



**MINUTES
BOARD OF ADJUSTMENT
ONE ST. PETERS CENTRE BLVD., ST PETERS, MO 63376
MEETING OF DECEMBER 19, 2012
6:00 P.M.**

CALL TO ORDER

Chairman Dan Meyer called the meeting to order at 6:00 p.m.

ATTENDANCE

Those in attendance were Mr. Bill Kendall; Mr. Dan Meyer; Mr. James Selinger; Mr. Nick Trupiano; Mr. William Jaggi; Ms. Julie Powers, Director of Planning, Community and Economic Development; Ken Braunfeld, Planning Coordinator; and Ms. Melissa Vollmer, Recording Secretary.

MINUTES

Mr. Meyer asked the Board for any comments or questions regarding the minutes of November 20, 2012. Mr. Jaggi made a motion and Mr. Selinger seconded to approve the minutes as presented. All in favor, the motion carried and the minutes were approved.

COMMUNICATIONS AND REPORTS OF OFFICERS

Mr. Meyer asked for any reports or communications from the Officers. Mr. Braunfeld indicated there were none.

PETITION 12-Y:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 12-Y. Central County Fire and Rescue requests a variance to allow a decrease in the width of the landscape green belt on the west side of the property and a variance from the minimum two-way drive aisle width. The property is located at 109 McMenamy Road.

Mr. Meyer further stated that the evidence and testimony received this evening would be the only record considered by the Board. Title IV Land Use of the Municipal Code, as amended, shall be Exhibit #1 for this petition.

Mr. Meyer declared the public hearing open to consider Petition 12-Y. The petitioner or their agent was requested to step forward to present their position. Mr. Richard Musler, Musler Engineering, was sworn in as the petitioner. Mr. Musler explained that Central County Fire and Rescue is planning a new fire station at 109 McMenamy Road, which will replace the existing fire station on Main Street in Old Town. Mr. Musler noted that due to the width of the lot, Central County Fire and Rescue is requesting a variance to allow a decrease in the width of the landscape green belt on the west side of the property and a variance from the minimum two-way drive aisle width.

Mr. Meyer asked if there were any questions of the petitioner. Being none, Mr. Ken Braunfeld was sworn in to present the City's position for Petition 12-Y.

Mr. Braunfeld stated that the applicant, Central County Fire and Rescue, is planning a new fire station at 109 McMenamy Road which will replace the existing fire station on Main Street in Old Town St. Peters.

The proposed McMenemy Road location was chosen based on a study to minimize service call response time. It is noted that the Ambulance District has a station nearby on the south side of McMenemy Road.

The subject property is zoned C-2 Community Commercial District. To the west of the site is St. Peters Senior Village. Due to the width of the lot it was not possible to accommodate the required ten foot landscape greenbelt adjacent to residential property or minimum driveway width of twenty-four feet.

On September 5, 2012, the Planning and Zoning Commission granted site plan approval with a contingency to obtain a variance for the proposed reduction in the landscape buffer strip and driveway width.

Based on this, Central County Fire and Rescue requests a variance to allow a decrease in the width of the landscape green belt on the west side of the property and a variance from the minimum two-way drive aisle width. The property is located at 109 McMenemy Road.

Mr. Braunfeld noted that the variance requested by the applicant is from requirements of the Zoning and Subdivision Regulations (Title IV Land Use Chapter 405 as amended) it states:

Section 405.200: "C-2" Community Commercial District

I. *Miscellaneous Requirements.*

2. Where a "C-2" Community Commercial District is adjacent to any residential zoning district, a landscaped green belt at least ten (10) feet in width shall be provided continuously on the back and/or sides of the commercial property lines...

Section 405.550: Off Street Parking

- I. Size. Off-street parking spaces shall be designed and sized to accommodate standard size automobiles in accordance with standards contained herein.
 - c. The minimum two-way drive aisle shall be twenty-four (24) feet.

