



CITY OF BALLWIN
14811 Manchester Road, Ballwin, MO 63011

BILL NO. 3808

ORDINANCE NO. _____

INTRODUCED BY
ALDERMEN TERBROCK, FINLEY, HARDER, DOGAN, FLEMING, LEAHY, KERLAGON, BOLAND

AN ORDINANCE PROVIDING FOR THE APPROVAL OF A PRELIMINARY SUBDIVISION PLAT FOR ESSEN PLACE SUBDIVISION AS PROVIDED IN CHAPTER 25 OF THE CODE OF ORDINANCES OF THE CITY OF BALLWIN, MISSOURI.

WHEREAS, a plan has been received from McBride Essen LLC for the subdivision of property at 520 Kehrs Mill Road in the City of Ballwin.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BALLWIN, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. The Preliminary Subdivision Plat made a part hereof and attached hereto as Exhibit 1 for Essen Place, as submitted to the Board of Aldermen, is hereby approved.

Section 2. The Mayor and City Clerk are authorized and directed to evidence the approval of said Preliminary Subdivision Plat by affixing their signatures and the official seal of the City of Ballwin to a certification of approval upon the Preliminary Subdivision Plat of Essen Place Subdivision, as submitted.

Section 3. The Subdivision Plat attached hereto as Exhibit 1 is hereby accepted for the development of Essen Place Subdivision, subject to the following conditions:

A. The Petitioner shall comply with the open space requirements of Chapter 25, Article IV of the Code or Ordinances of the City of Ballwin.

B. Petitioner shall construct Essen Place Drive with a 150 foot center line radius unless the City Engineer accepts a lesser radius dimension.

Section 4. This Ordinance shall take effect and be in full force from and after its passage and approval.

PASSED this _____ day of _____, 2013.

TIM POGUE, MAYOR

APPROVED this _____ day of _____, 2013.

TIM POGUE, MAYOR

ATTEST: _____
ROBERT KUNTZ, CITY ADMINISTRATOR

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September 17, 2013

Mayor Tim Pogue & Board of Aldermen
City of Ballwin
14811 Manchester Road
Ballwin, MO 63011

RE: SUB 13-04 – Subdivision

Essen Place, 520 Kehrs Mill Rd, Ballwin MO 63011

Petitioner: Ms. Jeannie Aumiller, McBride Essen LLC, 16091 Swingley Ridge Rd #300, Chesterfield MO 63017

Dear Mayor Pogue and Aldermen:

At the regular meeting of the Planning and Zoning Commission held on September 3, 2013, the above-proposed petitions were reviewed. A draft of the minutes is attached.

- The Commission members present voted unanimously to recommend approval of Petition SUB 13-04 to the Board of Aldermen, with provisions (see minutes).

Commission members present were Michael Wind, Frank Karr, Chris Wright, John Schwent, Lynn Goetz, and Mayor Tim Pogue. Alderman Mike Boland, Mike Utt, and Mark Weaver were absent.

Sincerely,

Michael Wind, Chairman
Planning & Zoning Commission

cc: City Administrator
City Planner
City Attorney

**STATEMENTS ATTRIBUTED TO INDIVIDUALS IN THIS "DRAFT" ARE NOT VERBATIM QUOTES.
MINUTES OF MEETINGS ARE REPORTED IN SUMMARY AND NOT REPORTED VERBATIM.
THIS IS AN "UNOFFICIAL DRAFT VERSION" OF THE MEETING MINUTES.
DRAFT VERSIONS OF MINUTES ARE SUBJECT TO REVIEW, MODIFICATION, AND APPROVAL
OF THE PLANNING & ZONING COMMISSION**

RECORD OF PROCEEDINGS

**MINUTES OF THE PLANNING AND ZONING COMMISSION MEETING
CITY OF BALLWIN – 333 HOLLOWAY RD
September 3, 2013**

The meeting of the Planning and Zoning Commission was called to order by Chairman Michael Wind at 7:00 p.m. Members in attendance were:

PRESENT

Chairman Michael Wind
Secretary Frank Karr
Commissioner Lynn Goetz
Commissioner John Schwent
Commissioner Chris Wright
Mayor Tim Pogue

ABSENT

Commissioner Mike Utt
Commissioner Mark Weaver
Alderman Michael Boland

Assistant City Administrator/City Planner Thomas Aiken
City Engineer Gary Kramer
City Attorney Robert E. Jones

Approval of Minutes

A motion was made by Secretary Karr and seconded by Mayor Pogue to approve the minutes of the August 5, 2013 meeting of the Planning & Zoning Commission as submitted. The motion received unanimous approval from the Commission members present. Chairman Wind abstained.

