



**MINUTES BOARD OF ADJUSTMENT
ONE ST. PETERS CENTRE BLVD., ST PETERS, MO 63376
MEETING OF JULY 20, 2016
6:00 P.M.**

CALL TO ORDER

Vice Chairman Tom Fann called the meeting to order at 6:00 p.m.

ATTENDANCE

Those in attendance were Mr. Bill Kendall; Mr. Tom Fann; Mr. Brian Stiens; Mr. John Shetterly, Ms. Julie Powers, Director of Planning, Community & Economic Development; Mr. Ken Braunfeld, Planning Coordinator, and Ms. Melissa Vollmer, Recording Secretary.

MINUTES

Mr. Fann asked the Board for any comments or questions regarding the minutes of June 15, 2016. Mr. Kendall made a motion and Mr. Stiens seconded to approve the minutes as presented. The motion carried unanimously.

COMMUNICATIONS AND REPORTS OF OFFICERS

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

PETITION 16-Q:

Mr. Fann stated that the purpose of the meeting was to consider Petition 16-Q. Norvell and Jacqueline Eckhoff c/o Joe Scognamielio request a variance to permit a reduction of the fifteen (15) foot rear building setback to permit the enclosure of a deck. The property is located on Lot 57 of the record plat of Laurel Springs, as recorded in Plat Book 42 Pages 57-58 at the St. Charles County Recorder's Office, more commonly known as 204 Natural Spring Drive.

Mr. Fann declared the public hearing open to consider Petition 16-Q. The petitioner or their agent was requested to step forward to present their petition. Mr. Joe Scognamielio, Patriot Sunrooms, was sworn in as the petitioner. Mr. Scognamielio explained that the homeowners wish to convert their deck into a four seasons room. During the review it was determined that the existing twelve foot wide by fourteen foot deep deck met all the deck requirements; however, if the deck is enclosed it would need to meet the building setbacks. The building setbacks in the Laurel Springs PUD agreement require a fifteen foot setback, placing the proposed four season room approximately thirteen feet four inches from the property line. Therefore, they are requesting the variance as presented.

Mr. Fann 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-Q.

Mr. Braunfeld explained that the applicants contacted the City regarding the conversion of their existing deck into a four season room. The existing deck and proposed four season room is located on the back of the house a 204 Natural Spring Drive in the Laurel Springs Subdivision. During the initial review it was determined that the existing twelve foot wide by fourteen foot deep deck met all the deck setback requirements. However, if the deck and or/deck area is enclosed it would need

to meet the building setbacks. The building setbacks in the Laurel Springs Planned Urban Development (PUD) Agreement require a fifteen foot setback, placing the proposed four season room approximately thirteen feet four inches from the rear property line. This would place the four season room one foot eight inches into the minimum fifteen foot setback.

The applicant indicated the deck has been at this location for some time and their neighbor currently has a four season room on the back of their home in the same general location. They also noted that it was their intention to use the existing deck structure and that it was not practical to remove and rebuilt it.

Based on this, the applicant has requested a variance to permit a reduction of the fifteen (15) foot rear building setback to permit the enclosure of a deck.

Mr. Braunfeld noted that the variance requested by the applicant is from the Planned Urban Development Agreement for the Laurel Springs subdivision and it states the following:

10. Building setbacks shall be as follows:
 - c. Rear yard setbacks shall be a minimum of fifteen (15) feet.

Mr. Braunfeld noted that the lot currently contains a deck that has been installed for some time. Staff also found that the neighboring property has a four season room attached to the back of their home in the same general location and that it appears to be located at the minimum fifteen foot setback. Upon review of the subject property and placement of the existing deck, staff believes its conversion to a four season room and its one foot eight inch encroachment will not be visually noticeable. Also, it would not be practical to remove and replace all of the existing deck due to the proposed limited encroachment. In addition, the four season room will be in keeping with the neighbor's room addition next door. It is also noted that the City has typically be supportive of residents who want to invest in improvements to their property.

Given the impracticability of relocating the deck a hardship exists that requires a variance for the reasonable conversion of the deck to a four season room. Also, there will be no negative impact from the conversion of the deck to a four season room and there will be a positive impact to the property and neighborhood due to the improvement.

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 would not allow the applicant to fully utilize the value of their property as it would be impractical to remove the existing deck, preventing the improvement to the property of a four season room.

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

The existing deck was built in compliance with the setback requirements. The conversion of the deck to a four season room would be in keeping with the neighboring properties. The proposed encroachment would not be discernible to adjacent properties; therefore, it would not be practical to shift the location of the deck for the four season room. Together these create a hardship for the efficient use of the property.

