

SUBDIVISION PETITION REVIEW REPORT

This resubdivision petition is being submitted in conjunction with an accompanying zoning district change petition (Z13-08). This review has therefore been prepared on the basis of the PSD Planned Single Family Zoning District regulations. Should the zoning district change not be approved, the recommendations and observations of this report may not be valid.

Petition Number: SUB 13-04

Petitioner: Jeannie Aumiller of
McBride Essen, LLC
16091 Swingley Ridge Rd., Suite 300
Chesterfield, MO, 63017
636-537-2000

Agent: None

Project Name: Essen Place Sub.

Location: 520 Kehrs Mill Rd.

Petition Date: 7/19/13

Review Date: 8/1/13

Requested Action: Subdivision approval

Code Section: Chapter 25, Article II & III

Existing Land Use/Zoning: Vacant / R-4

Surrounding Land Use/Zoning: West – Single Family / R-1
South – Commercial / C-1
East – Single Family / R-1
North – Single Family / R-1

Plan Designation: Low Density Residential

Project Description:

The petitioner proposes to develop a 20 lot single family subdivision on an approximately 7 acre tract at 520 Kehrs Mill Rd. The petitioner previously obtained an R-4 final site development plan

for this development proposal. This was granted per ordinance 13-18 passed on May 13, 2013. The petition review report for that rezoning petition (Z13-02) contains a thorough discussion of the project and the associated issues that were subsequently resolved.

Zoning Ordinance Provisions / PSD District:

The requirements of the R-4 District were discussed at length in the previous rezoning petition Z13-02.

Subdivision Ordinance Requirements (Chapter 25)

The subdivision ordinance requires the submission of a preliminary plat showing the proposed subdivision plan and other development related information. Given the nature of the R-4 preliminary and final site development plan requirements, much of the plat information is also required in those submittals.

1. Sidewalks (Article II, Sec 25-28, 25 -29.5): Sidewalks are shown on the submitted preliminary plat. They appear to be in compliance with the requirements of the subdivision ordinance as well as the approved final R-4 site development plan. **The sidewalk within the detention common ground is to be located within a 10' easement dedicated to Ballwin. The sidewalk will be part of Ballwin's system of sidewalks for maintenance. To assure its construction and dedication, it is recommended that this sidewalk be built at the same time as the roadway curbs and gutters are built and that it be fully in place before more than 5 building permits are issued for houses in the development.**

2. Streetlights (Article II, Sec 25-29, 25-29.5): Streetlight locations have been shown on the submitted preliminary subdivision plat. These improvements were not required on the R-4 final site plan and were not shown thereon. **The proposed light placement is not in accordance with the 250' minimum spacing requirements of this section and the lights are not in accordance with Ballwin's standard criteria for locating streetlights. For safety purposes, the lights should be arranged to illuminate all intersections. A light should be placed in the middle of the cul-de-sac island to maximize the illumination of the entire cul-de-sac area. Lights should, if possible, be placed on property lines to avoid a light being in the middle of someone's front yard. Beginning with those concepts, the lights are arranged as close as possible to the 250' maximum spacing criteria to illuminate the subdivision.**

Utilizing these criteria I recommend that the light between lots 15 and 16 be moved to the center of the island. To maintain a nominal 250' spacing and a location that is on a property line instead of in front of someone's house, the light between lots 17 and 18 should be moved between lots 9 and 10. Similarly, the light between lot 20 and the common ground should be moved between lots 18 and 19. In order to properly illuminate the intersection, the existing cobra head light that is not shown on the submitted drawing, but lies approximately 110' southeast of the centerline of the intersection along the south side of Kehrs Mill Rd., should be relocated to the southeast side of the intersection. These

relocations do not increase the overall number of lights being installed, but are generally in compliance with the requirements of the ordinance and provide superior illumination of the intersection and new roadway.

3. Deed Restrictions (Article II, Sec 25-30(a)): I am aware of no existing deed restrictions on the property involved in this petition and none have been submitted by the petitioner. Deed restrictions will undoubtedly be prepared for the new subdivision but Ballwin has no standards for the content of such document.

4. Boundary Lines, Bearings and Distances (Article II, Sec 25-30(b) (1)): All required boundary lines, bearings, distances, district lines, etc. appear to have been shown on the preliminary plat submittal.