Mr. Braunfeld noted that Central County Fire and Rescue selected this location based on a study to minimize service call response time and replace the functionally obsolete Old Town facility. It is also noted that the new facility will also be in close proximity to the Ambulance District station nearby on the south side of McMenemy Road.

Minimum parking lot setbacks (landscape greenbelts) are one of many design elements used to buffer residential uses from commercial properties. Fences, landscaping, and lighting are all combined to various degrees to create a comprehensive system to minimize the impact of commercial activity on an adjacent residential use.

To compensate for the reduced green belt, a six foot tall vinyl fence will be installed along the property line adjacent to the main drive aisle. This will provide a solid visual barrier between the two sites. The fire station will be constructed on the east side of the main driveway placing it approximately five feet beyond the minimum twenty foot setback to the adjacent residential property. Also, careful attention will

be made to insure that no light glares onto the adjacent residential properties. In addition, the limited traffic associated with a fire station should further reduce any impact.

It is noted that towards the rear of the property, which is also adjacent to St. Peters Senior Village, the site will remain undeveloped and the existing tree line will be preserved. Also, the design of the fire station contains two main components. The west half of the building is one-story with a pitched roof. The east side of the building contains the taller, two bay garage with flat roof. The one story pitched roof portion of the building will be adjacent to the residential property, providing a softer more residential appearance to St. Peters Senior Village.

The width of the lot and building configuration, in conjunction with the location of an existing sanitary sewer, requires the driveway width to be reduced six feet to eighteen feet from the required twenty-four feet. The subject drive will be larger than required by City Code for a one-way drive, which will be the primary access for fire trucks entering the site. The limited two-way traffic will be for the employee parking in the rear of the site. Public parking will be located in front of the fire station. It is also noted that the entrance radius has been made larger to accommodate fire trucks. Given the proposed traffic flow and limited public traffic associated with a fire station, staff does not find a safety concern with the proposed width.

Noting the unique safety services provided by the fire district, the combination of mitigation methods to compensate for the reduced landscape buffer strip, and the very limited reduction in the driveway width, staff believes the requested variance can be successfully accommodated on the site.

Therefore, staff recommends approval of the requested variance with the following contingencies:

1. The minimum landscape green belt shall be one foot in width.
2. The minimum driveway width shall be eighteen feet.

Mr. Braunfeld stated the code considerations as follows:

1. If the petitioner complied with the provisions of this Zoning Code (does not obtain the variance they are requesting), will they not be able to get a reasonable return from, or make reasonable use of the property?

To allow the fire district to effectively use the property, a reduction in the landscape greenbelt and driveway width is needed to accommodate the standard fire station design on a rectangular shaped property.

2. Does the hardship result from the strict application of these regulations?

The proposed McMenemy Road location was chosen based on a study to minimize service call response time. The strict application of the regulations would result in a hardship for the citizens of St. Peters by potentially increasing service response time or a less efficient site design.

3. Is the hardship suffered by the property in question?

The size and configuration of the property have been in place for many years. The use of the property was chosen to minimize response times. If the property is not used, the property and the residents of the area would suffer a hardship through an increase in emergency service response time.

4. Is the hardship the result of the applicant's own actions?

The size of the property pre-dates the proposed use of the property. The use of the property was chosen to minimize response times by the fire district. Therefore, the proposed use as a fire station to enhance emergency response times did not create the hardship.

5. Is the requested variance in harmony with the general purpose and intent of the zoning regulations and does it preserve the spirit?

If the variance is approved, the development would be in harmony with the general purpose and intent of the zoning regulations since the placement of the fire station will enhance the safety of the community.

6. If the variance is granted, will the public safety and welfare have been assured and will substantial justice have been done?

The public safety and welfare will be assured and substantial justice will have been done because the applicant will be able to use their property to the fullest extent and will have no ill effects on surrounding properties or the City as a whole.