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

The City regulations and the subject PUD typically apply, without issue. However, the reuse of the existing deck area is the only practical method for the installation of a four season room. Therefore, the application of the building setback for the enclosed deck creates the hardship.

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

The property was originally platted by a developer, homes were constructed, and the deck was built in compliance with the setback requirements. At the time it was not anticipated that the deck would be converted into an enclosed structure altering the setback requirements. The applicant was not involved in the original site layout.

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 property would be in harmony with the general purpose and intent of the zoning regulations since the owner would be able to use their yard in a manner that is 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?

The public safety and welfare would have been 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.

Based on this analysis, staff recommends approval of a variance to permit a reduction of the fifteen (15) foot rear yard setback to permit the installation of a four season room with the following contingency:

1. The minimum setback shall be thirteen (13) feet.

Mr. Stiens noted that he has worked with Mr. Scognamielio in the past and wanted to make that a part of the record.

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

Mr. Stiens made a motion and Mr. Kendall seconded to approve Petition 16-Q.

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

Mr. Shetterly	Yes
Mr. Kendall	Yes
Mr. Bates	Absent
Mr. Fann	Yes
Mr. Stiens	Yes

There being 4 yes, 0 no and 1 absent vote, Mr. Fann declared that Petition 16-Q was approved.

Mr. Stiens presented the findings of fact as follows:

1. The property is located on Lot 57 of the record plat of Laurel Springs, as recorded in Plat Book 42 Pages 57-58 at the St. Charles County Recorder's Office, more commonly known as 204 Natural Spring Drive.
2. The lot is presently zoned PUD Planned Urban Development.
3. The adjacent zoning is PUD Planned Urban Development.

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

Mr. Shetterly presented the Conclusions of Law for Petition 16-Q 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. Stiens made a motion and Mr. Kendall seconded to enact the Conclusions of Law. The motion carried unanimously.

PETITION 16-R:

Mr. Fann stated that the purpose of the meeting was to consider Petition 16-R. Christopher Ortner requests a variance to permit a garage that exceeds five hundred square feet in the R-1 Single Family Residential District. The property is located on Lot 7 of Ranchette Estates as recorded in Book 11 Page 39 at the St. Charles County Recorder's Office, more commonly known as 1212 Cactus Junction.

Mr. Fann declared the public hearing open to consider Petition 16-R. The petitioner or their agent was requested to step forward to present their petition. Mr. Christopher Ortner was sworn in as the petitioner. Mr. Ortner explained that he would like to construct a detached garage along the north side of his property, behind the existing house. The garage would connect to an existing driveway extension that wraps around the attached garage side of the house. Mr. Ortner noted that he needs more storage space and that his one-half acre lot was more than large enough to accommodate the proposed garage. Mr. Ortner also noted that there are several other properties in the area with larger detached garages.

Mr. Fann 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-R.

Mr. Braunfeld explained that the subject property is located at 1212 Cactus Junction and currently includes a single family house on a lot that is approximately one-half acres. The site also includes a small shed in the back corner. The applicant has indicated they would like to construct a detached garage along the north side of the site behind the existing house. The proposed garage would connect to an existing driveway that wraps around the attached garage side of the house. The applicant was informed that the maximum permitted detached garage size is five hundred square feet and the maximum height is fourteen feet. The applicant indicated they need more space and noted their one-half acre lot was more than large enough to accommodate the proposed garage expansion. They also noted that several other properties in the area have larger detached garages.

Based on this, Christopher Ortner requests a variance to permit a garage that exceeds five hundred square feet in the R-1 Single Family Residential District. The property is located on Lot 7 of Ranchette Estates as recorded in Book 11 Page 39 at the St. Charles County Recorder's Office, more commonly known as 1212 Cactus Junction.

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) it states:

Section 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 in area.

Mr. Braunfeld noted that the lot is relatively large being approximately one-half acre in size. The existing house faces Cactus Junction with the proposed garage located behind the house. Access to the garage will be from the existing driveway that extends around the detached garage side of the home. The garage location meets the required minimum six foot side yard setback. It is noted that due to the age of the subdivision there are no side yard easements; therefore there would be no easement encroachment issues.

In the past, City regulations allowed the maximum size of the garage to be based on the size of the lot. While the regulations generally worked, in a few cases a detached garage was built out of scale with the surrounding subdivision, resulting in a garage that was too large or too tall. In response, the Board of Aldermen changed the regulations to allow no more than a standard two-car detached garage, which would be about 500 square feet. Since the majority of lots in St. Peters are less than 10,000 square feet the 500 square foot requirement fits most lots in St. Peters. However, larger lots like the applicant's, which are one-half acre or more in size, can easily accommodate additional building area.

