a significant negative impact on surrounding property values. I therefore cannot cite any empirical evidence to support a position that this zoning change will have any substantial negative impact on surrounding property values. Similar densities and development patterns have been in the neighborhood for years without obvious detriment to the values of surrounding properties, and developments with smaller front yards than nearby development have not appeared to negatively impact the values of adjoining or nearby larger setback neighborhoods. I site Dickens Trace and David Harrison Farms subdivisions with 20' front yards not having negatively impacted values of houses in the adjacent Ballwin Estates subdivision with 40' front yards as an example to support this position.**

6. ARE THERE ADEQUATE SITES, ELSEWHERE IN THE CITY, FOR THE PROPOSED USE IN DISTRICTS WHERE THE USE IS ALREADY ALLOWED? There

are few similarly situated developable sites for any kind of residential development remaining in Ballwin that have the necessary zoning already in place. Most new development is proposed for sites such as this one that are being redeveloped because they are underutilized for the potential of the market.

PSD Regulations

A PSD petition is a two step process. The first step involves the submittal of a preliminary development plan as a part of the zoning change petition. Upon approval by ordinance, the property is rezoned to PSD and the developer has 12 months to submit a final and fully engineered and approved development plan. If the final plan is approved, the project goes forward. If a final plan is not approved within the required time frame, the Board of Aldermen may hold a hearing to change the zoning back to the previous classification. In the case of a single family fee-simple ownership plan such as that proposed in this petition, a subdivision petition will also have to be approved.

Section 1. Purpose:

The purpose of the PSD is to permit greater flexibility in the development of residential areas. **This PSD petition mimics the R-2 district in terms of average lot size, lot frontage, and overall density of development, but it does not match the minimum front yard setback of that district. The petitioner wants to utilize a 25' front yard setback under the PSD instead of the 40' required in the R-2. This**

appears to be based mostly on market issues where the larger rear yards allowed by the smaller front yards are seen as being more marketable. Since the houses could be pushed back to the 40' line and still built on the proposed lots, there does not appear to be a physical limitation that is mitigating for the smaller front yards. The petitioner also noted that the smaller front yards would result in shorter driveways and less impervious surface generating less runoff that has to be detained and treated. This is a plus from water quality and environmental sustainability perspectives

Section 3. Use regulations:

Single family attached dwellings are an allowed use in the PSD district.

Section 4. Height Regulations:

The maximum structure height allowed in a PSD development is 35 feet. The submitted architectural elevations suggest that the houses will be in compliance with this section. Bullet point 7 of the Compatibility Standards for Infill, Tear-down & Redevelopment sites on page 8:18 of the 2007 plan recommends that building heights transition to existing nearby buildings. Structure heights should not exceed those of adjoining structures by more than one story at the setback line and heights above that should setback at a rate of one foot vertically for one foot horizontally. The submitted architectural information appears to show compliance with this recommendation of the comprehensive plan.

Section 5. Area Regulations:

(1). A 15' minimum internal front yard is required by the PSD district regulations. As stated earlier in this report, the petitioner has proposed a 25' front yard. **This exceeds the minimum requirements of the PSD district, but the front yard setback in the adjoining neighborhoods is 40'.**

This section also requires the lots facing Kehrs Mill Rd. to have a 40' front yard. This requirement has been met.

(2). Per this subsection, no building can be built within 20' of an existing building on an adjacent lot or tract outside of the development. The submitted plan appears to comply with this requirement.

(3). No building can be built within 10' of a rear or side lot line of an adjacent undeveloped tract: There are no undeveloped adjacent tracts so this provision does not apply to this petition.

(4). This subsection requires a 20' minimum building setback to any single family district line. **Since this PSD development is envisioned as an island of PSD zoning in this single family neighborhood, this means that a 20' setback is required around the entire perimeter of this site. There is a question whether the house on lot #1 is compliant with this requirement.**

(5). This subsection prohibits the construction of any building that is not shown on a PSD plan approved by the Board of Aldermen. This plan appears to be in compliance with this regulation.

Section 6. Parcel Size:

The minimum parcel size that can be considered for PSD zoning is one (1) acre. This parcel exceeds this requirement.

Section 7. Parking:

(1) This subsection requires two parking spaces per dwelling unit. The submitted development plan shows three car garages and 3 driveway parking spaces for each house. This appears to exceed the parking requirements of the ordinance. It also exceeds the typical garage and driveway width that is common in the adjoining subdivisions. The character of these houses may, therefore, be somewhat different than that of the houses in the nearby subdivisions.

(2) - (4) These subsections deal with group parking facilities and do not appear to apply to this development proposal.

(5) This subsection requires the parking areas (driveways) and streets to be paved. The submitted plans indicate that these areas will be paved to Ballwin standards.