SUB 13-04 – Subdivision

Essen Place, 520 Kehrs Mill Rd, Ballwin MO 63011

**Petitioner: Ms. Jeannie Aumiller, McBride Essen LLC, 16091 Swingley Ridge Rd #300,
Chesterfield MO 63017**

Mr. Jeremy Roth, representing the petitioner, addressed the Commission, requesting approval for the preliminary plat of Essen Place subdivision. Mr. Roth addressed the issues raised in the petition review report.

Mr. Roth said the petitioner will put in the sidewalk at the southwest corner of the site, within the detention area. The sidewalk will be located in a 10' easement granted to the City of Ballwin for the ongoing maintenance of the sidewalk. It will be completed prior to the issuance of the 5th building permit.

Mr. Roth said the petitioner will comply with all requested relocations of streetlights, with the exception of moving the existing cobra-head streetlight on Kehrs Mill to the intersection of the proposed street and Kehrs Mill. Mr. Roth proposes adding a residential post top street light to that location. It would be easier than relocating the cobra-head streetlight. Chairman Wind asked City Planner Aiken's opinion. Mr. Aiken said that the City has been diligent in eliminating excess lighting and maximizing the efficiency of the lights that remain. It makes sense to relocate the brighter cobra-head light to illuminate the intersection. Mayor Pogue said he is concerned that the residential street light will not be bright enough to ade-

quately illuminate the intersection. Mr. Roth said the petitioner will check with Ameren, and if relocating the cobra-head light is feasible, it will be done.

Mr. Roth said the right-of-way will be hachured on the plan.

Mr. Roth addressed rear yard easements, saying that in preliminary discussions with Ameren, all electrical wiring will be run along the street in front yard easements, so rear yard utility easements will not be required. However, if a utility needs a rear-yard easement, the petitioner will accommodate that request. Mayor Pogue asked if that is an issue that needs to be considered at this stage. City Planner Aiken said that historically, utilities have always required rear yard easements. There are a lot of trees in the area where the rear yard easement would potentially be located, which would be lost with digging for utilities. City Attorney Jones suggested that the petitioner provide a letter from Ameren stating that a rear yard easement will not be required.

Mr. Roth addressed the 15' no-grade zones. There are several areas where it is not feasible to comply with the no-grade zone requirement. Lots 5, 6, and 7 will need to be graded to the property line to allow for proper drainage to the detention basin. Chairman Wind asked City Planner Aiken about the rule for preventing damage to tree roots. Mr. Aiken said you can safely grade into a root zone if you do root pruning, which also may require proportional trimming of the crown of the tree. There are other factors that need to be considered as well, such as whether removal of roots will compromise the structural integrity of the tree. Mr. Roth said the petitioner will comply with the 15' no-grade zone everywhere else on the site; it is just these three lots that are problematic. Chairman Wind said there are no trees on Lot 5, and Lot 7 has smaller trees. He said it is difficult to tell if the tree at Lot 6 is actually on the petitioner's property or if it belongs to the resident who backs to that site. Mr. Wind cautioned the petitioner to take extra care around that tree if it is not on the petitioner's property. Mr. Roth noted that the grading on Lots 8 and 9 will be revised to be farther away from the tree line.

Mr. Roth noted that the detention design has changed as required by MSD.

Mr. Roth addressed the centerline radius of the proposed subdivision street. It is shown with a 100' radius, which is the same as the approved preliminary site plan; however, the petition review report recommends a 150' radius. Mr. Roth said the petitioner will comply with this request, but it will mean changing some of the lot configurations and limiting the style of homes that can be built on those lots. Chairman Wind asked if the Planning & Zoning Commission has the authority to override the 150' radius requirement, and if a 100' radius is acceptable to the City of Ballwin Public Works department. City Attorney Jones said that the Planning & Zoning Commission does not have the authority to administratively override an ordinance that requires St. Louis County standards, but he cannot find either the St. Louis County standard that requires a 150' radius, or the criteria that can be used to waive that standard. Mr. Roth said that St. Louis County allows the department of Highway and Traffic Standards the discretion to vary from the requirement.