Mr. Meyer asked if any of the board members had questions for Mr. Braunfeld. Mr. Meyer asked if there was anyone in the audience to speak in favor, opposition or in comment of Petition 12-Y. Seeing no one present to comment, Mr. Meyer closed the public hearing.

Mr. Jaggi made a motion and Mr. Selinger seconded to approve Petition 12-Y.

Mr. Meyer requested Ms. Vollmer call the roll, which resulted in the following votes:

Mr. Meyer Yes
Mr. Kendall Yes
Mr. Selinger Yes
Mr. Trupiano Yes
Mr. Jaggi Yes

There being 5 yes and 0 no vote, Mr. Meyer declared that Petition 12-Y was approved.

Mr. Trupiano presented the findings of fact as follows:

1. The subject site is located on the north side of McMenamy Road, east of South Church Street.
2. The subject site is zoned C-2 Community Commercial District.
3. The property to the west is zoned R-2 Two-Family Residential District.

Mr. Jaggi made a motion and Mr. Selinger seconded to approve the findings of fact. All in favor, the motion carried.

Mr. Kendall presented the Conclusions of Law for Petition 12-Y as follows:

1. The variance will not impair the supply of light or air to the adjacent properties.
2. The variance will not increase congestion in the public streets.
3. The variance will not impact the safety of the community.
4. The variance will not impact on the general health and welfare of the community.

Mr. Kendall made a motion and Mr. Trupiano seconded to enact the Conclusions of Law. All in favor, the Conclusions of the Law were adopted.

PETITION 12-Z:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 12-Z. Visionary Hotel, LLC, requests modification of contingencies related to Variance 88-R (roof signage). The property is located on the south side of Veterans Memorial Parkway, west of Jungermann Road, also known as Lot 11 of Jungermann Subdivision Plat Nine as recorded in plat book 22 page 66 at the St. Charles Recorder of Deeds Office, more commonly known as 4341 Veterans Memorial Parkway.

Mr. Meyer further stated that the evidence and testimony received this evening would be the only record considered by the Board. Title IV Land Use of the Municipal Code, as amended, shall be Exhibit #1 for this petition.

Mr. Meyer declared the public hearing open to consider Petition 12-Z. The petitioner or their agent was requested to step forward to present their position. Mr. Joshua Corson, Visionary Hotel, LLC, was sworn in as the petitioner. Mr. Corson explained that Visionary Hotel, LLC is purchasing the former Holiday Inn hotel at 4341 Veterans Memorial Parkway and will rebrand it as a Valley West Inn. They will renovate the entire facility and work with a restaurateur to reopen the restaurant. As part of the rebranding, they are requesting modification of the previous variance from 1988 to remove the contingencies limiting wall and freestanding signs.

Mr. Meyer asked if there were any questions of the petitioner. Being none, Ms. Julie Powers was sworn in to present the City's position for Petition 12-Z

Ms. Powers stated that the subject site is the former Holiday Inn on Veterans Memorial Parkway, west of Jungermann Road. The site has been used as a hotel since the early 1980s, but lost its branding as a Holiday Inn in recent years; it has recently been the Garden Plaza Hotel. The hotel restaurant closed several years ago and has not reopened. Use of the hotel has gone down and the facility is in need of updating to keep it competitive with other hotels in the community.

In 1983 a permit was issued by the City for the roof sign on the former Holiday Inn. In 1988 the roof sign blew down during a wind storm. In the years between 1983 and 1988 the City had adopted sign regulations which prohibited rooftop signs. Since the grandfathered sign had been damaged in excess of the amount allowed by the non-conforming use regulations, the sign could not be rebuilt. Noting that, the owner applied for and received a variance to re-install the roof top sign. As part of that approval, other signs on the building were prohibited.

The City has recently been approached by an investment group that is purchasing the hotel and will rebrand it as the Valley West Inn. They will renovate the entire facility and work with a restaurateur to reopen the restaurant. In addition to the updated hotel rooms the conference/meeting space and the recreational area will be separated and updated.

