



**MINUTES BOARD OF ADJUSTMENT
ONE ST. PETERS CENTRE BLVD., ST PETERS, MO 63376
MEETING OF MARCH 16, 2016
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. Bill Jaggi; Mr. Brian Stiens; Mr. Tom Fann; Ms. Julie Powers, Director of Planning, Community and Economic Development; Mr. Ken Braunfeld, Planning Coordinator, and Ms. Melissa Vollmer, Recording Secretary. Mr. Nick Trupiano was absent.

MINUTES

Mr. Meyer asked the Board for any comments or questions regarding the minutes of February 16, 2016. Mr. Fann made a motion and Mr. Stiens seconded to approve the minutes as presented. The motion carried unanimously.

COMMUNICATIONS AND REPORTS OF OFFICERS

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

PETITION 16-D:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 16-D. Bruce and Norma Boettler request a variance to permit an accessory structure (shed) that exceeds one story or fourteen feet in height in the R-1 Single Family Residential District. The property is located on Lot 6 of Spencer Creek Village as recorded in Book 18 Page 49 at the St. Charles County Recorder of Deeds Office, more commonly known as 7 Nugget Court.

Mr. Meyer declared the public hearing open to consider Petition 16-D. The petitioner or their agent was requested to step forward to present their petition. Mr. Bruce Boettler was sworn in as the petitioner. Mr. Boettler explained that he would like to construct a 320 square foot shed with a barn style roof. The barn style roof would allow a more usable loft area within the shed but would extend the roof height to seventeen feet, which is three feet taller than allowed by code. Mr. Boettler also noted he would like to construct a 120 square foot lean-to open air porch on the side of the shed.

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 16-D.

Mr. Braunfeld explained that the subject property is located in the Spencer Creek Subdivision at the end of Nugget Court. To the east and west of the subject lot are homes within the Spencer Creek Subdivision. To the north the lot backs to the Applewood subdivision common ground and detention pond. The applicant indicated they want to construct a three-hundred and twenty square foot shed with a barn style roof. It is staff's understanding that the barn style roof would allow a more usable loft area within the shed, but would extend the roof height to seventeen feet, which is

three feet taller than the fourteen foot maximum. It is also noted that a one-hundred and twenty square foot lean-to open air porch would also be constructed on the side of the shed.

Based on this, Bruce and Norma Boettler request a variance to permit an accessory structure (shed) that exceeds one story or fourteen feet in height in the R-1 Single Family Residential District. The property is located on Lot 6 of Spencer Creek East Village as recorded in book 18 Page 49 at the St. Charles County Recorder's Office, more commonly known as 7 Nugget Court.

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

405.130 (Yard Requirements)

H. Yard Requirements

1. The minimum yard requirements shall apply to each lot.

- e. All detached, residential accessory buildings shall not exceed one (1) story or fourteen (14) feet in height. Such residential accessory buildings shall occupy no more than thirty percent (30%) of the rear yard and shall not exceed five hundred (500) square feet.

Mr. Braunfeld noted that the subject site is approximately 13,610 square feet or 0.31 +/- acres. The property contains an existing one-story 1,440 square foot house facing Nugget Court. The proposed shed will be located six feet from the east property line and fifteen feet from the rear property line. Although City Code only requires a six foot rear yard setback, the rear property line contains a fifteen foot utility easement, preventing the shed from being placed closer to the common ground area. It is noted that the applicant indicated the existing fence in the backyard is not located on the rear property line. Rather, the fence was installed approximately seven feet south (in toward the house) due to existing trees and topography.

The size of the shed is below the five hundred square foot minimum. The variance being sought by the applicant is only for the height of the shed. As noted, the applicant indicated they wanted a barn style roof which would allow a loft area within the shed. This will extend the roof height to seventeen feet, which is three feet taller than the fourteen foot maximum.

One goal of the accessory structure section of the City Code is to manage the mass of an accessory structure such as a shed or garage to an appropriate scale. City Code has established this as five-hundred square feet in size and a height of fourteen feet. Among other considerations, this size was established to accommodate a detached two car garage. It is noted that City Code requires a house to have either an attached or detached two car garage. Overall, this existing code requires a house to have either an attached or detached two car garage. Overall, this existing City Code, related to size and height, has accommodated the needs of most homeowners building an accessory structure.

To accommodate the applicants' plans, several options could be examined. The requested three foot height extension could be mitigated by a reduction in the overall mass of the shed. This could include limiting the size of the shed to the requested three-hundred and twenty square feet in place of the maximum five hundred square foot, the open air porch lean-to could be removed, or both the size of the shed could be limited and the lean-to open air porch could be prohibited.