City Engineer Kramer said the 150' standard comes from the Highway Department's design criteria manual online, which states, "for a two-lane road with a posted speed of 25 mph, the radius shall be 150 feet." Mr. Kramer said he exchanged emails with the person at St. Louis County who would review these issues, and he said there are no written criteria to waive the 150 feet requirement, but could possibly be waived only in extenuating circumstances. Chairman Wind asked if a 100' radius would impede road maintenance. City Engineer Kramer said it's not a maintenance issue; it is a matter of safety. City Attorney Jones said that the excerpt of the manual referenced by City Engineer Kramer indicates that the radius can be "reduced to 75' by special approval of the department." Chairman Wind asked which department this refers to. City Attorney Jones said that it would be the City of Ballwin Public Works department.

Chairman Wind asked if the speed limit were reduced to 20 mph, would the 100' radius be acceptable? City Engineer Kramer said that 25 mph is the city-wide standard. Chairman Goetz asked if on-street parking will be allowed. Mr. Roth said it is allowed.

Mr. Roth said the petitioner will revise the plans to comply with the 150' radius requirement. Mayor Pogue said that he is not opposed to the 100' radius on this particular design with the short runs to the curve. He would like to continue the discussion at the Board of Aldermen meeting.

Mr. Roth addressed the issue of dedication of open space. He said that the first option of dedicating public open space was never contemplated, so that is not an option. The petitioner is proposing to use the option of credit for a private park. Mr. Roth said the petitioner feels that the common ground with the sidewalk satisfies the requirement of a private dedication of open space with recreational facilities. This area is 16% of the site, and provides features that all the residents of the subdivision can use. The petitioner is willing to build a gazebo for the residents to gather with their neighbors. Mr. Roth also cited the public sidewalk near the detention basin as fulfilling the requirement of the code.

Mayor Pogue said he disagrees with Mr. Roth's assertion that the common ground area along Kehrs Mill Road satisfies the requirement of recreational space. It was designed to be a buffer area. Chairman Wind agreed, saying that it doesn't meet the requirements of usable space. He asked City Planner Aiken how much the amount would be if the petitioner paid the fee in lieu of dedication of space. Mr. Aiken said it depends on what the petitioner pays for the ground, but historically the fee has been approximately \$4000 per lot. City Attorney Jones noted that the ordinance states that the requirement can be satisfied by a combination of a dedication of open space for public use, open space for private use, and the fee in lieu of dedication.

Mr. Roth said the petitioner will pay the sidewalk reimbursement. The petitioner will also provide construction fencing.

Chairman Wind said the two issues still in contention are the 150' street radius and the open space dedication. Mr. Roth said in reference to the dedication of open space issue, the petitioner would be open to discussing the option of combining the elements to satisfy the requirements. He asked that the petitioner would like the opportunity to work with staff before appearing before the Board of Aldermen to discuss the details. Chairman Wind said that he doesn't like to pass unresolved items to the Board of Aldermen. He feels it is the duty of the Planning & Zoning Commission to make a clear decision and recommendation.

Secretary Karr noted that the petitioner agreed to the 150' radius in the street. Mayor Pogue said the petitioner said that this would change the dimensions of some lots. Commissioner Schwent noted that it would restrict those lots to having two-story homes rather than ranch homes. Mayor Pogue said that he appreciates Chairman Wind's concern about safety, but with such short runs to the curve, he doesn't feel that the tighter radius of the curve will pose a problem. An informal vote revealed that the majority of the Commissioners felt the same. City Engineer Kramer said that if this were being determined by St. Louis County, they would not waive the 150' requirement because it would not meet the circumstances necessary for reduction. Lot layout is not an adequate reason.

Regarding the open space, Mayor Pogue and Chairman Wind stated again that they don't feel the common ground area meets the intent of the code. Mr. Roth reiterated that the proposal to construct a gazebo to add to the recreational value of the common ground for the residents does meet the spirit of the ordinance. Chairman Wind said it is a nice area for the residents, but it is smaller than what the city would require. Commissioner Schwent said that he is in favor of allowing the petitioner to combine the elements to meet the requirement, as he feels a gazebo and a picnic table are not a strong enough feature to meet the intent of the code.

Chairman Wind declared the public hearing open, and asked if anyone wished to speak in opposition to Petition SUB 13-04. No one came forward. Chairman Wind asked if anyone wished to speak in opposition to the petition. No one came forward, and Chairman Wind declared the public hearing closed.