Therefore, the current owner is requesting modification of the previous variance to remove the contingencies limiting wall and freestanding signs.

Ms. Powers noted that the variance requested by the applicant is from requirements of the Zoning and Subdivision Regulations (Title IV Land Use Chapter 405 as amended) it states:

1. *Ground Signs.*

(3) “C-3” *General Commercial*. The maximum height may not exceed thirty (30) feet. The face of such sign may not exceed one hundred (100) square feet per face or a total aggregate sign area of two (200) square feet.

(4) Lots directly abutting the right-of-way of Interstate 70 and Highway 94, the following maximum height and size will apply:

(a) “C-3” *General Commercial*. The maximum height may not exceed forty-five (45) feet. The face of such sign may not exceed two hundred fifty (250) square feet per face or a total aggregate sign area of five hundred (500) square feet.

4. *Wall Signs.*

a. The total area of each wall sign shall not exceed five percent (5%) of the building façade or thirty-two (32) square feet, whichever is greater. A wall sign shall be permitted on each wall which parallels and is adjacent to, or is oriented to a street or access drive. If the business fronts on more than one (1) street or access drive, the sign area for each wall shall be computed separately. Where a business has no wall fronting on a street or access drive, the Administrative Officer shall determine frontage for all sign locations. The Administrative Officer may approve the placement of a wall sign on a main façade, including, but not limited to, facades fronting a parking lot or including a main building entrance, in lieu of a sign parallel to a roadway.

Variance 88-R states the following contingencies:

1. Size of the existing ground sign to be limited to its present size.
2. No additional wall signage to be permitted on the hotel.
3. Existing wall signage to be removed.

Ms. Powers noted that the Holiday Inn was constructed approximately thirty years ago. At that time, the roof signage was installed as was typical of some large hotel buildings. After rooftop signs were limited by the City, re-installation of the sign was allowed as it had become a landmark in the county and was deemed essential to advertising the hotel business.

At the same time, it was felt that wall signs would be difficult to install on the building given the placement of the windows. Therefore, the need for the rooftop sign was supported by the limited opportunity for wall signs. Wall signs at that time were box signs which attached to the wall – the use of channel letters or signs panels integrated into the building had not become commonplace. Therefore, the difficulty in placing a large box sign on the building was used as justification for the rooftop sign.

At this time the new owners of the building are significantly updating the facility. The importance of this commitment cannot be overstated. The building has declined in appearance in recent years, and the current owners are located in another state and have not shown an inclination towards updating or improving the property. New ownership will allow the building to be improved, thereby removing a declining eyesore at the front door of the City.

As part of the site improvements, the applicants are requesting the removal of the previous sign contingencies. They would like to install tasteful wall signage on the building and a new freestanding sign along Veterans Memorial Parkway. They would also like the option of retaining the rooftop sign.

Staff notes that the site area is heavily commercial; Veterans Memorial Parkway is the outer road of Interstate 70 and is lined with a variety of highway oriented uses including restaurants and national retailers. The growth in the western part of St. Charles County over the last thirty years has resulted in thousands of cars a day on the interstate; the need for business signage to attract this population has similarly expanded. In addition, the interstate carries significant traffic traveling across Missouri who may need hotel and restaurant services.

Noting the intense commercial corridor in which the hotel is located, coupled with the investment of the new owners, staff is of the opinion the requested modification to the previous variance is reasonable. While the rooftop sign is helpful in identifying the hotel to the general area, the wall and freestanding sign will help identify the facility to drivers on the interstate, the outer road, and in the immediate area.

Ms. Powers stated the code considerations as follows:

1. If the petitioner complied with the provisions of this Zoning Code (does not obtain the variance they are requesting), will they not be able to get a reasonable return from, or make reasonable use of the property?

To obtain the needed return from the proposed commercial development, the same wall signs and freestanding sign used by other businesses are needed to identify the user and attract patrons from the adjacent outer road and interstate highway.