A review of the subject lot finds ample space for the proposed garage. The one-half acre lot will still have a large backyard area behind the garage and home. The applicant has provided a drawing and details of the garage design. It includes a residential style pitched roof, residential style overhead garage doors, and decorative lights on the front. The roof and siding will be metal with a factory finished forty year paint. The garage will be painted grey with white trim to compliment the residence. In general, staff believes the proposed garage is attractive and consistent with the residential area.

It is staff's opinion that the proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

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 would not allow the applicant to fully utilize the value of their half acre lot, which can easily accommodate the additional garage. The garage size regulations are more applicable to a traditional 7,000 to 10,000 square foot St. Peters lot.

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

The applicant would be prevented from installing a garage commensurate with the overall size of the lot and, therefore, it would create a hardship for the applicant.

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

The City regulations do not effectively address larger lots and larger garages; therefore, the property owner would suffer a hardship with a smaller accessory building/garage as they could not use their lot to its full extent.

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

The property was originally platted in 1967; the larger lot size was established at that time. The current owner did not initially develop the property – at that time the proposed garage would have been permitted.

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 property would be in harmony with the general purpose and intent of the zoning regulations since the owner would be able to add the garage in a manner that is compatible with the large lot area.

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.

Based on this analysis staff recommends that the Board of Adjustment grant the requested variances to allow a garage in excess of five hundred square feet with the following contingencies:

1. The garage shall not exceed eight hundred and fifty (850) square feet.
2. The proposed garage shall be substantially as indicated in the attached detailed drawings and building design details.

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

Mr. Stiens made a motion and Mr. Shetterly seconded to approve Petition 16-R.

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

Mr. Shetterly	Yes
Mr. Kendall	Yes
Mr. Bates	Absent
Mr. Fann	Yes
Mr. Stiens	Yes

There being 4 yes, 0 no and 1 absent vote, Mr. Fann declared that Petition 16-R was approved.

Mr. Stiens presented the findings of fact as follows:

1. The property is located on Lot 7 of Ranchette Estates as recorded in Book 11 Page 39 at the St. Charles County Recorder's Office, more commonly known as 1212 Cactus Junction.
2. The lot is presently zoned R-1 Single-Family Residential District.
3. Adjacent zoning within the City of St. Peters to the north and south is R-1 Single-Family Residential District.
4. Adjacent zoning to the east is within unincorporated St. Charles County and is zoned R-1E Residential.

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

Mr. Shetterly presented the Conclusions of Law for Petition 16-R 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. Stiens seconded to enact the Conclusions of Law. The motion carried unanimously.

PETITION 16-S:

Mr. Fann stated that the purpose of the meeting was to consider Petition 16-S. StudyMetrix Research LLC requests a variance to permit a reduction in the sign setback in the C-3 General Commercial District. The property is located on the north side of Mexico Road, east of Cave Springs Road – 3862 Mexico Road.

Mr. Fann declared the public hearing open to consider Petition 16-S. The petitioner or their agent was requested to step forward to present their petition. Mr. Timothy Smith, Study Metrix Research, LLC, was sworn in as the petitioner. Mr. Smith noted that they would like to construct a ground sign along Mexico Road to identify their business. Due to the orientation of the building on the site and the narrow landscape buffer, there is little area for a business sign. Therefore; they are requesting a variance from the sign setback.

Mr. Fann 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-S.

Ms. Powers explained that the applicant, StudyMetrix Research LLC, has moved into a building at 3862 Mexico Road. The applicant would like to construct a ground sign along Mexico Road to identify the business. The business is located in the C-3 General Commercial District where ground signage is allowed to be thirty feet tall and one hundred square feet in area and must be ten feet back from the property line.

It is noted that the building was constructed in 2002 and is 4,250 square feet in area. The building is oriented to Mexico Road with a line of parking in front of the building and other parking on the side and rear of the building. To the east is the recently reconstructed McDonalds restaurant in the C-3 District and to the west is a small shopping center in the C-3 District. To the south, across Mexico Road, is a shopping center in the City of St. Charles zoned commercial. Staff notes that previous variances were approved that permitted a reduction in the side yard setback from fifteen feet to ten feet and a reduction in the twenty-five foot rear yard setback to five feet.