Chairman Wind made a motion to recommend approval of Petition SUB 13-04 to the Board of Aldermen, with the following provisions: petitioner agrees to the 150' radius of the street, unless the City Engineer accepts a lower radius, and that the petitioner pays the fee in lieu of dedication of open space. Mayor Pogue requested an amendment to the motion to say that the Planning & Zoning Commission rejects the petitioner's proposal of dedication of private recreational space. This will give the petitioner more options. Chairman Wind said he feels strongly that the Planning & Zoning Commission make a clear recommendation. The mayor's amendment failed for lack of a second. Commissioner Goetz seconded Chairman Wind's motion, which received unanimous approval from the Commission members present.

Other Business

City Planner Aiken said there are agenda items for the October 7, 2013 meeting. He also announced that the petitioner for the Westglen Court subdivision has withdrawn both petitions that had been previously tabled.

Adjournment

A motion was made by Chairman Wind and seconded by Mayor Pogue to adjourn the meeting. The motion received unanimous approval, and the meeting was adjourned at 8:15 p.m.

Michael Wind, Chairman
Planning & Zoning Commission

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636-537-2000 Fax 636-537-2546

mcbridehomes.com



A Company Owned by its Employees

September 12, 2013

Mr. Tom Aiken, AICP
City of Ballwin
14811 Manchester Road
Ballwin, MO 63011

RE: Essen Place Subdivision Petition SUB 13-04

Dear Mr. Aiken:

At the September 3rd Planning and Zoning meeting, McBride & Son Homes presented its case for meeting the 'open space parks and recreational facilities' requirement by utilizing option #3 under Section 25-121. This option allows for the private 'development of parks and recreational facilities within the subdivision or development.'

We felt that our common ground area as shown on the plat along Kehrs Mill Rd met all of the criteria set forth in the Code for meeting the suitability requirements for private open space. The area of the common ground is 52,170 square feet which is 16.9% of the overall development. This exceeds the 12% requirement set forth in the Code for projects zoned R4. As shown on the plan, we will be installing extensive landscaping along the entire length of the common ground adjacent to Kehrs Mill. This area that will be landscaped will also be irrigated. As shown on the plat, there is a 4' wide pedestrian walkway extending from the sidewalk along Essen Place Dr. to the common ground area. Additionally, we presented at the September 3rd meeting that if we are allowed to use this option for the open space requirement, we would be willing to construct a gazebo with additional supplemental landscaping and seating areas so that this area may be actively used by owners within the subdivision as a common gathering space. We feel that this area will be utilized by the future residents in the same fashion that any similar City recreational facility would be used.

The Planning and Zoning Commission did not fully agree with our proposal. However, there were suggestions voiced that we could potentially utilize a combination of any or all options of meeting the open space dedication requirement (the other options being #1 Dedication of open space land for public use and #2 Fees in lieu of dedication). The Code clearly allows for this combination. It states in Sec 25-121(a); "This requirement shall be deemed satisfied by the use of any one of the following alternatives, or a combination of them." Therefore, we would like to formally make the following proposal which provides a combination of all three options.

In addition to the private open space as outlined above (including the construction of the gazebo and related features), we would also utilize the fee in lieu of dedication. We would propose to pay \$750 per lot to the City in addition to our proposed private park facility. With 20 lots in the development, this fee would total \$15,000.

Mr. Tom Aiken
September 12, 2013
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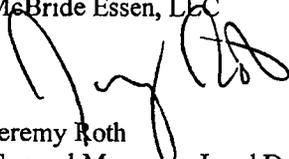
In addition to the private open space and proposed fee, I would point out that we are also dedicating a public easement and sidewalk in the southwest portion of the project near the proposed detention basin in order for the City to construct a future pedestrian connection on the property to the south. We feel this public feature meets the intent of 'dedication of open space land for public use' and should be considered in combination with the private open space feature and fee. Therefore, the project is truly taking advantage of all three options in the Code for open space dedication and ends up being a positive for both the future residents of Essen Place as well as the City.

We feel that this 'Package' of open space and enhancements to the development and City more than exceeds the spirit, intent, and requirements of Section 25-121 within the Subdivision Code.

We would like to present this Package to the Board of Aldermen at the September 23, 2013. If you could forward this letter to the Mayor and Board for their review prior to the meeting, it would be greatly appreciated.

Regards,

McBride Essen, LLC



Jeremy Roth
General Manager - Land Development