(6) This subsection addresses parking space requirements. The information provided meets the minimum requirements cited.

(7) This subsection addresses parking lots and does not apply to this petition.

(8) This section addresses the drainage of parking facilities and other impervious surfaces. It appears as though proper drainage is proposed. This will be thoroughly reviewed through the subdivision site plan review process and by MSD.

(9) The proposed parking is in compliance with this subsection.

Section 8. Streets and Traffic Circulation:

The proposed internal roadway will serve less than 100 dwelling units so it is required to be a 26' wide pavement section within a 50' wide right of way. This proposal appears to meet this minimum requirement.

Section 9. Perimeters:

(1) Per this subsection's definition of a PSD perimeter, the entire perimeter of this 3.8 acre parcel is a perimeter.

(2) This subsection requires a 60' structure setback along any perimeter of the site abutting commercial or multiple family uses. This subsection does not apply.

(3) This subsection addresses the 60' buffer for subsection 2 above and does not apply to this petition.

Section 10. Internal Buffers:

This section requires PSD building spacings to be the mean of such spacings allowed in the adjoining residential districts. The R-2 district adjoins most of this site with a small amount of R-1 to the northeast across Kehrs Mill Rd. The building spacing requirement in the R-2 and R-1 districts is 20' (10' side yard), so the minimum building spacing in this PSD is 20', which corresponds to a 10' side yard. **The proposed side yard is 10', so the submitted petition meets the minimum requirements of the PSD district and is consistent with the side yard setbacks in the adjoining subdivisions.**

Section 11. Open Space:

Subsection 1 of this section defines the terms open space and usable open space for the purpose of the PSD. Both definitions apply to this petition.

Subsection 2 of this section requires that a minimum of 15% of the site must be dedicated to open space as defined in Subsection 1 of this section. According to a statement on the cover sheet, 64% of the site is open space.

Subsection 2 also requires that one area meeting the definition of useable open space must be provided. A useable open space area meeting the requirements is shown on the submitted drawings. The notation on the drawings states that the useable open space meets the minimum slope requirements of the ordinance.

Subsection 3 addresses the distribution of useable open space areas around a development. Since this small development only requires one such space, this section does not apply.

Subsection 4 of this section requires that at least 70% of the land dedicated for open space shall have a slope of no more than 8%. This information has not been provided by the petitioner, but the submitted plan appears to meet this requirement based upon the topographic information supplied.

Subsection 5 does not apply to this development because no recreational structures are proposed.

Subsection 6 does not apply to this submittal because it addresses buffer zones and no buffer zones are required for this development.

Section 12. Environmental Design:

Subsection 1 requires the submittal of a general landscaping plan. The submitted plans show the placement of street trees along the right-of-way, an additional shade tree in each front yard, and a foundation planting plan. The vegetated fencerows

around the perimeter of the site will be preserved and enhanced with in-fill plantings where there are gaps in the existing vegetation screen.

Subsection 2 addresses FEMA designated floodplains. This section does not appear to apply to this petition as it is nowhere near a designated flood zone.

Subsection 3 requires the submission of a grading plan that, as much as possible, maintains the site's native characteristics. **The submitted plan shows the proposed grading and identifies significant trees not along the perimeter fence rows. Those which can be saved have been identified. No information has been provided about their condition, so I am assuming that they are healthy and worthy of preservation. Unfortunately, several of the most notable trees on the site are in the proposed right-of-way or the building pads and cannot be preserved. An effort has been made to preserve a cluster of mature trees near the northernmost corner of the site and, as mentioned earlier, along the perimeter fencerows of the site. I recommend that a 15' wide no-grade zone be established along the Log Hill and Lucerne Place perimeters of the site to preserve the root zones of this fencerow vegetation. The no-grade zone will only apply to the subdivision grading and will not be a restrictive covenant on the lots or the subsequent owners.**

Subsection 4 discusses the stabilization of hillsides and limits slopes to a maximum of 3:1. No substantial hillsides have been proposed except for within the detention areas. No mention is made of their protection, but they will be treated in accordance with MSD's requirements for such facilities.

Section 13. Site Plan Approval:

Subsection (2) B 1 of this section requires the submittal of an application form. This has been submitted.

Subsection (2) B 2 of this section requires the submittal of a statement of planning objectives to be achieved by PSD Zoning. This document has been provided and is attached to the petition form.

Subsection (2) B 3 requires that the petitioner provide a variety of quantitative data regarding the proposed development. This required data appears to have been shown on the submitted plans.

Subsection (2) C 1 of this section requires that the preliminary site development plan be submitted with 2' topographic contours and that it clearly show, among other things, vegetation cover and trees in excess of an 8" caliper. This information appears to have been provided.

