



City of Olathe

City Planning Division

MINUTES**Planning Commission Meeting: March 25, 2019**

Application:	<u>RZ19-0002:</u> Request approval for a zoning amendment for RP-3 District, The Villas of Asbury, on 0.52± acres; located at 15584 and 15608 S. Church Street.
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Dan Fernandez, Planner II, appeared before the Planning Commission, summarizing this request for a zoning amendment for The Villas of Asbury. The proposed zoning amendment is to reduce a portion of the required building setback along the west property line from 75 feet to 65 feet. There are no proposed changes to density, access or architecture with this amendment. Mr. Fernandez stated that the 75-foot setback was included as a stipulation with the approved zoning of the property, which took place in 2001.

Mr. Fernandez further stated that a zoning amendment is the only avenue available in order to revise or remove a stipulation. Reduction of the setback would only affect the 75-foot setback to the immediate west. Mr. Fernandez noted that this site is surrounded by R-1 and M-2 zoned properties. Mr. Fernandez presented an image of the recorded plat, indicating the setback line. Mr. Fernandez said staff met with the applicant to determine if there was any other solution to this issue, including reorienting the lots so they are inside the setback line. However, the applicant did not feel that would be a possible solution. Staff also suggested building smaller townhomes. The applicant stated that they desire to build townhomes that are similar to the ones already existing and reducing the building footprint would make that impossible.

Mr. Fernandez stated there is also a waiver request for reduction in the landscape buffer requirement. A setback of 75 feet from R-3 to industrial zoned property is required on the west side. The waiver request would be to reduce that to a range of 65 feet to 71 feet immediately to the west of the two lots. Mr. Fernandez presented exhibits from the applicant. The applicant does not believe the public will be inconvenienced by the waiver, and the existing hedge row between the R-3 property and the industrial property will not be affected by the rezoning amendment or waiver request. Mr. Fernandez said that staff is supportive of the waiver and recommends approval of the zoning amendment request.

Comm. Rinke asked if the 75-foot setback was required when it was rezoned in 2001. **Mr. Fernandez** said it was not a requirement, but a recommendation made by staff at the time. Comm. Rinke asked if it was an oversight that lots that were used were going to encroach on the 75-foot setback. Mr. Fernandez said staff has researched why this occurred but has not found any explanation at this time. They will continue to search and try to find a reason. Comm. Rinke noted that the buildings will be situated exactly as they were as a result of the previous approval. Mr. Fernandez agreed. He said the outlay of the lots are not changing with this application and will remain as approved at the rezoning.

There were no other questions from staff. **Chair Vakas** opened the public hearing and asked the applicant to come forward.

Sue Engbroten, 11205 Cedar Street, Leawood, and Randy Wilbanks, Pinnacle Construction, 11205 Cedar Street, Leawood, approached the podium. Ms. Engbroten stated that during the Recession, they purchased the last 10 lots of The Villas of Asbury, which was

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started by another developer. Eight lots have been built out, leaving these two lots. Rectifying the problem with the setback will allow them to complete their project and will complete the homes association. Ms. Engbroten provided minutes from a neighborhood meeting and feels concerns of the neighborhood have been adequately addressed. There were no questions for the applicants.

Chair Vakas asked if anyone else present wished to speak on this application. Seeing none, he called for a motion to close the public hearing.

Motion by Comm. Nelson, seconded by Comm. Freeman, to close the public hearing.

Motion passed 7-0.

There was no further discussion by commissioners. **Chair Vakas** called for a motion.

Motion by Vice-Chairman Rinke, seconded by Comm. Sutherland, to recommend approval of RZ19-002, for the following reasons:

- (1) The proposed development complies with the Goals, Objectives and Policies of the Comprehensive Plan.
- (2) The zoning amendment meets the *Unified Development Ordinance* criteria for considering zoning applications.

Vice Chairman Rinke's motion included recommending that the following stipulations be included in the ordinance: These stipulations include those previously approved and required with the original change of zoning (RZ02-XXX) along with newly amended stipulations below:

- (1) An amendment shall be granted for the RP-3 zoning ordinance to allow a reduced building setback of 65 feet from the west property line as shown on the submitted site plan.
- (2) A waiver shall be granted to permit the landscape buffer along the west property line to range from 65 feet to 71 feet as shown on the submitted site plan.
- (3) Prior to obtaining building permits, the property shall be replatted to show the adjusted building setback line.
- (4) A landscape plan showing the size and type of trees to be planted along the west property line shall be submitted and approved with the building permits.
- (5) The combined overall maximum density for the R-1 and RP-3 development area shall be limited to 4.6 dwelling units per acre.
- (6) All RP-3 zoned areas shall be subject to the following design requirements:
 - a) Apartment buildings shall be prohibited.
 - b) All buildings shall be designed with an appearance of individuality between dwelling units. Such design shall include varied rooflines, varied facade depths to create variety and individuality, and front

porches. Mirror image" structures in which the same design is repeated for all units in a structure with no variety shall be prohibited.

- c) A variety of building exterior designs shall be used, with no building design plan to account for more than one-third of the development area.
- d) Building facades facing the public or private streets shall be designed with street orientation to include entrances, porches, windows and other design elements to create the appearance of a front facade. A predominant front entry shall be provided on all facades facing the street.
- e) Each dwelling unit shall be provided with an attached garage. No freestanding garages, carports or surface parking lots shall be permitted. However, small areas for guest parking may be permitted if entirely screened from view from the streets/drives.
- f) Buildings shall be oriented and designed so no garages or parking lots are visible from any public or private streets, or access drives, unless otherwise approved by the Planning Commission with final site development plans.
- g) If the Planning Commission permits a structure(s) with garages oriented toward a public or private street, a minimum thirty-(30) foot setback shall be maintained for the garage portion of the structure.
- h) Exterior building facades shall be finished with high quality building materials and architectural detailing. Exterior walls shall be finished with a minimum of seventy-five (75) percent decorative masonry materials such as stone, brick/masonry or a comparable masonry material, EIFS, stucco and siding (fiber cement board) may be permitted as a minor accent material. Vinyl siding, wood siding, or other synthetic or imitation materials with a false or "tacked on" appearance shall be prohibited.
- i) Roofing materials shall be the heaviest grade of 'Timberline' or comparable shingles, concrete or clay tile, or slate.
- j) An open space area of a minimum 3.3 contiguous acres shall be maintained in a central location for use by all persons who reside within the townhouse area. Such open space area shall include neighborhood amenities such as i.e., swimming pool/clubhouse, playground, tennis court, exercise path, cabana, etc. Detention areas may be included as part of the open space calculation if designed and maintained as a wet-bottom facility with spray fountain(s).
- k) All fences shall be wrought iron, picket fencing (not exceeding 4 feet in height) or a similar decorative fencing material. Solid wood

fencing and chain-link fencing shall not be permitted. Except, chain-link fencing may be permitted around sports courts.

- l) Sidewalks shall be provided on both sides of all public and private streets and drives.

- m) A staggered double row of evergreen trees shall be installed and maintained along the west and south property lines. However, credit shall be given for existing trees located along the west property line. The number of evergreen trees to be installed by the developer along the west property line may be reduced by the Planning Commission with approval of the final site development plan upon submission of a tree survey.

Aye: Sutherland, Freeman, Nelson, Rinke, Fry, Corcoran, Vakas (7)

No: (0)

Motion was approved 7-0.