The buildings and front parking were designed to be very close to the east property line, adjacent to McDonalds. The narrow four foot landscape buffer aligns the property line, leaving little area for a business sign. If the sign is held back ten feet from the front property line, it would be within the drive aisle serving the front parking spaces. An alternative location along the side property line is limited and may not include adequate space for the monument sign, including the footing.

Based on this, StudyMetrix Research, LLC requests a variance to allow a reduction in the ten foot ground sign setback from Mexico Road, within the C-3 General Commercial District, for property located at 3862 Mexico Road.

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) it states:

Section 405.745.D Signs Permitted in all “C” Commercial and “I” Industrial Districts...

- 1.b.(4) Ground signs shall not extend nearer than ten (10) feet to the public right-way (as measured from the sign edge).

Ms. Powers noted that although the sign is required to be ten feet back from the property line/right-of-way, the site has some unique issues that make the placement of the sign a hardship for the applicant. These include the narrow grass area along the east property line and the absence of grass area at the front of the site. However, the front property line is approximately fifteen feet from the edge of curb along Mexico Road. This area of right-of-way is a grass area and includes a sidewalk – to the passersby it appears to be a setback.

The proposed sign location would be approximately eleven feet from the edge of curb if an agreement is made with the City to allow the sign within the right-of-way. If the sign is shifted and is totally on the site, it would be setback fifteen feet from the curb. Given this large amount of right-of-way, the visual encroachment of the sign will not be noticeable due to the layout of the street with the additional green space between the property line and curb. Staff has also reviewed the sight visibility and found no obstruction to vehicular traffic.

Staff will review the proposed location with the City Streets Dept. to determine the feasibility of the sign within the right-of-way. If allowed, a separate agreement with the City will be executed.

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?

The applicant would have to place the proposed ground sign in a location on the property that would make the sign less visible to traffic and within the drive aisle on the site; therefore, it would have a negative impact on the property return.

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

If the sign was required to be ten feet back from the property line, the applicant would have a hardship as it would negatively impact the site layout. A variance will allow them to place their proposed ground sign in a location that would have improved visibility from Mexico Road.

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

The applicant's lot configuration and right-of-way width limit the practical location for a ground sign on the property, thereby creating a hardship.

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

When the property was developed it was designed with a small amount of parking in front of the building; also, there is a wide area of right-of-way. Neither of these were the applicant's action.

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 sign being placed closer to the property line will not increase hazards to pedestrian and vehicular traffic or cause blighting within 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 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 the reduction of the ten (10) foot sign setback with the following contingencies:

1. The ground/pole sign shall be setback a minimum of zero (0) feet from the property line.
2. The ground/pole sign shall not interfere with the sight visibility along Mexico Road.
3. An agreement with the City will be executed prior to placement of the sign in the right-of-way.

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

Mr. Stiens made a motion and Mr. Kendall seconded to approve Petition 16-S.

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

Mr. Shetterly	Yes
Mr. Kendall	Yes
Mr. Bates	Absent
Mr. Fann	Yes
Mr. Stiens	Yes

There being 4 yes, 0 no and 1 absent vote, Mr. Fann declared that Petition 16-S was approved.

Mr. Stiens presented the findings of fact as follows:

1. The property is located at 3862 Mexico Road.
2. The lot and adjacent property are presently zoned C-3 General Commercial District

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

Mr. Shetterly presented the Conclusions of Law for Petition 16-S 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. Kendall seconded to enact the Conclusions of Law. The motion carried unanimously.

PETITION 16-T:

Mr. Fann stated that the purpose of the meeting was to consider Petition 16-T. ZM Management LLC requests a variance for an increase in the density of units per acre and a variance to allow an increase in the building height for future multiple family development. The property is located on the south side of Highway 364, east of Robertridg Drive.

Mr. Fann declared the public hearing open to consider Petition 16-T. The petitioner or their agent was requested to step forward to present their petition. Mr. Cliff Heitmann, Bax Engineering, was sworn in as the petitioner. Mr. Heitmann explained that the applicant, ZM Management, is looking to develop a site to the west of the Aventura at Mid Rivers Apartment Complex. The subject proposed development would include 180 units and they would like to increase the building height to three stores. Allowing an increase in the permitted density and an increase in the height of the buildings are vital to making the project viable.

Mr. Fann 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-T.

Ms. Powers explained that the applicant, ZM Management LLC, is the owner under contract to purchase and develop a site on the south side of Highway 364, east of Robertridg Drive. The site is currently undeveloped. To the west is the Aventura Apartment development which includes multiple family buildings and related recreation facilities. Aventura includes 120 units in three story buildings. The subject proposed development and the adjacent apartment complex were originally part of a Planned Urban Development proposed in 2006; that development did not move forward.