5. Street Lines (Article II, Sec 25-30(b) (2)): The requirement for delineating streets and sidewalks with their widths and names appears to have been met. **I recommend that the proposed right-of-way dedication be shown hachured to clearly show its extent.**

6. Streetlights (Article II, Sec 25-30 (b) (3)): **See the discussion in #2 above.**

7. Underground Utilities and Structures (Article II, Sec 25-30 (b) (4)): Existing locations of the water and sewer utilities in the vicinity of the development have been shown.

8. Dedications (Article II, Sec 25-30 (b) (5)): **The submitted plan does not show the proposed public right-of-way as hachured as is required by this subsection. I know that the right-of-way will be publically dedicated because that was expressed at the hearing on the R-4 site development plan.**

9. Lines of Adjoining Lands (Article II, Sec 25-30 (b)(6)): The lines of all adjoining lands and streets have been shown as required in this subsection.

10. Identification System (Article II, Sec 25-30 (b) (7)): All lots have been given proper identification numbers.

11. Building Lines and Easements (Article II, Sec 25-30 (b) (8)): The building and setback lines required by the provisions of the approved final R-4 site development plan have been met or exceeded. Water and sewer easements have been shown, but no information has been provided about easements for the other utilities. **It would be very unusual that the electric utility does not want a rear yard utility easement.**

It is recommended that fifteen foot wide no-grade zones be provided along the common property lines shared with Dixie Lee Heights to the west and the Target property to the south. These zones have become common practice for many years in Ballwin for infill residential sites such as this. The purpose of the no-grade zones is to preserve the existing vegetation along the property lines that surround these areas. It is not intended to be a deed restriction; it is only proposed as a restriction on the grading plan of the development. It is the choice of subsequent owners if the vegetation in these areas should be retained or

removed. The no-grade zones should be protected by a construction fence erected prior to the commencement of grading activities and maintained until all construction on the lot is completed.

The R-4 approved site development plan that was approved indicated the same trees being saved as are indicated on this plan. The grading in the rear of lots 8 and 9 and in the common ground area however has been changed to show the saved trees in this area being potentially damaged by the grading activity. This is a serious departure from the approved final R-4 site plan and clearly endangers the trees in this area. The grading along the west property line in the back of lots 5, 6 and 7 will have to be adjusted slightly to provide this preservation.

12. Subdivision name, legal description, property owner and presentation details (Article II, Sec 25-30 (b) (9)): These issues appear to have been addressed on the PSD plan or through the accompanying petitioning forms.

13. Storm Water Control (Article II, Sec 25-30 (b) (10)): All submitted preliminary subdivision plats are required to provide storm water control information in accordance with the requirements of Article III, Division 2, Section 25-72. A detention facility with a fore bay water quality feature is shown. **This is a departure from the R-4 approved final plan.** No computations have been provided as to its capacity, but the recently revised language of this code section only requires that Ballwin shall not sign off on improvement plans until they have been reviewed and approved by MSD. This is done as an administrative step prior to the issuance of a subdivision permit.

14. Size of Proposed lots (Article II, Sec 25-30 (b) (11)): As required by this subsection, all lot sizes have been shown on the submitted plan.

15. Lot platting (Section 25-36): This section requires that new subdivisions laid out adjacent to existing residential development shall be "arranged, laid out, or platted in a manner that the side yard of any new lot abutting and contiguous to the rear yard of an existing approved, platted and recorded lot in an adjacent contiguous subdivision, shall have a side yard setback of not less than 15' regardless of a permitted smaller minimum side yard setback requirement of the zoning district in which the new lot is located." No lot in this development appears to fall under the provisions of this subsection.

16. Street Construction Sections 25-91(a-d): These subsections stipulate construction standards for roadways in subdivisions. Most of the salient information about how the roads will be built such as pavement section design, pavement dimensions, cross slopes, mix design, etc. has not been provided, but most of this information it is not necessary for inclusion in the preliminary plat submittal. These matters will be reviewed in detail as a part of the administrative development plan review.

Chapter 24 Section 24-4 sets out the minimum design standards for streets built in Ballwin. This section states that "all streets and sidewalks constructed within the city shall conform to the standards of St Louis County. The preliminary plan shows the centerline

curve for both flat curves to have a 100' radius. St. Louis County standards specify a 150' minimum radius. These minimum standards have been developed to assure comfortable travel, driving safety, ease of maintenance, etc. Deviations from them need to be based upon special physical site limits or other unique characteristics that make compliance with the standards impossible. I can find no physical site limitations that require the smaller radii. Convenience of lot platting or other issues related to the layout of lots or making it more economical to develop do not rise to the level necessary to justify the deviation. The subdivision needs to be designed in accordance with the roadway design standards, not the other way around.

