

## ORDINANCE CHANGE PETITION REVIEW REPORT

**Petition Number:** Z 13-09 (1<sup>st</sup> Amended Report)

**Petitioner:** Fred W. Schmidt, Member  
Triostone Properties, LLC  
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Kirkwood, MO 63122  
314-965-3478

**Agent:** Michael Boerding, VP  
Sterling Engineering  
5055 New Baumgartner Rd.  
St. Louis, MO 63129  
314-487-0440

**Project Name:** Westglen Court Subdivision

**Location:** 855 Westglen Village Dr.

**Review Date:** 7/17/13

**Requested Action:** Rezoning from R-3 to R-4 and  
preliminary R-4 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 has again amended its original petitions for this approximately 3 acre site. The original request was for R-4 zoning that provided for the development of 10 single family dwelling units on individual lots. That petition was accompanied by a subdivision for the approval of a 10 lot single family subdivision. Those petitions were amended at the July 1, 2013 hearing. The*

*subdivision petition was withdrawn in favor of a condominium development that featured 10 dwelling units in individual buildings. The accompanying subdivision petition was withdrawn since the development proposal was no longer a conventional single family subdivision. The petitioner has now submitted a third development proposal. The condominium petition has been replaced with a duplex development featuring fee simple land ownership. The withdrawn subdivision petition has been put back on the table with an amendment reflecting the zero lot line configurations of the duplexed dwelling units.*

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

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As one can tell from its name, the R-4 district is a multiple family zoning classification. Although duplex development is technically a multiple family development, it is a very low density form of multiple family development. The site design standards the R-4 district 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 lower density development. This is not necessarily a bad thing, but in some regards R-4 is overly restrictive for lower density uses and in other respects it is somewhat deficient or lacking in regulations for this kind of use. This leaves many site design issues subject to negotiation as a part of the rezoning discussions and therefore may make 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. The petitioner has submitted a preliminary subdivision plat (petition SUB 13-03) in conjunction with the final R-4 site development plan. This is a separate petition that will details the specifics of the subdivision platting and site improvements. It is covered in a separate report.**

Final R-4 development plans cannot differ substantially from the preliminary development plans and the subdivision approval process is administrative in nature offers little opportunity for extensive discussion outside of the rigid strictures of the subdivision regulations. It is therefore at the preliminary R-4 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.

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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 Commission's process of reviewing the 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 acre 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): A statement of the petitioner's experience and background in real estate development and residential construction was included in the handout provided to the commission at the July 1<sup>st</sup> meeting.
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 attached residences. These are shown with conceptual footprints on the submitted plan. **The dwelling unit footprints shown on this revised plan are substantially larger than the building footprints that were proposed on the original petition. These new buildings have approximately a 40' width, but they are 20' deeper (58' vs.**

38'). This makes the new buildings about 800 square feet, or more, larger than the original buildings that were proposed.

These buildings are shown with a spacing of about 16' (8' side yards). The distance between buildings is one of the issues that is not addressed in the R-4 district but was of concern to some at the 7/1/13 hearing. Generally, Ballwin has not allowed single family units to be placed closer together than 16' (8' side yards). Multiple family developments, including duplex developments, have been allowed to place buildings as close as 10' (5' side yards). The proposed building spacings will be consistent with the building spacing of the R-3 single family zoning district which is prevalent in this part of Ballwin. All of the single family development in the Westglen Village Subdivisions is R-3.

I stated in the write up for the first Westglen Court development that the proposed 10' building spacing was not in keeping with Ballwin's customary standards for small lot single family development. I said that 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. I, therefore, believe that the proposed 16' spacing of this revised proposal for a low density multiple family residential development is in keeping with previously approved developments in the city and all of the existing surrounding developments in the Westglen Village subdivisions.

