

ORDINANCE CHANGE PETITION REVIEW REPORT

Petition Number: Z 14-01

Petitioner: Kenn Grasse
2187 White Lane Dr.
St. Louis, MO 63017
314-952-6005

Agent: None

Project Name: Westglen Plat 7 Resubdivision

Location: 905 Quail Terrace Dr.

Review Date: 2/18/14

Requested Action: Rezoning from R-4 to R-3

Code Section Zoning Ordinance
Articles VI, VII and XXIII

Existing Land Use/Zoning: Vacant / R-4

Surrounding Land Use/Zoning: West – Multiple Family / R-4
South – Single Family / R-3
East – Single Family / R-4
North –Multiple Family R-4

Plan Designation: High Density Residential

Proposal Description:

Mr. Grasse is requesting a change in the zoning district classification from R-4 Planned Multiple Dwelling District to R-3 Single Family Dwelling District for the approximately 1.5 acre parcel of land at the southwest corner of the approximately 17 acre Westglen Village apartments at 905 Quail Terrace Dr. The petitioner proposes to develop the property with a two lot single family subdivision. The tract proposed for this development fronts on Westglen Village Dr. This subdivision petition is accompanied by a subdivision petition (SUB14-01).

The site proposed for this zoning district change sits at the extreme southeast corner of the approximately 17.12 acre property occupied by the Westglen Village Apartments which is presently zoned R-4 multiple family. The property is located on the west side of Westglen Village Dr. approximately 200' north of the intersection with Westrun Drive.

The site proposed for development is rectangular in shape with the narrow end of the rectangle fronting on the west side of Westglen Village Dr. for a distance of 202'. The property extends approximately 320' west from Westglen Village Dr. The site is gently sloping and the western 80% is wooded. The highest point of the site is near the road at the north east corner with an elevation of 654 feet. The site drops as one moves west. The low point of the proposed subdivision is 604' in the flow line of the creek at the western property line. This means that there is substantial elevation change (50') across the development.

Zoning Ordinance Provisions/ R-3 District:

Section 2, Use Regulations: The proposed single family use is allowed by right in the R-3 District.

Section 3, Height Regulations: The height limit in the R-3 District is 35' or three stories. Although no structure height information has been provided, it is assumed that this will not be a problem in a single-family residential district. Structure height is reviewed at the time of building permit issuance.

Section 4, Area Regulations:

Subsections (1) – (3): Details on the front, side and rear yard setbacks have been provided on the submitted preliminary plat. The lots appear to meet all minimum setback regulations of the R-3 district.

Subsection (4), Intensity of Use: Both proposed new lots are well in excess of the 10,000 square foot minimum of the R-3 district.

Subsection (5), Width of Lots: Both lots exceed the 70' minimum lot width standard of the district.

Subsection (6), Dwelling area: No information has been provided about the size of the houses that will be built on the new lots, but the minimum standards of 900 square feet for a ranch style house and 1500 square feet for a multiple family structure are well below what is typically built, so I do not anticipate a problem. This regulation is also reviewed at the time of issuance of a building permit.

Comprehensive Plan:

The requirements of the comprehensive plan are discussed at length in the accompanying SUB14-01 rezoning petition.

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 could be a spot zoning situation. The developments adjoining this site are a mixture of multiple-family and single family. This development proposal is for a single family subdivision. The Westglen Village Apartments of which this parcel is a part have a density of 5.12 units per acre even with a large undeveloped parcel as part of the development. The nearby Westglen Village and Westglen Village Addition single family subdivisions have net densities in the vicinity of 2.5 – 2.8 units per acre. **This petition anticipates a density of 1.4 units per acre.**

The comprehensive plan recommends high density residential development for this site. The plan defines this as 8 to 20 units per acre. **The 1.4 unit per acre density requested by the petitioner is nowhere near the recommendation of the comprehensive plan nor is it similar to the density of the immediately adjoining apartment development. It is, however, near to the density of the single family development across Westglen Village Dr to the east. Furthermore, there is substantial single family development of a similar character and density in the surrounding nearby 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. Since the development densities are lower or similar to those of the nearby single family developments, I do not see that this zoning would grant an economic advantage.

(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 suggesting that the requested zoning is necessary due to some unusual characteristic or circumstance of the site.

Conclusion: There does not appear to be any basis to draw the conclusion that this zoning would constitute spot zoning as that term is discussed in this report.