Subsection (2) C 2 of this section requires that the overall preliminary site development plan be submitted. This requirement has been met.

Subsection (2) C 3 of this section requires that the floor area and height of each building is to be provided. **Floor plans and elevations of the proposed houses have**

been provided, but information on floor area and height has not been provided.

Subsection (2) C 4 of this section requires the size and number of all proposed dwellings to be provided. **The number of dwellings is shown but detailed floor area information is missing.**

Subsection (2) C 5 of this section requires that all useable open space areas are to be shown on the plan. This information has been provided.

Subsection (2) C 6 of this section requires that a circulation system be provided. **Since the central roadway and sidewalks are the only elements of the circulation system, this requirement appears to have been met.**

Subsection (2) C 7 of this section requires the plans to show the locations, volumes and capacities of all storm water control structures. This issue has been discussed in detail in the accompanying SUB petition report.

Subsection (2) C 9 of this section requires the plans to show a general landscape plan. This information has been provided.

Subsection (2) C 10 requires the inclusion of information about the treatment of perimeter areas. This has been addressed in the submittal.

Subsection (2) C 11 of this section requires the submitted plan to show information about adjoining property ownership, lot sizes, structures and circulation on adjoining lands. **Some of this information has been provided but structure locations and lot size information are missing.**

Subsection (2) D of this section states that the preliminary development plan is to provide sufficient information to "...understand the nature, scope and neighborhood impact of the proposal..." **I believe that sufficient information has been put forth to meet the requirement.**

Comprehensive Plan Issues:

The Comprehensive Community Plan addresses the land use recommendation for this site most directly on the Future Land Use and Transportation Map. **This map recommends low density residential development intensity for the subject property.** Low density residential is discussed on page 8:5 and 8:14. Essentially this designation recommends a density not to exceed 3.5 single family dwelling units per acre. Lot sizes of no less than 12,000 square feet are recommended as long as they are in keeping with the surrounding neighborhood character and development patterns. This issue of lot sizes and density are discussed in the Plan Designation and Zoning Review sections earlier in this document. **From this discussion I believe that a reasonable argument can be made that the density of the proposed development is consistent with the comprehensive community plan.**

Future residential land uses are discussed beginning on page 8:12 of the plan. Several major points are made in this discussion that are relevant to this petition. Ballwin continues to be a desirable place to live and own a home, but it is running out of land for new development, so redevelopment of outdated and underutilized sites is going to be a common theme. This is directly applicable to this site as the proposal calls for the elimination of two houses on large parcels and their replacement with a higher density of a similar housing type. The plan also observes that infill development will be a common event in the older parts of town, but there is a potential issue with infill development proposals. The concern of the plan is that such developments be done in a manner that is “consistent with the surrounding residential neighborhood and blend harmoniously with surrounding land uses with regard to the general characteristics, density, structure height and bulk requirements.” On pages 8:14 the plan recommends that all low density residential development comply with the residential design (page 8:16) and compatibility standards (page 8:18) for infill, tear down and redevelopment sites. **The issue of compatibility with the surrounding developments has been extensively discussed earlier in this report. The major issue arising from that discussion is the reduced front yards. The 25’ requested by the petitioner is 15’ smaller than the 25’ that is extant in the surrounding subdivision.**

Section 2 (Residential Design) of the Future Residential Development Guidelines of the 2007 Comprehensive Community Plan is described on pages 8:16 through 8:18 of the plan:

1. Bullet #1 states that residential buildings should contain street-facing architectural features of human scale to enhance curb appeal and reinforce local building traditions. Architectural features may include, but are not limited to, bay windows, covered porches, balconies, dormers and cupolas. Architectural elevations are enclosed for this analysis.
2. Bullet #2 recommends that the primary façade should be parallel to the street. All single family homes, townhomes and duplexes should have street-oriented entrance and a street facing principal window. A roadway presence should also be retained through the use of front porches and architectural treatments and landscaping that defines the primary entrance. These recommendations appear to have been met.
3. Bullet #3 recommends against garages dominating the design of the primary façade. Side and rear entry garages are encouraged. No garage wall should be closer to the street than any other house wall. Garage or door openings facing the street should not exceed 50% of the width of the house façade. **The architectural elevations do not appear to meet some of these recommendations. All of the proposed house plans include the use of snout garages that project closer to the roadway than other portions or walls of the house and have the garage doors facing the roadway. No side entry or rear entry garages are proposed. Although none of the houses have a garage door equal to 50% of the total frontage, the doors do take up a significant proportion of the fronts of these houses.**

There appears to be a genuine question as to whether these houses meet the intent of this section. On the other hand all of the houses in the adjoining subdivisions face the roadway and many have snout garages that project forward

from the front of the main house structure. There are however, few three car garages in the surrounding subdivisions.