Consideration of the various options should come with the input from the property owner to the east, who will be the most affected by the proposed shed. Their input can help determine if the increase in the height of the shed can be off-set by a reduction in the width of the shed.

Included in the packet is a letter from an attorney representing the property owner to the East. The letter discusses his clients concern with the distance the shed/garage will be located from the property line. The proposed side yard setback is not under review for a variance. City code permits the garage to be a minimum of six feet from the property line, as shown by the applicant.

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?

Compliance with the regulations may not allow the applicant to fully utilize the value of their 0.31 +/- acre lot. A modification to the mass (height versus width) of the accessory structure may be beneficial to both the applicant and the adjacent property owner(s).

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

If the variance is not granted and the applicant is prevented from modifying the mass (height versus width) of the shed, it could create a hardship for the applicant and adjacent property owner(s).

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

The City regulations do not effectively address modifying the mass (height versus width) of accessory structures, which may be beneficial to both the applicant and the adjacent property owners, allowing for the applicants use of their lot to its full extent.

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

The home was built in 1976 and there have been multiple changes to the Zoning and Subdivision Regulations since that time. The limited scope of the code to allow modifying mass (height versus width) of accessory structures has created the issue for the applicant.

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

If the variance is approved with certain restrictions, the property could be in harmony with the general purpose and intent of the zoning regulations since the owner would be able to install a garage in a manner that could be compatible with the area.

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

If the variance is approved with certain restrictions, the public safety and welfare could be assured and substantial justice done because the applicant will be able to use their property to the fullest extent and will be restricted so as to have no ill effects on surrounding properties or the City as a whole.

Based on this analysis, staff finds a variance to permit an accessory structure (shed) that exceeds one story or fourteen feet in height in the R-1 Single Family Residential District may be appropriate with the following contingencies:

1. The proposed garage/shed shall not contain any covered addition including, but not limited to, an open air lean-to or porch.
2. The size of the shed shall be limited to no more than three-hundred and twenty (320) square feet.
3. The maximum height shall not exceed seventeen (17) feet.

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 16-D. Ms. Pamela Devino, 10 Nugget Court, spoke in opposition to the petition citing issues with the proximity to her home and yard and the obstruction of her view to the west. Mr. Robert Devino, 10 Nugget Court, spoke in opposition to this petition citing issues with the proximity to his mother's home and the obstruction of their view to the west. Mr. Mark Hoerchler, 8 Hanging Tree Court, spoke in favor of this petition and shed in the proposed location. Mr. Hoerchler noted issues with drainage between his home and the applicant's home and explained that placing the shed in this area would create a larger drainage issue for surrounding neighbors. Seeing no one else present to comment, Mr. Meyer closed the public hearing.

Mr. Fann made a motion and Mr. Jaggi seconded to deny Petition 16-D.

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

Mr. Meyer	No
Mr. Kendall	No
Mr. Stiens	No
Mr. Jaggi	No
Mr. Fann	No

There being 5 no, and 0 yes vote, Mr. Meyer declared that Petition 16-D was denied.

Mr. Stiens presented the findings of fact as follows:

1. The property is located on Lot 6 of Spencer Creek East Village as recorded in Book 18 Page 49 at the St. Charles County Recorder's Office, more commonly known as 7 Nugget Court.
2. The lot is presently zoned Planned Urban Development District (PUD).
3. Adjacent zoning is R-1 Single Family Residential to the north and Planned Urban Development District (PUD) to the south, east, and west.

Mr. Fann made a motion and Mr. Jaggi seconded to approve the findings of fact. The motion carried unanimously.

Mr. Jaggi presented the Conclusions of Law for Petition 16-D as follows:

1. The variance will impair the supply of light or air to the adjacent properties.
2. The variance will increase congestion in the public streets.
3. The variance will impact the safety of the community.
4. The variance will impact on the general health and welfare of the community.

Mr. Fann made a motion and Mr. Stiens seconded to enact the Conclusions of Law. The motion carried unanimously.

PETITION 16-E:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 16-E. Banacom Signs c/o Steve Stroud requests a variance to permit a sign that exceeds five percent (5%) of the building façade or thirty-two (32) square feet, whichever is greater, in the C-3 General Commercial District. The property is located on Lot 2 of Lami Industrial Park Plat Two as recorded in Book 26 Page 98 at the St. Charles County Recorder's Office, more commonly known as 4061 North St. Peters Parkway.

