

ORDINANCE CHANGE PETITION REVIEW REPORT

Petition Number: Z 13-09

Petitioner: Fred W. Schmidt, Member
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Project Name: Westglen Court Subdivision

Location: 855 Westglen Village Dr.

Review Date: 6/3/13

Requested Action: Rezoning from R-3 to R-4 and preliminary site development plan approval

Code Section Zoning Ordinance
Article VII and XXIII

Existing Land Use/Zoning: Vacant / R-3

Surrounding Land Use/Zoning: West – Recreational / PA
South – Multiple Family / R-4
East – Multiple Family / R-4
North –Multiple Family R-4 &
Recreational /PA

Plan Designation: High Density Residential

Proposal Description:

Triostone Properties, LLC is requesting a change in the zoning district classification from R-3 Single Family to R-4 Planned Multiple Dwelling District for the approximately 3 acre parcel of land at 855 Westglen Village Dr. This parcel is located between the Westglen Village Condominiums and the Westglen Village Apartments. The petitioner proposes to

develop the property in a single family development. This use is allowed in the R-4 district.

As one can tell from its name, the R-4 district is a multiple family zoning classification. The site design standards it employs for issues such as perimeter setbacks, density, neighborhood compatibility, etc. are all based upon the assumption of a high density residential development with large multiple-dwelling structures and large parking lots. Most of Ballwin's large apartment and condominium developments such as Seven Trails, Mark Twain, Kensington West and Burtonwood were developed under this district.

The R-4 district contains few standards for regulating single family developments. This is not necessarily a bad thing, but in some regards it is overly restrictive for this use and in other respects it is somewhat deficient or lacking in regulations for this kind of use. It leaves many site design issues subject to negotiation as a part of the rezoning discussions and therefore makes the process needlessly complicated and ambiguous. Several of the issues raised in this report are there because the R-4 district does not address them well.

Since the R-4 is a planned development district, this initial petition grants a zoning approval associated with a preliminary development plan that has to be recorded. This ordinance requires the subsequent submission of a final development plan that finalizes development and engineering details. Only upon the approval of the final development plans can the petitioner commence any construction or development activities. It is my understanding that the petitioner will be submitting a preliminary subdivision plat in conjunction with the final R-4 site development plan. This is a separate petition that will detail the specifics of the subdivision platting and site improvements. It will be covered in a separate report.

Final development plans cannot differ substantially from the preliminary development plans and the subdivision approval process is administrative in nature offering little opportunity for extensive discussion outside of the rigid strictures of the subdivision regulations. It is therefore at the preliminary plan review stage that all of the issues of the development's impact on the community and the neighborhood need to be discussed. This includes not just the general guidelines of the R-4 district, but the recommendations of the Comprehensive Community Plan and general issues of quality design, function, best practices and neighborhood compatibility.

R-4 Planned Multiple Dwelling District Regulations (Article VII):

1. Article VII Section 1 (Generally): This subsection explains the general intent of the R-4 district. Of note in the language of this subsection is that the district was "established to provide an opportunity for modern and imaginative architectural design, site arrangement, and city planning." This kind of language is common in all of the planned districts and I believe that this overriding principal needs to be part of

the review of any submitted zoning change request and the associated preliminary site development plan.

2. Article VII Section 2 (Application for Planned Multiple Dwelling District): This subsection establishes a 2 acre minimum area requirement for consideration for the establishment of an R-4 District. The 3 acres site proposed for rezoning in this petition is well in excess of this minimum.
3. Article VII Section 2 (1): As required by this subsection, a legal description of the property proposed for R-4 zoning was provided with the submittal.
4. Article VII Section 2 (2): As required by this subsection, evidence of unified property ownership has been provided.
5. Article VII Section 2 (3): **No statement of the petitioner's experience and background in real estate development and residential construction has been provided as required by this subsection.**
6. Article VII Section 2 (4): The required Ballwin petition form was submitted.
7. Article VII Section 2 (5): This subsection specifies several informational items that are required to be shown on the submitted preliminary site development plan:
 - A. *Out-boundary dimensions and bearings:* All out boundary dimensions and bearings have been included on the submitted preliminary plan.
 - B. *Existing and proposed topography:* The submitted site plan shows the existing and proposed topography for the site.
 - C. *All proposed buildings and their proposed uses:* The only buildings proposed for this development are single family residences. These are shown with conceptual footprints on the submitted plan. Such footprints are subject to revision when final model selection takes place during construction

These single family houses are shown with a spacing of 10' (5' side yards). Side yard setbacks or building spacing is one of the issues that is not addressed in the R-4 district for single family development. If approved, the proposed building spacings will be less than that of any other single family development in Ballwin. The closest comparable single family developments of which I am aware are the Clayton Ridge and Ballwin Oaks subdivisions. These have lots of a similar size to this proposal, but both approved development plans had 20' building spacing (10' side yards).