4. Bullet #4 recommends the use of durable high quality building materials and recommends the use of bright colors and highly reflective surfaces to only accent elements. **Insufficient information has been submitted to evaluate compliance with this recommendation on material quality, but the building code establishes minimum standards for construction materials.**

5. Bullet #5 recommends the use of quality exterior materials and the use of architectural details and treatments to all sides of all buildings. I believe the architectural elevations give a sense of the architectural treatments to be utilized.

Section 5 (Compatibility Standards for Infill, Tear Down & Redevelopment Sites) of the 2007 Comprehensive Community Plan is described on pages 8:18 – 8:19 of the plan:

1. Bullet #3 recommends that developments should have “adequate access” to the City’s existing roadway network. **This issue for the Mertz property was originally considered when Log Hill Estates was approved in 1990. It was clear at that time that the Mertz property would one day be developed in a higher density manner. The question of how best to provide roadway access to this parcel was an issue at the public hearing and was discussed at some length at the Planning and Zoning Commission meeting. Access to parcels such as this is also addressed in the subdivision ordinance. In 1990 it was determined that a stub at the end of Log Hill Ln. was required by the subdivision ordinance. That was built. That set the stage for the future development of the Mertz property to connect to this stub. This issue is discussed in the accompanying petition SUB 13-02.**

There is no definition of what the term “adequate access” means. At the minimum this could be seen as meaning no more than the new houses have access to a public road in some manner. It could also be viewed as looking at the larger overall public welfare scope of what access could mean. On that basis issues such as emergency service provision, snow plowing efficiency, school bus access and safety, trash removal, mail delivery, equitable flow of neighborhood traffic, etc. should factor in as well. I believe that those kinds of issues would mitigate in favor of Log Hill Ln. being put through to Lucerne Place, but there are issues on the other side as well. Connecting to Lucerne Place Dr. will increase traffic on the connecting section of Lucerne Place Dr. Similarly the second outlet to the Log Hill subdivisions will probably increase traffic in front of the houses that are presently in the back part of the Log Hill Estates subdivision; it will however simultaneously reduce traffic in front of the houses in the front part of these subdivisions. The argument has also been put forth that a second outlet to the subdivision will increase crime and reduce property values. I cannot dispute this claim, but I have some skepticism that this is a substantive issue in this situation. The new houses will be of substantially higher value than any of the houses in the adjoining neighborhoods. I do not see how the value of existing nearby houses will be compromised by their construction. Additionally, even though through streets are statistically more inclined to have property-related crime than are streets without outlets, this is only true on a very generalized

basis. There is little statistical evidence that crime will increase on Log Hill Ln. if it is made into a loop street.

2. Bullet #4 recommends the preservation of natural features such as water features, wooded areas, rock outcrops, viewsheds, etc, by utilizing appropriate site development techniques such as Low Impact Development (LID), clustering and stormwater best management practices (BMP). Traditional clustering can be difficult to make work on a small site in a low density residential area. The petitioner has attempted to use the PSD district to supplement a LID approach with less impervious surfaces through the smaller front yards. BMP's for storm water control will, however, be required by MSD in the storm water detention and water quality improvements. There are few natural features on this site. Only a handful of large trees fit the intent of this section. A few of those will be preserved.

3. Bullet #5 addresses the issue of compatibility with the surrounding natural and built environments. It discusses lot size compatibility. **As discussed earlier in this document, I believe that a fairly strong argument can be made to support the lot sizes proposed but the protection of natural features is not extensive. The small size of the parcel and the locations of the biggest trees made the preservation of most of them virtually impossible for this development.**

4. Bullet #6 recommends that new lots within 50' of existing lots should utilize a front yard setback that is within 5' of that of the adjoining properties. All of the proposed lots in the Enclave at Lucerne meet the 50' criteria. The proposed 25' front yard setback does not meet this recommendation. **It should be noted however that only lot 6 is directly adjacent to a 40' setback lot (the Gary and Glenda Mertz property) in a manner that the different setbacks would be obvious. Perhaps lots 6 could be set back 35', lot 5 setback 30' and lot 7 which is across the common ground from the Hulcer property could be set back 30 feet. These adjustments would transition the setbacks between the adjoining subdivisions and make the change less obvious.**

5. Bullet # 7 discusses the issue of building bulk and height compatibility and side/rear yard setbacks. **I believe that the architectural elevations proved the information necessary to evaluate this plan recommendation.**

On the basis of this analysis I believe that arguments can be made to support the position that the new plan is consistent with many elements of the comprehensive plan.

Thomas H. Aiken, AICP
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