Per the R-3A Multiple Family Residential District, the subject site would be permitted 131 units (14 units per acre on 9.346 acres). As part of the proposed Planned Urban Development (PUD), the density of the site could be increased to 152 units (16.3 units per acre)- the developer added recreational amenities, additional landscaping, and enhanced pedestrian access to permit the increased density. The Planning and Zoning Commission and the Board of Aldermen will act on this request in September.

The applicant has indicated that a total of 180 units(19.2 units per acre) is needed to make the project viable. They have prepared a plan that shows fifteen buildings with a mix of one and two bedroom units. It is noted that 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 already been applied to the proposed project.

In addition the applicant is requesting an increase in the building height of the units to three stories. This is the typical height of buildings along the Highway 364/Highway 94 corridor; the additional building height has been granted through the PUD process with previous developments. Because this applicant is

submitting this application prior to PUD submittal, the request for three stories is being submitted through this variance process.

Therefore, ZM Management, LLC requests a variance to allow an increase in the density of a proposed Planned Urban Development (PUD) and a variance to permit an increase in the building height. The property is located on the north side of South St. Peters Parkway, east of Robertridge 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) it states:

Section 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 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. *Building Height Requirements.* No building shall be erected or enlarged to exceed two (2) stories or twenty-eight (28) feet in height.

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.

As stated above, the original developers were unable to complete the project. Therefore, with the current proposal, a new PUD is needed to allow the completion of the development. As part of the PUD a density bonus is going to be proposed given the amenities that have been incorporated into 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. Therefore, recent projects have often included density increases. Celtic to the east of the subject site is developed at approximately twenty units per acre. Aventura is developed at a lower density but the site includes a large area of unusable flood plain area. If that area is not considered, the density of Aventura would be similar.

In the subject case, the site was formerly zoned commercial and then was rezoned to a PUD but was never constructed. 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

Developers have noted that the market is changing whereby renters expect developments with more amenities; therefore, a typically higher density is needed to maintain project affordability. Therefore, the additional story is needed to support the economics of the project. Also, the additional height will be consistent with the other multiple family developments along the corridor, including Celtic and Aventura at Mid Rivers.

Noting the above, staff believes it would be appropriate to allow additional units and three story buildings on the site. The current 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 remaining vacant indefinitely.

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?

The current market conditions require an increase in the density to make the development economically viable. Also, the density and building height are the standard that has been established in the Highway 364 corridor.

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

Although the overall density of the site will increase, the building layout is elongated to orient to the site configuration. Therefore, the buildings are not crowded and each will have plenty of parking. The density and building height is typical to the corridor and will allow development of the site. A development hardship would be posed if these variances are not allowed.

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

The City code allows a multiple family density and building that is not compatible with the current market. Additional density is needed to maintain current market prices. Without the proposed variances, development of the property will not be completed.

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

The applicant is developing the property amidst the current market conditions and development patterns in the area. To compete, the additional density and building height is needed. This condition was not the result of the applicants own actions.

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 the appearance of the site will be similar to the other recent multiple family development in the area..

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.

Based on this analysis staff recommends approval of the requested variance to allow an increased density and increased building height subject to the following:

1. The site shall contain a maximum density 180 units.
2. The maximum building height shall be three (3) stories.

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. Fann asked if any of the board members had questions for Ms. Powers. Mr. Fann asked if there was anyone in the audience to speak in favor, opposition or in comment of Petition 16-T. Mr. Mike Speicher, 4680 Kelly Kris, voiced concerns regarding the increase in traffic on Kelly Kris as well as storm water runoff on his property. Mr. Bryan Aston, developer of Aventura at Mid Rivers, voiced concerns regarding the oversaturation of apartment complexes in this area. Mr. Jacob Mirowitz, manager of Condos in Meadow Ridge, voiced concerns regarding the increased number of apartment in the area. Seeing no one else present to comment, Mr. Fann closed the public hearing.

There was general discussion among the Board and Applicant regarding the need for an increase in the height of the building, the increased traffic, the market conditions and the need for a density increase.

Mr. Heitmann requested that action on this petition be postponed until the August Board of Adjustment Meeting to give the applicant time to address the concerns raised.

Mr. Fann made a motion and Mr. Stiens seconded to postpone this petition until the August 17th meeting. The motion carried unanimously.

Mr. Fann made a motion and Mr. Stiens seconded to adjourn the meeting at 7:43 p.m. The motion carried unanimously.

Respectfully submitted:

Melissa Vollmer
Recording Secretary

Tom Fann
Vice Chairman