2. Does the hardship result from the strict application of these regulations?

The sign limitations imposed in 1988 in conjunction with the rooftop sign reflect the sign style and nature of the site area at the time. The sign code would allow the wall and freestanding sign if the rooftop sign were removed, but that sign has become the identity of the subject building. Therefore, removal of the rooftop sign could create a hardship for the proposed commercial user. With the use of channel letters or an integrated sign panel, the site will be allowed reasonable advertising in the most aesthetic manner.

3. Is the hardship suffered by the property in question?

The application of previous limitations would pose a hardship for the new property owners. There is a need to enhance visibility of the site for travelers in the immediate area, while using the rooftop signage to attract travelers from a distance.

4. Is the hardship the result of the applicant's own actions?

The hardship results from the current business being unable to apply current sign standards in addition to the rooftop signage. Given the intense commercial nature of the area, this limitation could create a hardship for the applicant.

5. Is the requested variance in harmony with the general purpose and intent of the zoning regulations and does it preserve the spirit?

If the variance is approved, the development would be in harmony with the general purpose and intent of the zoning regulations since the placement of a wall or freestanding sign in addition to the rooftop sign would not be obtrusive in the subject area. The allowance of the current sign regulations would further the intent of the City and the sign regulations by allowing reasonable advertising as well as promoting improved aesthetics.

6. If the variance is granted, will the public safety and welfare have been assured and will substantial justice have been done?

The public safety and welfare will be assured and substantial justice will have been done because the applicant will be able to use their property to the fullest extent and will have no ill effects on surrounding properties or the City as a whole.

Mr. Meyer asked if any of the board members had questions for Mr. Braunfeld. Mr. Meyer asked if there was anyone in the audience to speak in favor, opposition or in comment of Petition 12-Z. Seeing no one present to comment, Mr. Meyer closed the public hearing.

Mr. Trupiano made a motion and Mr. Kendall seconded to approve Petition 12-Z.

Mr. Meyer requested Ms. Vollmer call the roll, which resulted in the following votes:

Mr. Meyer	Yes
Mr. Kendall	Yes
Mr. Selinger	Yes
Mr. Trupiano	Yes
Mr. Jaggi	Yes

There being 5 yes and 0 no vote, Mr. Meyer declared that Petition 12-Z was approved.

Mr. Trupiano presented the findings of fact as follows:

1. The subject site is located at 4341 Veterans Memorial Parkway.
2. The subject site is zoned C-3 General Commercial District.
3. Previous action by the Board of Adjustment limited wall signage at this location.
4. The site is surrounded by commercially zoned and developed ground.

Mr. Kendall made a motion and Mr. Jaggi seconded to approve the findings of fact. All in favor, the motion carried.

Mr. Jaggi presented the Conclusions of Law for Petition 12-Z as follows:

1. The variance will not impair the supply of light or air to the adjacent properties.
2. The variance will not increase congestion in the public streets.
3. The variance will not impact the safety of the community.
4. The variance will not impact on the general health and welfare of the community.

Mr. Selinger made a motion and Mr. Trupiano seconded to enact the Conclusions of Law. All in favor, the Conclusions of the Law were adopted.

PETITION 12-AA:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 12-AA. Niebur Development, LLC requests a variance to amend Variance 09-01 to allow an increase in the density of a Planned Urban Development (PUD) and a variance to permit a decrease in the unit size. The property is located on the north side of North St. Peters Parkway, east of Harvester Road, also known as the Celtic Plat as recorded in plat book 46 page 69 at the St. Charles County Recorder of Deeds Office.

Mr. Meyer further stated that the evidence and testimony received this evening would be the only record considered by the Board. Title IV Land Use of the Municipal Code, as amended, shall be Exhibit #1 for this petition.