The Holloway Ridge condominium development, the Spring Cove duplex development, the Rolling Hills multiple family development, the

Coachlight Villas duplex development and the Kehrs Mill crossing condominium development all have building spacings of 10 feet, but they are all multiple family developments with a generally higher overall density of development. They are not single family developments.

The building spacing proposed for Westglen Court is, therefore, not in keeping with Ballwin's customary standards for small lot single family development. Larger building spacings in the range of 16' to 20' would be more in keeping with what has been approved in other developments of this nature, but providing larger building spacings will negatively impact lot count and probably result in fewer units in the development.

As a departure from previous practice in Ballwin for this kind of development, this petition puts the Commission in the position of having to determine if the close spacing of the dwellings allowed by the R-4 zoning is appropriate. There are several mitigating and conflicting factors. The close proximity of multiple family developments speaks to a similar density and character for this site. The less close proximity of traditional single family development across Westglen Village Dr. suggests lower density and larger lots. The comprehensive plan likes high density multiple family development here, but if single family detached development is the final plan, then adherence to the large building spacing is probably in order.

- D. *Drainage facilities:* Proposed drainage facilities are shown on the submitted plans.
- E. *Paving:* **No information is provided about the nature of the paving. The subdivision ordinance stipulates the pavement width and thickness for the roadway but a notation should have been provided on the submitted plans stipulating this information.**
- F. *Parking:* This is a single family development so parking is provided on the driveways indicated on the submitted drawings. The closely spaced driveways will make on-street parking near the dwelling units virtually impossible in this development.
- G. *Existing rights-of-way:* All existing rights-of-way abutting this site have been shown.
- H. *Proposed right-of-way dedications:* The internal roadway (Street A) is not clearly labeled as to whether it will be a publically dedicated roadway. **The R-4 district does not specify if roadways are to be private or public, but the subdivision ordinance does not permit private roadways in single family developments and it has been Ballwin's policy to not accept private roadway dedications in any development because they tend to be poorly**

maintained and become a public maintenance problem when the cost of repair becomes more than the adjoining property owners are willing or able to pay.

- I. *Streets:* The notation on the plans state that the pavement will be 26' wide, but no information is provided about the thickness or nature of the pavement. Ballwin ordinances stipulate the materials and design for all streets built within the city. These streets will have to be built to these standards.
- J. *Landscaping:* **No information has been provided about the intended landscaping of the project. This information is a requirement for the submittal of this preliminary plan. The existing major trees on the site appear to have been shown. No notations have been made as to whether these trees will be lost or preserved, but the grading plan suggests that most will be lost.**

Insufficient information has been submitted relative to this issue. I recommend that a preliminary planting plan for the common ground and right-of-way areas be submitted prior to the commission making any recommendation to the Board of Aldermen. A detailed listing of all of the plant materials is not necessary if a general plan showing the overall conceptual locations and intensity of the proposed plantings is provided.

- K. *Open areas to remain undeveloped:* **The areas proposed to be retained as common ground will be thoroughly regraded and all vegetation in this area will be lost. Additionally the undeveloped portions of the large lots will be regraded to accomplish stormwater control. Few open areas will remain undeveloped in this plan.**
- L. *Type of living units proposed:* The submitted development plan shows the lots to be developed with detached single family units in accordance with the provisions of the R-4 district. **No detail is provided as to the architecture or nature of the houses that are proposed to be built in the development.**
- M. *Use of all land areas:* the submitted development plan shows that all of the land on the site is to be used for either single family detached residences on individual lots, dedicated right-of-way or subdivision common ground in accordance with the provisions of the R-4 district.
- N. *Percentage of land occupied by buildings, pavements and recreation/open space:* **This information has not been provided in percentages as required and is so poorly present on the submitted drawing that it is virtually illegible.**

8. Article VII Section 2 (6): This subsection requires that the petitioning fee be paid

prior to any action being taken on the petition submittal. The required petition fee was paid upon the submission of the petition and accompanying documents.