- D. *Drainage facilities:* Proposed drainage facilities are shown on the submitted plans. Final approval will be based upon MSD review of the development plan.
- E. *Paving:* **No information is provided about the nature of the paving. The subdivision ordinance stipulates minimum pavement widths and thicknesses for the roadway. Since this drawing is intended to be both the preliminary R-4 Development Plan and the Preliminary Subdivision Plat it has to meet the requirement of both sets of regulations. This information should be shown on the submitted drawings. This matter is also addressed in the accompanying subdivision petition (SUB 13-03).**
- F. *Parking:* This is a single family development so parking is provided on the driveways indicated on the submitted drawings. **The proposed 20' deep front yards will limit driveway parking spaces to one deep and the narrow lots and closely spaced driveways will restrict on-street, over flow and visitor parking 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 proposed internal roadway (Westglen Ct.) is labeled as a publically dedicated roadway. It appears to meet

the 50' width requirement of a publically dedicated street in Ballwin.

- I. *Streets:* The notation on the plans state that the pavement will be 26' wide, but, as stated earlier in this report, 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:* **A revised landscape has been submitted with the revised site plan. It closely resembles the landscape plan submitted at the July 1, 2013 Commission meeting. That plan was for the previously submitted single family subdivision plan. The basic form of the submitted landscape plan proposes one street tree in front of each dwelling and one in the common ground area. Shrubs will be planted in the cul-de-sac island and planting appropriate for the wet environment of the bio-retention zones will be planted in those areas.**

**I recommend that additional street trees be planted in the right-of-way along the entry roadway with spacings approximately equal to that utilized in the residential portion of the development. The plan should also address how the disturbed areas will be restored. Much of the downslope areas of the detention basin will be disturbed for no apparent reason as the final grade is substantially the same as the pre development grade. I recommend that this area not be disturbed or be restored to its pre-development wooded nature with the placement of native shrubs and trees planted with enough density to meet the ordinance recommendation for a restored wooded area.**

**Insufficient information has been submitted relative to this issue. I recommend that a landscaping plan be submitted that addresses the entire site prior to the Commission making a recommendation to the Board of Aldermen.**

- 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 or undeveloped areas will remain with the implementation of this plan.**
  
- L. *Type of living units proposed:* The submitted development plan shows the lots to be developed with attached duplex units in accordance with the provisions of the R-4 district. **No information has been provided as to the architecture or nature of the units that will be built. This makes it impossible to address many of the issues raised by the Comprehensive Community Plan.**
  
- 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 attached 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: The information for buildings and pavements has not been provided in percentages as required.*
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. Attached multiple family duplex 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 these 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 dwelling unit per 2000 square feet of gross land area. This subsection also established maximum dwelling counts on a per building basis. Clearly both of these regulations are directed at the design of large multiple family developments. The proposed development is well within the limits of this section.
  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 significant vegetation in the rear portions of lots 3-6 will be preserved, but most of the rest of the vegetation on the site will be removed. 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 actual 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.

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## 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. **As was the case with the first petition, 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 again failed to provide architectural information it is impossible to determine if the proposed dwellings will meet the guidelines.**
3. Bullet #3 recommends that garage frontages be limited to 50% of the dwelling's width. The footprints provided on the plan appear to meet this requirement, but as stated above, **no architectural information has been provided regarding the anticipated dwellings.**
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 to 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 that 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 and does not provide 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 and the nature of the buildings is very different from the nature of the buildings in the adjoining townhouse 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. This development, and all of the adjoining developments, are multiple family, but this development is of a very different character and density. As mentioned previously in this report, the Westglen Village Condominium development has a density of 8.55 units per acre. The Westglen Village Apartments have a density of 5.5 units per acre even with a large undeveloped parcel as part of the development. **It is not consistent with the surrounding development patterns.**

The comprehensive plan recommends high density residential development which is defined as 8 to 20 units per acre for this site. **The petitioner is proposing a very low density multiple family development with an overall density more akin to a single family development. I do not believe that this development proposal is in keeping with the recommendations of the comprehensive plan or the nature of adjoining developments.**



(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 physical character or environmental situation of the property prohibits its being developed under its present zoning. 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 no information has been presented to support the position that it cannot be 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 that supports the position that 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 does not recommend a low density multiple family 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 supports a rezoning to allow multiple family development on this site.

**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 a major roadway, multiple family developments and extensive common ground areas. There is a legitimate 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 low density multiple 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 elsewhere in Ballwin.

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Thomas H. Aiken, AICP  
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