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 comprehensive 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 designations for this neighborhood. This site and the surrounding properties have been zoned in their present districts since 1991 following the neighborhood being annexed into Ballwin in 1989. The county land use designation prior to that annexation was very similar to Ballwin's present zoning. The Westglen Village Subdivisions including the apartments, the townhouses and the single family residences were all authorized by a county development process called a Planned Environmental Unit. This overlay zone allowed deviations in lot dimensions, lot area and dwelling unit type as long as the overall density is no greater than would have been permitted in the underlying R-3 single family zoning district. That classification dates to the original construction of the dwellings in this area commencing in 1972. This neighborhood was successfully developed and utilized per the densities and land uses authorized by the PEU ordinance of 1972. **No evidence has been presented that that the zoning district change that is being requested in this petition is justified on the basis of an error in the original zoning classifications.**

(2.) The buildings and land uses built and established in the 1970's are essentially unchanged today. There has been no substantive change in the general land use patterns in this neighborhood in that time. **No evidence has been presented supporting a change in zoning on the basis of a change in neighborhood character.**

(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 unique characteristic of this site that makes it undevelopable under the current zoning such that a zoning district change is justified.**

(4.) Ballwin's current comprehensive plan was adopted in 2007. This plan considers this property to be desirable as a high density residential site and recommends a multiple family residential development. **The comprehensive plan does not recommend a detached single family development for this property.**

Conclusion: There is no evidence of an error in the original zoning district or land use designations, of a change in the character of this neighborhood, of an unusual physical characteristic or of a recommendation of the comprehensive plan to justify a change in the current R-4 zoning classification. The proximity of single-family development across the street might be viewed as mitigating factor for the recommendations of the plan and a questioning of the appropriateness of the zoning and thereby justifying the zoning district change, but this proximity of single family

and multiple family uses was planned from the very beginning and is not unusual in Ballwin. Most large multiple family developments in Ballwin are immediately adjacent to single family uses without suffering value impairment.

3. IS THE CHANGE CONSISTENT WITH BALLWIN'S COMPREHENSIVE PLAN? The comprehensive plan recommends a multiple family residential development with a density of 8 to 20 units per acre. (Page 8:5) **The submitted development proposal is not consistent with that recommendation. The proposed lot density of approximately 1.4 units per acre is well below the minimum threshold of 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 and land uses were established. This property is undeveloped but it is part of an existing multiple-family development, and it seems an additional multiple-family building could easily be built on this site. This property is also at the extreme edge of this multiple family development and there are single family developments nearby to the south and east, so the addition of single family units would not appear to be totally out of context for the area. Finally, close proximity of single family and multiple-family uses was planned from the approval of the 1972 PEU ordinance and is common around most of the large multiple-family developments in Ballwin. **I believe, therefore, that one can make a reasoned argument the multiple family development recommended for this site is not out of keeping with the context of this neighborhood. Clearly, however, single family development would also be in context with this neighborhood.**

5. WILL THE REZONING ADVERSELY AFFECT THE VALUE OF SURROUNDING PROPERTIES? This issue is typically central to many zoning change debates. Depending on one's perspective, convincing arguments can sometimes be made for both sides of the question.

From my observations of development patterns in Ballwin, the construction of single family dwellings on undeveloped land has virtually no negative impact on the value of surrounding developed properties.

6. ARE THERE ADEQUATE SITES, ELSEWHERE IN THE CITY, FOR THE PROPOSED USE IN DISTRICTS WHERE THE USE IS ALREADY ALLOWED? There are few remaining vacant or underutilized sites for this kind of development anywhere in Ballwin.

CONCLUSION: It appears to me that there is very limited room for logical and reasonable debate whether this zoning change proposal is justified. The evidence in opposition is pretty strong. The comprehensive plan clearly sees this parcel as being most appropriately developed with a high density residential development and the closest development is a multiple family apartment use. No evidence has been presented to justify the zoning change on the basis of inappropriate or erroneous original zoning, a change in the character of the neighborhood, a unique characteristic that precludes development under the present zoning or a change in a land use designation arising from a recommendation of the comprehensive plan.

These are traditionally the reasons that a zoning district changes are warranted. On the basis of these arguments the zoning district change and the development that goes along with it is not appropriate.

Mitigating in favor of the zoning change, however, is the neighborhood character question. Although located on an undeveloped portion of an existing multiple family apartment complex, the proposed development is nearly as close physically -to the single family residential developments to the south and east as it is to the apartments to the north. This parcel is transitional between single family and multiple family uses in a neighborhood that contains both uses. On this basis one might argue that the zoning change is justified.

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