9. Article VII Section 3 (Establishment of R-4 planned multiple dwelling district): This section requires that the approved preliminary development plan is to be recorded in the office of the St. Louis County Recorder of Deeds. This section is not applicable at this stage of the process.
10. Article VII Section 4 (Use Regulations): This section lists the types of land uses that are allowed in the R-4 district. Detached single family dwellings are an allowed use in the R-4 district per subsection 1.
11. Article VII Section 5 (Height Regulations): This section limits structures to a maximum height of 35' and no more than two stories. A notation on the plan states that the houses will not exceed 35' in height.
12. Article VII Section 6 (Area Regulations): This section stipulates the minimum setback requirements of the perimeter of the site. The R-4 district stipulates that no buildings are allowed within 10 feet of the perimeter of the site, within 60' of a right-of-way line or within 60' of a single family residential zoning classification or use. The submitted preliminary development plan appears to meet the requirements of this section.
13. Article VII Section 7 (Intensity of Use): This section limits the number of dwelling units that can be built in an R-4 development to one unit per 2000 square feet of gross floor area. This subsection also established maximum dwelling counts on a per building basis. Clearly both of these regulations are directed at the design of multiple family developments. The proposed development is well within the maximum density limits of this section and the per-building dwelling count is meaningless for detached single family development.
14. Article VII Section 8 (Parking Requirements): This section requires that off street parking be provided at the rate of two attached, enclosed garage spaces and two driveway spaces per dwelling unit. According to notes on the submitted development plan this petition appears to meet this standard.
15. Article VII Section 9 (Open space and recreational land): Not less than 40% of the land area of an R-4 development is required to be dedicated to open area. According to a notation on the cover sheet, the 40% requirement for open space has been met by the submitted plan. Natural features such as trees, brooks, hilltops, and views are to be preserved wherever possible. Some of the vegetation in the rear portions of lots 1-6 and 10 will be preserved. None of the isolated major trees in the central portion of the site will be preserved. The petitioner is required to show on the final development plan exactly which trees, and other features are to be preserved. Additionally this section requires that the recreational fee required in

section 25-124 of the subdivision regulations shall be paid to Ballwin prior to the issuance of any grading, development or building permits. This contribution is expected to be in the vicinity of \$4,000 per lot, but this will depend upon which formula the petitioner chooses to utilize to compute this fee and the cost of the raw land.

16. Article VII Sections 9-10 (Final development plan/approval of final plan): These sections deal with the submittal and approval of the final site development plan. Since this petition involves only the preliminary development, these sections are not applicable to this review report.

COMPREHENSIVE PLAN ISSUES

Section 2 (Residential Design) of the Future Residential Development Guidelines of the 2007 Comprehensive Community Plan is described on pages 8:16 and 8:17 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. **No information has been provided regarding the architecture of the dwellings to be built.**
2. Bullets #2 – 5 all establish performance criteria for the dwellings to be built. **Since the petitioner has not submitted any architectural drawings it is impossible to determine if the proposed dwellings will meet the guidelines.**
3. Bullet #3 limits garage frontages to 50% of the dwelling's width. As stated above, no architectural information has been provided regarding the anticipated houses. **The footprints shown do not meet this guideline. The garages scale out slightly wider than the balance of the frontage.**
4. The Future Land Use and Transportation map of the Comprehensive Community Plan 2007 recommends high density residential development for the petitioned property. High Density Residential development is recommended for a density of 8 –20 units per acre (page 8:6). The density of this proposed development is 3.3 units per acre, so it is substantially lower in density than is recommended. The density of the adjoining Westglen Village Condominiums is 8.55 units per acre. The density of the adjoining Westglen Village Apartments is 5.5 units per acre, but this is due primarily to the large parcel of land within this development that is undeveloped. This section of the plan goes on to say the such development should feature street trees, sidewalks and professional landscaping that includes buffering and screening to lower density residential development. The R-4 and PIM districts are cited as

suitable for development in this category. **Generally the submitted site plan does not meet this description. It is much lower in density, is not multiple family and does not provide the sidewalks or the landscaping that is envisioned.**

On page 8:15 the plan goes onto say the areas designated for high density residential development should be developed in a manner that is consistent with surrounding land uses with regard to general character, density, structure height and bulk, **Generally the proposed development does not do well with regard to these plan recommendations either. The density is low, the use is single family not multiple family and the nature of the building is very different from the nature of the buildings in the adjoining condominium and apartment developments.**