Mr. Meyer declared the public hearing open to consider Petition 12-AA. The petitioner or their agent was requested to step forward to present their position. Doug Tieman, Pickett Ray and Silver, was sworn in as the petitioner. Mr. Tieman explained that Niebur Development is the owner under contract to purchase and complete the Celtic development which began in 2006. There has been no construction activity over the last several years since the original two buildings were constructed. Mr. Tieman noted that the applicant is proposing an amendment to the original variance to adjust the density and to reduce the unit sizes.

Mr. Meyer asked if there were any questions of the petitioner. Being none, Mr. Ken Braunfeld was sworn in to present the City's position for Petition 12-AA.

Mr. Braunfeld stated that the applicant, Niebur Development, LLC, is the owner under contract to purchase and complete the Celtic Development which began in 2006. To date only two of the multi-unit apartment complexes have been completed. There has been no construction activity over the last several years leaving the majority of the property undeveloped. The housing market has shifted substantially since the beginning of the project. Therefore the applicant has proposed an amendment to the original variance, 09-I granted on September 11, 2009, to adjust the density and to reduce the unit sizes. It is noted that the developer will be returning to the Planning and Zoning Commission to amend the site plan in January of 2013.

The subject development was originally approved in November, 2005 and allowed 120 units in ten buildings. The plan included underground parking in eight of the ten buildings and a recreation area with a clubhouse, pool and tennis court.

Per the Planned Urban Development (PUD) section of the City Code, the permitted density of the site would be 112 units (14 units per acre on 8.03 acres). However, as permitted by City Code, the developer added recreational amenities, additional landscaping, and enhanced pedestrian access, to permit the density increase to 120 units (14.9 units per acre). The Planning and Zoning Commission recommended and the Board of Aldermen approved the requested PUD, noting the proximity to other multiple family units – Sun River Village apartments – and the high quality of the proposed development.

Subsequent to Commission and Board approval, the developer submitted the appropriate engineering and building plans and construction began. In 2007, the PUD agreement was amended to allow parking as approved on the site plan rather than a specific amount of underground parking. This modification allowed the development to be priced more affordably.

As noted, two buildings have been constructed – Building 2 and Building 3 on the site plan. Subject to the economic downturn in the housing industry, the units have not sold for condominiums as originally planned. The occupied units have been leased rather than sold.

In 2009 a variance was approved to allow for the construction of twenty-four additional units – a total of 14 units (17.9 units per acre). As previously stated, the original density of 120 units was allowed based on the density bonuses stated in the code.

In order to meet the financial obligations of the site, the current developer is requesting additional units on the site. Specifically, they are requesting a total of 168 units, in 15 buildings, at a density of 21 units per acre. This further increase in density requires a variance so the density increase is not linked to the designated design elements in the PUD section of the code.

In addition the applicant is requesting a reduction in the minimum unit size to accommodate the current market conditions. Current regulations require a minimum unit size of 850 square feet, but permit up to ten percent of the units to be less than this minimum, but not smaller than 650 square feet. The current proposal would allow up to 19% of the units to be less than 850 square feet. As noted by the applicant, this would allow for forty-eight one-bedroom units to be less than 850 square feet. The applicant expects these units to be approximately 747 square feet, although there could be variations in size, but not less than 650 square feet. The two and three bedroom units would be up to 1,435 square feet.

Therefore, Niebur Development, LLC requests a variance to amend Variance 09-I to allow an increase in the density of a Planned Urban Development (PUD) and a variance to permit a decrease in the unit size. The property is located on the north side of North St. Peters Parkway, east of Harvester Road, also known as the Celtic Plat as recorded in plat book 46 page 69 at the St. Charles County Recorder of Deeds Office.