Mr. Meyer declared the public hearing open to consider Petition 16-E. The petitioner or their agent was requested to step forward to present their petition. Ms. Judi Stroud, Banacom Signs, was sworn in as the petitioner. Ms. Stroud explained that Banacom Signs is requesting a fifty-nine square foot sign. Given the setback from North St. Peters Parkway, she feels the scale of the sign needs to be larger to be more visible and would be in keeping with the size of the adjacent businesses sign size.

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 16-E.

Ms. Powers explained that the subject multi-tenant retail strip shopping center is located on the north side of North St. Peters Parkway, west of Mozarkite Drive. The property is zoned C-3 General Commercial District and abuts other C-3 zoned properties to the east and west.

City regulations allow each building to have signage on all walls that face a street or access drive. Therefore, the building tenants are each allowed a sign on the building façade. During the initial sign review it was determined that the store would be permitted a sign of up to thirty-six square feet. The preferred sign would be fifty-nine square feet. The sign size is needed given the building's setback from North St. Peters Parkway. The applicant indicated they had tried to match the approximate size of the sign for an adjacent business which has the same amount of frontage. The applicant also noted that, as a sign company, they have a need to present a visible, readable sign.

Based on this, Banacom Sign requests a variance to permit a wall sign which exceeds five percent of the wall area or thirty-two square feet in area in the C-3 General Commercial District. The property is located on the north side of North St. Peters Parkway, west of Mozarkite Drive – 4061 North St. Peters Parkway.

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

405.745: Permanent Sign Regulations by Zoning District

D. Signs Permitted in all "C" Commercial and "I" Industrial Districts (Non-Residential). In certain non-residential districts, the following signs are permitted in accordance with the regulations set forth herein.

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...

Ms. Powers noted that the multi-tenant shopping center is located along North St. Peters Parkway, beyond which is Route 364. The outer road and the building's parking lot impact the visibility of the building from Route 364. Also, the building includes brick extensions between some tenant spaces which limit the visibility of the sign band from some angles.

In staff's opinion the activity between the building and the outer road and the brick columns create a modest visibility hardship. Staff finds that the proposed sign will not be visually out of scale with the other signs in the center and notes that the requested increase - 3.3% - is modest. Also, staff notes that the sign will be similar in scale to the adjacent business; staff cannot find a variance for that user but it may have been granted a variance some time ago.

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?

By allowing for a modest increase in the permitted wall signage, the proposed sign will better meet the needs of the applicant and allow better visibility of the wall signage. This improved identification ensures a reasonable return by the business.

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

The code does not factor in distance or building details. In this case, both create a modest visibility hardship for the site.

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

The building design and distance from the road have a modest impact on the property.

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

The property was developed and the sign code established prior to the applicant's business. The hardship is not a result of the applicant's actions.

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

If the variance is approved the development will be in harmony with the general purpose and intent of the zoning regulations, since the wall signage will not cause hazards to pedestrian and vehicular traffic or cause blighting within the community; it will be similar and in harmony with the adjacent business' signage.

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

Based on this analysis, staff recommends approval of the requested variance to permit a wall sign which exceeds five percent of the wall area or thirty-two square feet in area with the following contingency:

1. The sign cannot exceed sixty (60) square feet in area.

Mr. Meyer asked if any of the board members had questions for Ms. Powers. Mr. Meyer asked if there was anyone in the audience to speak in favor, opposition or in comment of Petition 16-E. Seeing no one present to comment, Mr. Meyer closed the public hearing.

Mr. Jaggi made a motion and Mr. Fann seconded to deny Petition 16-E.

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

Mr. Meyer	Yes
Mr. Kendall	Yes
Mr. Stiens	Yes
Mr. Jaggi	Yes
Mr. Fann	Yes

There being 5 yes, and 0 no vote, Mr. Meyer declared that Petition 16-E was approved.

Mr. Fann presented the findings of fact as follows:

1. The property is located on the north side of North St. Peters Parkway, west of Mozarkite Drive.
2. The lot is presently zoned C-3 General Commercial District.
3. The surrounding zoning is presently zoned C-3 General Commercial District.

Mr. Jaggi made a motion and Mr. Kendall seconded to approve the findings of fact. The motion carried unanimously.

Mr. Jaggi presented the Conclusions of Law for Petition 16-E 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. Fann made a motion and Mr. Stiens seconded to enact the Conclusions of Law. The motion carried unanimously.

PETITION 16-F:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 16-F. Castle Group Series, II requests a variance for an increase in the density of units per acre and a variance to allow a reduction in the front building line for a future multiple family development. The property is located north of South Cloverleaf Drive and south of North Cloverleaf Drive at Leonard Drive (Lot B of Cloverleaf Par West Plat 12 as recorded in book 21 page 110 at the St. Charles County Recorder of Deeds Office and an adjacent 1.0 +/- acre parcel which is part of survey 6-016-1979).