ZONING REVIEW

The main issue of any rezoning request 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, and are they compatible with surrounding areas and Ballwin's long range plans for the area? There are several points that relate to this determination:

1. WILL THIS CHANGE CREATE AN ISOLATED DISTRICT UNRELATED TO THE ADJACENT DISTRICTS (SPOT ZONING)? "Spot zoning" is typically defined as any of the following:

(1.) The granting of a zoning classification which allows development that is not consistent with surrounding development patterns or is not consistent with the Community Plan. All of the adjoining developments are multiple family. This development proposal is for a single family subdivision. As mentioned previously in this report, the Westglen Village Condominium development has a density of 8.5 units per acre. The Westglen Village Apartments have a density of 5.12 units per acre even with a large undeveloped parcel as part of the development. This petition only anticipates a density of 3.3 units per acre.

The comprehensive plan recommends high density residential development which is defined as 8 to 20 units per acre for this site. **The petitioner has requested a rezoning to the R-4 multiple family district, but it is proposing single family development with single family densities. I do not believe that this development proposal is in keeping with the recommendations of the comprehensive plan or the nature of the adjoining development.**

(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. Since the development densities are significantly lower than those of the adjoining development, I do not see that this zoning would grant an economic advantage that is not shared by the owners of similarly situated nearby properties.

(3.) The granting of a zoning classification for a property which is not uniquely applicable due to a special character or physical / environmental situation. No documentation or explanation has been provided supporting the position that the requested zoning is necessary due to some unusual characteristic or circumstance of the site.

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 since the zoning pattern was put in place, (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. **This site and the surrounding properties have been zoned in their present districts since the neighborhood was annexed into Ballwin in 1989. The county zoning prior to that annexation was very similar. That classification dates to the original construction of the dwellings in the area in the 1970's. This neighborhood is successfully developed and fully utilized per the present zoning pattern. One might argue that placing this parcel of single family development between two multiple family developed properties constitutes an error in zoning, but it does not preclude it from being developed according to the present zoning classification.**

(2.) There has been no substantive change in the general land use patterns in this neighborhood since the existing zoning pattern was put in place.

(3.) **As stated above in section 1 (3), the petitioner has presented no evidence supporting the position that there is a significant natural feature or other characteristic of this site that makes it undevelopable under the current zoning, however, the flanking of multiple family development might be a characteristic the supports the position the a rezoning to multiple family is appropriate.**

(4.) Ballwin's current comprehensive plan was adopted in 2007. **This plan considers this a high density residential site and recommends a multiple family residential development. It dos not recommend a single family detached development pattern.**

There is little evidence of an error in the original zoning district designation of the site, and there is no evidence of a change in the character of this neighborhood such that the current zoning of R-3 not reasonable. The proximity of multiple family development might qualify as a characteristic that makes it undevelopable in accordance with the current zoning. The plan does not support a zoning change based on the single family development proposed.

3. IS THE CHANGE CONSISTENT WITH BALLWIN'S COMPREHENSIVE PLAN? This was discussed in some detail earlier in this report. The comprehensive plan recommends a multiple family residential development with a density of 8 to 20 units per acre. (page 8:5) **The submitted plan is not consistent with the recommendations of the comprehensive plan. The proposed lot density of approximately 3.3 units per acre is well below the 8 recommended by the plan.**

4. IS THE NEW ZONING IN KEEPING WITH THE CONTEXT OF THE NEIGHBORHOOD? As stated above, the basic nature of this neighborhood is unchanged since the present zoning was established. Multiple family developments adjoin the site. The dwelling units per acre densities of the adjoining developments are much higher than that proposed for this development. Yes, there are other single family residential developments in this part of Ballwin that have densities that are similar or lower than that proposed here, but this site is separated from these areas by multiple family developments and extensive common ground areas. There is a serious question whether this development proposal is in keeping with the context of the neighborhood. Clearly the comprehensive plan did not see this parcel as a single family site. It recommended high density residential development.

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.

From my perspective, the adjacency of multiple family developments at higher densities than that proposed in this development will cause this development to have very little impact on the value of surrounding properties.

6. ARE THERE ADEQUATE SITES, ELSEWHERE IN THE CITY, FOR THE PROPOSED USE IN DISTRICTS WHERE THE USE IS ALREADY ALLOWED? There are virtually no vacant sites for this kind of development anywhere in Ballwin.

Thomas H. Aiken, AICP
City Planner/Assistant City Administrator