Mr. Braunfeld noted that the variance requested by the applicant is from requirements of the Zoning and Subdivision Regulations (Title IV Land Use Chapter 405 as amended) it states:

E. Project Area Densities.

1. *Density bonuses.* In order to attract developers to utilize the "PUD", the applicant may be eligible for a maximum increase of thirty percent (30%) in the total number of dwelling units upon

application for "PUD" change. Such density increases may be granted only by the Board of Aldermen according to the following:

Maximum Percentage Increase	Design Element
10%	For each five percent (5%) net development area (up to thirty percent (30%) devoted to improved usable open space).
5%	Provision of pedestrian ways (pedestrian, bicycle paths).
5%	Provision of tree and shrub planting, including peripheral and interior screen planting and fencing landscaping and parking lots, and the use of existing trees in the plan. This provision is in addition to the required screening requirements.
5%	Creative building site designs, and groupings which take advantage of natural terrain and minimize future water runoff and erosion problems. Basins into the overall design is encouraged. Variations in building design are permissible.
5%	Recreational facilities, not to exceed three percent (3%) for each; swimming, tennis court, and community center or club building.

2. *Calculations of project density.* The Board of Aldermen shall approve the maximum density allowed in any "PUD". In calculating the density for a tract of land, the developer and/or applicant is encouraged to consult the City's Comprehensive Plan (see Future Land Use Map) to assure compatibility and harmony with surrounding densities. If density bonuses (increases) are requested under this Section, the developer is expected to document all site amenities or improvements for the City's review and consideration.

SECTION 405.160: "R-3(A)" AND "R-3(B)" MULTIPLE-FAMILY RESIDENTIAL DISTRICT

G. *Density Of Development And Related Lot Area Requirements.*

4. *Unit area.* All units on plans approved by the Planning and Zoning Commission after January 1, 2001, except as stated in Subsection (4)(a) below, shall be a minimum of eight hundred fifty (850) square feet in area.
 - a. A maximum of ten percent (10%) of the units may be a minimum of six hundred fifty (650) square feet in area.

Mr. Braunfeld noted that the Planned Urban Development (PUD) has been used for development in the City increasingly over the last fifteen years. This district allows a mix of use types as well as variations in development conditions; in exchange, the City may place restrictions or conditions on the development to ensure that the final project is compatible and appropriate for the site. Unit density is one development factor the City has used to ensure a development is appropriate for a specific site and compatible with the surrounding area.

In the subject case, the site was formerly zoned commercial and used for many years as a plant nursery. It is adjacent to commercial development and a multiple family apartment development, and it fronts on Highway 94 (Highway 364/Page Avenue). When the development was originally proposed, the City approved three story buildings and an increased density, noting the site was in a high traffic area and adjacent to the same use group. The development concept was for mid rise housing with amenities.

As stated above, the original and subsequent developers were unable to complete the project. Therefore, with the current proposal, the City must consider the need to foster the completion of the development. In recent years the density of multiple-family projects in the region has trended upward, although the city's Code has remained the same. Given, in the current economic situation, the site could potentially remain incomplete for some time. The City is facing several developments where the developer is no longer in control – they pose ongoing property maintenance issues and impact residents that are already part of the development or living nearby. Therefore, it is the City's goal to avoid additional sites that are in a partially developed state and absent a developer.

Developers have noted that the market is changing whereby renters desire smaller units with more amenities to maintain affordable prices. It is noted that while some of the units will be smaller and the overall density of the site will increase, the visual impact on the site will not be particularly noticeable. By reducing the size of the buildings and the use of a more creative building layout, the site will maintain a similar amount of open space to what was proposed on the original site plan. Also, the revised design of the buildings continues the upscale appearance of the development and includes on site amenities.

Noting this, it would be appropriate, in this unique situation, to allow additional units on the site. This would allow the site to be completed by a different developer that has a pending contract on the site. The new developer has a track record of completing other projects which helps insure that this site will be completed and be economically viable, rather than the site continuing to be a nuisance and remaining vacant indefinitely.

Therefore, staff recommends approval of the requested variance with the following contingencies.

1. The site shall contain a maximum density of 168 units.
2. A maximum of nineteen(19) percent of the units may be less than 850 square feet, but not less than 650 square feet.
3. The development shall contain a club house and pool or other amenities as approved on the site plan by the Planning and Zoning Commission.