Mr. Meyer declared the public hearing open to consider Petition 16-F. The petitioner or their agent was requested to step forward to present their petition. Mr. John Fudenberg, Castle Group Series, and Mr. Doug Tieman, Pickett Ray and Silver were sworn in as the petitioners. Mr. Fudenberg explained that he is proposing a multiple family development on the lot adjacent to Kokomo Joe's on Cloverleaf Drive. Mr. Tieman explained that the building on the site had to be shifted to avoid impacting an existing cross parking/access agreement with the adjacent property owner and also to avoid crossing utility lines. This will require a reduction in the building setback along Cloverleaf Drive. In order to make the development feasible, they are requesting an additional twelve units on the site for a total of 132 units.

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 16-F.

Ms. Powers explained that the applicant, Castle Group Series II, is the owner under contract of a site on North and South Cloverleaf Drive. The site is east of Jungermann Road adjacent to Kokomo Joe's restaurant/fun center and a strip center with a restaurant and retail space. The subject site is currently zoned PUD but is undeveloped.

The applicant is proposing a multiple family development and has applied for an amended Planned Urban Development (PUD) which was reviewed by the Planning and Zoning Commission on March 2, 2016 and will be reviewed by the Board of Aldermen on March 24th. The development was originally approved as the Vanguard at Cave Springs apartments –it was approved in 2013 for 120 multiple family units. The original project was approved with five buildings to be accessed from North Cloverleaf Drive.

The project did not move forward after initial approval, largely due to negotiations with the adjacent property owner related to access and parking easements. The current developer is aware of these issues and is working to address them.

The current developer has submitted a revised site plan and architectural elevations to reflect the modified development which will be known as the Carleton Apartments. The modifications to the plan include shifting the buildings to avoid impacting an existing cross parking/access agreement with the adjacent property owner and also to avoid crossing utility lines. The new plan includes a total of 132 units, twelve more than the original development. The units will be in four buildings. There is adequate parking which meets City Code for the units within the subject site. The development will also include a pool and clubhouse as originally planned for this project. The building height will be the same as originally planned – three stories.

In order to make the development feasible, the current developer is requesting additional units on the site. Specifically, they are requesting a total of 132 units, in 4 buildings, at a density of twenty-two units per acre. This further increase in density requires a variance as the density increase linked to the designated design elements in the PUD section of the code has been applied.

In addition, the applicant is requesting a reduction in the building setback along Cloverleaf Drive. Because of the accommodation of the existing access/parking easement, and because of the curved frontage of the site, there are some building encroachments into the building setback along the road.

Therefore, Castle Group Series II requests a variance to allow an increase in the density of a proposed Planned Urban Development (PUD) and a variance to permit a reduced front yard setback along Cloverleaf Drive. The property is located on the north side of South Cloverleaf Drive and the south side of North Cloverleaf Drive at Leonard Drive.

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

405.250 “PUD” Planned Urban Development

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

5% and erosion problems. Basins into the overall design is encouraged. Variations in building design are permissible. 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.

405.160 "R-3(A)" and "R-3(B)" Multiple-Family Residential District

H. *Yard Requirements.*

1. The following minimum yard depths shall be provided for individual lots:
 - a. The (a) minimum front yard depth (main entry) shall be twenty (20) feet. On the corner lot a fifteen (15) foot side yard building line may be permitted.

Ms. Powers 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 zoned commercial and was vacant for many years. It is adjacent to commercial development and amidst a large commercial area. When the City was originally expanding in the 1970s, this area was seen as a future downtown or central business area. Cloverleaf Drive was designed in a circular fashion with the anticipation that uses would front on it and create a destination area. Over time, however, the area has developed with uses oriented to the interstate, including large box stores and shopping centers facing I-70. The proposal of a residential component will allow this area to become more of a "mixed use" area with housing and commercial uses in close proximity. This concept has been created in several areas of the metro area with great success, allowing redevelopment of older commercial areas.

Noting that the area is not highly visible, as successful commercial properties typically need to be, it could be developed with offices. However, given the proximity to the Special District, which offers Class A office space, and the abundance of available office area in the county, the likelihood of office uses at this location is not high. Therefore, staff believes the proposed multiple family project will be supported and successful at this location.

The current development includes a modified site plan and building elevations; the elevations have changed slightly with different windows and other minor details – the overall appearance of the buildings is substantially the same as the originally approved development. To accommodate the

new plan, an increase in the number of units and several building encroachments are needed. Noting the location of the development within a commercial area and other factors reviewed below, staff is of the opinion these variances are reasonable.