17. Grade of Streets (Section 25-92): This section stipulates a target for the longitudinal grade of the street at 6%, but steeper grades are common due to topographical conditions and may be permitted subject to the review of the city engineer. The street grade for this development is well below the maximum provided in this subsection.

18. Width of Streets (Section 25-93): This subsection requires that all streets be a minimum of 26' wide within a 50' wide right-of-way. The submitted plan complies with this requirement.

19. Street Relationship (Section 25-102(a)): This code subsection entitled conformity states that "the arrangement, character, extent, width, grade, and location of all streets shall conform to the official map and master plan and shall be considered in their relationship to existing and planned streets, to topographical conditions, to public convenience and safety, and in their relation to the proposed uses of the land to be served by such streets. This issue was addressed as a part of the R-4 site development plan review and the proposed street plan appears to be consistent with the recommendations of this subsection.

20. Street Relationship (Section 25-102(b)): This subsection requires the street pattern in a new subdivision to "make provisions for the continuation of the existing streets in adjoining areas." There are no streets in adjoining areas that can be extended into this property.

21. Street Relationship (Section 25-102(c)): This subsection requires the projection of new streets to allow their future extension into adjoining land subject to future subdivision. Given the nature of the development patterns on the surrounding properties, I do not believe that there is any reason to extend the roadway in this development to facilitate future roadway construction on adjoining properties. No adjoining properties are subject to future subdivision and development.

22. Street Relationship (Section 25-102(d)): This subsection addresses the projection of street pavements to adjoining property lines. This subsection does not apply to this petition.

23. Street Relationship (Section 25-102(e)): This subsection requires the provision of cul-de-sacs at all street termini. The requirement of this subsection has been met by this submittal.

23. Sections 25-121 through 25-125 provide for the dedication of public open space or private recreational facilities in subdivisions or for the payment of a fee in lieu of such dedication. **The submitted plan does not clearly address this issue. A recent telephone discussion with the petitioner's representative revealed that the petitioner believes that the proposed**

extensive common ground dedication meets the requirements of these subsections. I am not sure that this is correct.

There are several criteria that have to be met for a land or facilities dedication (private or public) to be accepted as meeting the requirements of this subsection. First, subsection 25-121 requires that the developer shall "...provide for reasonable and adequate amounts of open space parks and recreational facilities within their developments." This can be accomplished by the dedication of "open space land" for public use, the payment of a fee in lieu of land dedication or the development of private park and recreational facilities within the subdivision or development. The common ground areas are not proposed for public dedication, so the first provision has not been met. The petitioner does not wish to pay a fee in lieu of dedication so the second provision is not an option for this analysis. **The third option, developing the land with parks and recreational facilities within the subdivision is the only option that this petition may qualify under.**

Subsection 25-122(a) establishes the minimum area of land that can be dedicated for this purpose at 12% of the total land area. The area of the site is 7.097 acres or 309,145 square feet. Twelve percent of that area is 37,097 square feet. The area of the largest common ground is 52,170 square feet so it appears to meet this minimum area requirement.

Subsection 25-122(b) establishes additional minimum criteria for such a dedication.

25-122 (b)(1) states that a dedication shall normally contain 2 contiguous acres. The largest common ground area (52,170 square feet) is only 1.22 acres, so it does not meet this criterion.

25-122 (b)(2) requires the dedication to be in or adjacent to the subdivision. This criterion appears to have been met.

25-122 (b)(3) requires that 50% of the dedication have a grade no steeper than 5%. This criterion appears to have been met.

25-122 (b)(4) requires the dedicated land to be conveyed in its natural state. The removal of top soil, trees and other natural features shall be prohibited without previous written approval from the city. Most of the area proposed for this purpose will not be seriously impacted by tree removal or soil disruption.

Subsection 25-123 states that land proposed to be held privately but developed with suitable facilities to serve the need of the subdivision may satisfy the requirements of this article provided that:

(1) They fulfill the area and suitability requirements of this article. As described in the discussion of subsection 25-122 (b) (1-4) above, the proposed area does not meet the 2 acre minimum requirement.

(2) They are approved by the Planning and Zoning Commission and the Board of Aldermen.