Mr. Braunfeld stated the code considerations as follows:

1. If the petitioner complied with the provisions of this Zoning Code (does not obtain the variance they are requesting), will they not be able to get a reasonable return from, or make reasonable use of the property?

New market conditions require an increase in the density and a reduction in the size of the units to allow for the completion of the development.

2. Does the hardship result from the strict application of these regulations?

Although some of the units will be smaller and the overall density of the site will increase, the visual impact on the site will not be substantial. By reducing the size of the buildings and the use of a more creative building layout, the site will maintain a similar amount of open space to what was proposed on the original site plan. Therefore, the goal of the City to provide for high quality development will be preserved.

3. Is the hardship suffered by the property in question?

The City code allows a multiple family density and unit size that is not compatible with the current market. Residents desire smaller units with more amenities to maintain affordable prices. Without a variance, development of the property will not be completed.

4. Is the hardship the result of the applicant's own actions?

The applicant did not enter into the requirements of the original PUD or construct the two existing building. Therefore, the current applicant did not create the density or unit size hardship.

5. Is the requested variance in harmony with the general purpose and intent of the zoning regulations and does it preserve the spirit?

If the variance is approved, the development would be in harmony with the general purpose and intent of the zoning regulations because, while some of the units will be smaller and the overall density of the site will increase, the visual impact on the site will not be substantial. The reduction in the size of the buildings and the use of a more creative building layout will allow the site to maintain a similar amount of open space to what was proposed on the original site plan.

6. If the variance is granted, will the public safety and welfare have been assured and will substantial justice have been done?

The public safety and welfare will be assured and substantial justice will have been done because the applicant will be able to use their property to the fullest extent and will have no ill effects on surrounding properties or the City as a whole.

Mr. Meyer asked if any of the board members had questions for Mr. Braunfeld. Mr. Meyer asked if there was anyone in the audience to speak in favor, opposition or in comment of Petition 12-AA. Seeing no one present to comment, Mr. Meyer closed the public hearing.

Mr. Jaggi made a motion and Mr. Kendall seconded to approve Petition 12-AA.

Mr. Meyer requested Ms. Vollmer call the roll, which resulted in the following votes:

Mr. Meyer Yes
Mr. Kendall Yes
Mr. Selinger Yes
Mr. Trupiano Yes
Mr. Jaggi Yes

There being 5 yes and 0 no vote, Mr. Meyer declared that Petition 12-AA was approved.

Mr. Jaggi presented the findings of fact as follows:

1. The property is located on the north side of Highway 94, east of Harvester Road.
2. The lot is presently zoned R-3 Planned Urban Development (PUD).
3. Adjacent zoning and land uses are the R-3 Multiple Family Residential District and the C-3 Commercial District.

Mr. Kendall made a motion and Mr. Trupiano seconded to approve the findings of fact. All in favor, the motion carried.

Mr. Trupiano presented the Conclusions of Law for Petition 12-AA as follows:

1. The variance will not impair the supply of light or air to the adjacent properties.
2. The variance will not increase congestion in the public streets.
3. The variance will not impact the safety of the community.
4. The variance will not impact on the general health and welfare of the community.

Mr. Kendall made a motion and Mr. Selinger seconded to enact the Conclusions of Law. All in favor, the Conclusions of the Law were adopted.

ELECTION OF OFFICERS:

A motion was made by Mr. Jaggi and seconded by Mr. Selinger to elect Dan Meyer as Chairman. All in favor, the motion carried and Mr. Meyer was elected Chairman. A motion was made by Mr. Jaggi and seconded by Mr. Selinger to elect Bill Kendall as Vice-Chairman. All in favor, the motion carried and Mr. Kendall was elected Vice-Chairman.

Mr. Meyer made a motion and Mr. Kendall seconded to adjourn the meeting at 7:00 p.m. All in favor, the motion carried.

Respectfully submitted:

Melissa Vollmer
Recording Secretary

Dan Meyer
Chairman