In recent years the density of multiple-family projects in the region has trended upward, although the City's Code has remained the same. Also, developers have noted that the market is changing whereby renters accept smaller units but more amenities to maintain affordable prices. It is noted that while the overall density of the site will exceed the code, the visual impact of the additional units on the site will not be particularly noticeable. The previous C-3 District zoning allowed a six story building and the original multiple family project also included three story buildings. Twelve additional units within the current proposal will not significantly change the project scale or scope.

Further, staff notes that other multiple family complexes have received variances for density in recent years in an effort to respond to current trends and economic challenges. Specifically, the Celtic development on North St. Peters Parkway has an approved variance which allowed a density of twenty-one units per acre – similar to the current request.

As noted above, the site has a curved frontage along North and South Cloverleaf Drive. This shape, along with the existing access/parking easement on the site, limits the site area where the buildings can be placed. Those factors, coupled with the typical squared-off shape of the buildings, requires the shifting of the buildings over the front building lines in several locations. If the easement could be modified, the buildings could be shifted to the east further away from the building line. With the easement in place, shifting the buildings is not an option for the developer.

Staff notes, however, that the building layout allows the inclusion of usable open space within the development. Behind the buildings will be open space connected with sidewalks and a clubhouse and pool. Also, the revised plan orients the buildings to Cloverleaf Drive which will create an urban, interesting streetscape. In staff's opinion, the slight encroachment into the front setback will be negligible and not noticeable to the passer by on Cloverleaf Drive.

Overall, staff is of the opinion this development, as modified, will be appropriate for the site and area. Staff believes it would be appropriate to allow additional density on the site. This would allow the site to be developed with a residential component, thereby adding a new dimension to this area. Staff believes that this project, coupled with the redevelopment of the former Royal Oaks site, creates a new energy in this part of the City. Staff is hopeful that new users will be attracted to other vacant spaces in the vicinity as the population of the area increases.

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?

Development of the site at the standard density and without front yard encroachments would not be feasible given the commercial value of the property and the shape of the site. The market

conditions require an increase in the density to make the development feasible and the shape of the site, coupled with the existing parking and access easement, limits the building placement.

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

If the density and setback regulations are not varied, the site will not develop with high end multiple family units. Modification of these regulations will mitigate the hardship created by the commercial value and site configuration.

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

The City Code allows a multiple family density that is not compatible with the current market. Residents offset smaller units with more amenities to maintain affordable prices. The site is also impacted by the shape and the existing easement. Without variances, residential development of the property will be difficult.

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

The shape of the site and the impact of the existing easement, coupled with the market conditions which warrant the increased density, create the challenges to developing the property. None of these conditions were the result of the current applicant's actions.

5. Is the requested variance in harmony with 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 the overall density of the site will increase and some of the buildings will be closer to the street, the development will be high quality and create a mixed use area within the City.

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.

Staff recommends approval of the requested variance with the following contingencies:

1. The site shall contain a maximum of 132 units.
2. Buildings may encroach over the front building line as indicated on the Site Development Plan approved by the Planning Commission.

Mr. Meyer asked if any of the board members had questions for Ms. Powers. Mr. Meyer asked if there was anyone in the audience to speak in favor, opposition or in comment of Petition 16-F. Seeing no one present to comment, Mr. Meyer closed the public hearing.

Mr. Fann made a motion and Mr. Jaggi seconded to deny Petition 16-F.

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

Mr. Meyer	Yes
Mr. Kendall	Yes
Mr. Stiens	Yes
Mr. Jaggi	Yes
Mr. Fann	Yes

There being 5 yes, and 0 no vote, Mr. Meyer declared that Petition 16-F was approved.

Mr. Stiens presented the findings of fact as follows:

1. The property is located on the north and south side of Cloverleaf Drive at Leonard Drive. The lot is presently zoned R-3 Planned Urban Development (PUD).
3. The PUD is in the process of being amended to allow a new development plan.
4. Adjacent zoning to the east and west is C-3 General Commercial District.

Mr. Kendall made a motion and Mr. Jaggi seconded to approve the findings of fact. The motion carried unanimously.

Mr. Fann presented the Conclusions of Law for Petition 16-F 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. Jaggi made a motion and Mr. Stiens seconded to enact the Conclusions of Law. The motion carried unanimously.

Mr. Jaggi made a motion and Mr. Meyer seconded to adjourn the meeting at 7:40 p.m. The motion carried unanimously.

Respectfully submitted:

Melissa Vollmer
Recording Secretary

Dan Meyer
Chairman