Two issues arise from the discussions of 25-121 and 25-122 above;

1. Is the proposed private common ground area large enough to meet the requirement of the regulations for size? From the sole perspective of meeting the 12% rule, the larger common ground area is compliant with the area requirement of the ordinance. This common ground area, on the other hand, fails by a substantial margin to meet the 2 acre minimum. The dedication cannot be less than 12% of the area of the total site but it should not normally be less than 2 acres in area. If this common ground area were contiguous to an existing park or recreation area one could make a legitimate argument that it being smaller than 2 acres in size is not an issue because it is being functionally added to the already existing recreational land and it meets the 12% minimum area standard. Since this land is not adjoining an existing recreational area, the 2 acre rule should hold sway. Ballwin has determined that parks smaller than 2 acres are inefficient, expensive and difficult to maintain and offer a limited return to the community that they serve. Historically, private recreational facilities built in Ballwin have not been well maintained over time, have fallen into disrepair and have ended up being removed or substantially downgraded in features and service.

2. The second question is whether this parcel can truly be considered a park or recreational facility as it is presently envisioned. If the land were being dedicated to Ballwin it could be dedicated as open space land. No recreational facilities are required. Section 25-123 is specifically titled "credit of private parks and recreational facilities." The petitioner wishes to have this common ground area credited as a private park toward meeting the requirements of this section of the subdivision ordinance. I believe that there is a substantial question as to whether this common ground area qualifies in this way. Clearly the ordinance is providing that a private facility can provide the same recreational opportunities as a public facility. Does this parcel, as it is presented, do this? Is this landscaped common ground area with a small sidewalk going to a circle that is not even landscaped or highlighted by a feature of any kind a park that approximates the kind of park facilities Ballwin provides and is supposedly being provided with this alternative private facility? A fee in lieu of dedication will be utilized by the Parks Department to upgrade and maintain existing active recreational facilities in the other parks. Although there are open spaces and undeveloped areas within all of Ballwin's parks, there are no parks that are similar in form or style to what is being proposed here. There is, therefore, a serious question whether the facility proposed here is in any way comparable to what will be maintained and provided with a recreational fee in lieu of dedication. Is this common ground, therefore, equivalent to any of Ballwin's parks and should it be accepted as a private recreational facility or a park equivalent to what Ballwin provides?

24. Section 25-126 of the subdivision ordinance stipulates that natural features such as trees, hilltops, brooks, views, artificial and natural lakes and ponds and wooded areas are to be preserved. With the exception of trees, **there are few such features to save on this site. A small number of trees around the perimeter of the site are being retained. The center portion of the site will be completely cleared and much of the site will be regraded.**

25. Ordinance 11-50 passed on October 24, 2011 requires the owners of property fronting on Kehrs Mill Rd. that had sidewalks built under the Federal Surface Transportation Program shall be responsible to reimburse Ballwin for its 20% share of the cost of such sidewalk construction when the subject property is redeveloped or subdivided. For 520 Kehrs Mill Rd. this reimbursement will be \$3,788.14.

Planning Concerns:

The petition review report for the approved R-4 rezoning (Z13-02) has comments relative to this development and the implications of the 2007 Comprehensive Community Plan. Those were addressed as a part of that process. I will not repeat those review comments here.

Engineering Concerns:

1. A temporary construction fence protecting and preserving the no-grade zones and the preserved portions of the site not to be graded must be erected prior to any grading or construction activities on the site. This will assure that these areas are not disturbed and there is no root zone damage.

2. A grading permit is required prior to any grading, mining, filling or clearing work. In order to obtain a grading permit a detailed grading plan must be provided. The plan must show all siltation control measures and all quantities of material removed, relocated or brought onto the site. The origin/destination of any material transported to or from the site must be identified. The means of transportation, routes followed and size of the anticipated loads must also be provided. Documentation of permission from other jurisdictions may be required if size and/or quantity of materials being transported are judged to present a damage potential to roadways or a nuisance or hazard to the traveling public.

3. Private and public roadways must be maintained in a clean, safe and passable condition at all times during construction and development. Failure of the developer to do so may lead to the establishment of a stop work situation until the problem is completely and permanently corrected. Escrow funds may be used to effectuate any needed cleanup and/or a lien may be placed upon the property to secure repayment of cleanup costs incurred by Ballwin. Additionally, if such problems are recurrent, manning of the wash-down facility may be required during construction activities. Any stop work orders will remain in effect until developer demonstrates that the wash down is in place and operational on a permanent basis.

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