

ITEM NO. 2 SPECIAL USE PERMIT FOR LAKE VIEW VILLAS @ ALVAMAR; 2250 LAKE POINTE DR (SLD)

SUP-15-00065: Consider a Special Use Permit for Lake View Villas @ Alvamar, a residential development including 11 existing four-plex buildings, 8 proposed duplex buildings and 24 detached dwelling units on approximately 16 acres, located at 2250 Lake Pointe Dr. Submitted by CFS Engineers, for CornerBank, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item. She also responded to the letter received from the League of Women Voters. She said one of the comments was to rezone the property with a PD Overlay. She said in this particular project it would not gain very much by doing that. She said it was an existing development and they were not altering access, utility, or easements. She stated the project did not alter the owner's responsibility to maintain the common grounds and access. She said there was no real gain to having a subdivision approval that would reestablish something that already existed and was platted.

APPLICANT PRESENTATION

Mr. Lance Johnson, Johnson Group, said the market was speaking to this and the plan represented that. He said there was a current active homeowners association in place that was responsible for maintenance. He said the homeowners association voted and adopted about a year ago to revise their bylaws to allow for single-family, duplex, triplex, and four-plex to be built at this location. He said they did not have a plan in place to vote upon at that time.

PUBLIC HEARING

Mr. Jerry Rutledge inquired about consideration for guest parking within the subdivision. He said when he purchased his home building 27 was not even shown as a possibility of being constructed. He questioned the placement of that building.

Mr. Johnson said the parking was not changing. He stated the infrastructure was put in for 104 units. He said the development would be reduced to 84 units. He said there was guest parking there now and there would be garages and driveways for residents. He said the density would be reduced. He said the placement of building 27 would be looked at and if it would not work from an engineering standpoint they were prepared to lose it. He felt there was enough room to fit building 27.

Mr. Rutledge said the home owners association restricted the use of driveways for social function. He said it might be wise to look at existing parking and felt it was not sufficient for guest parking.

Ms. Cille King, League of Women Voters, said there was no legal precedent for this type of land use. She referenced an old City Commission decision for Williamsburg Place. She requested denial or a Planned Overlay District to help pay for maintenance on the private drive.

APPLICANT CLOSING COMMENTS

Mr. Johnson said this was an existing project that was approved. He said the way that the project was set up there were multiple dwelling units on a single piece of ground. He said there were other precedents in the city that allowed for it. He said the owners were governed by the bylaws that addressed how property was to be conveyed. He did not want to change conditions for people already living there. He said they were not changing the project from its original conception. He said Ms. King's comments may be valid but it would change the entire complexity of the project and would affect the existing property owners. He said the benefit district was a funny mechanism in place and he could not speak to what the City would or would not do in the future. He said the homeowners association, current and new members, would pay the dues.

COMMISSION DISCUSSION

Commissioner Liese asked staff to respond to the PD Overlay.

Ms. Day said she did not have anything more to add without doing a lot more research. She said they would not gain any more ability to enforce compliance of the property.

Mr. Randy Larkin, staff attorney, said nothing would be gained in this situation with the existing project. He said there were several throughout the city that were set up this way and that it could be done this way.

Commissioner von Achen asked if the dwellings built and the existing ones were not owned by the residents.

Ms. Day said each unit was owner occupied. She said the applicant's intent was for the new units to be owner occupied as well.

Commissioner Von Achen said the League of Women Voters letter talked about structures and land being owned by a single entity.

Ms. Day said the homeowners association owned the common ground.

Commissioner von Achen asked if the homes and yards were owned by the occupants.

Mr. Johnson said the land under the units and walls of the unit were resident owned. He said the individual unit owners did not own the yard and that it was common area maintained by the homeowners association. He said rentals were not allowed.

Commissioner von Achen asked if there was no legal issue with this.

Mr. Larkin said not from the City's standpoint.

Commissioner Josserand inquired about Kansas law that regulated condos.

Mr. Johnson said he was not an attorney and did not know.

Commissioner Josserand asked if there was presumed assumption for maintenance. He asked who would take care of siding that might get blown off from a hail storm, for example.

Mr. Johnson said that would be the homeowner associations responsible. He said the homeowners association had an executive committee that met monthly to address those types of issues.

Commissioner Josserand asked if the homeowners association was part of the deed.

Mr. Johnson said that was correct.

Commissioner Josserand asked if the duplexes had 2 parking spots in the garage and 2 in the driveway.

Mr. Johnson said yes.

Commissioner Josserand asked if the streets were wide enough for on-street parking.

Ms. Day said a 25' street width would take it down to a single lane.

Commissioner Josserand asked Mr. Rutledge if he was active in the home owners association.

Mr. Rutledge said he was in the past.

Commissioner Josserand asked Mr. Rutledge if his issue was parking.

Mr. Rutledge said there were other issues but it was primarily parking.

Commissioner Josserand asked if the homeowners association had a good relationship with Mr. Johnson.

Mr. Rutledge said Mr. Johnson was a newbie on the block and that the home owners association had mainly been dealing with CornerBank. He said the homeowners association would not become a bonafide entity until 85% of the units were sold.

Commissioner von Achen asked staff to comment about sidewalks.

Ms. Day showed an aerial on the overhead. She said the project pre-dates the sidewalk requirements in the Code. She said sidewalks were required along all of the public streets and typically the Code would have required connectivity into the development. She said there was a public sidewalk along Lake Pointe Drive and it includes a little piece of sidewalk that goes into the initial part of the development. She said this was an existing access way and was not built to the full city street standard. She said if it were a new project it would have sidewalk through it.

Commissioner Britton said his perspective was that the Special Use Permit was needed because they were down zoning. He said this was already approved to an extent and could be built out as already approved. He said the parking was approved with 20 more units than what would actually be built. He said the homeowners association could change the rules about guests parking on the driveway if they wanted to. He stated there was already dedicated visitor parking at the entrance of the development. He said it was strange to think about multiple detached dwellings on a single lot. He said it seemed like a distinction without a difference. He felt the best thing they could do for the property was to allow it to be built out as intended to strengthen the homeowners association.

ACTION TAKEN

Motioned by Commissioner Britton, seconded by Commissioner Culver, to approve a Special Use Permit (SUP-15-00065) for a residential development including 11 existing four-plex buildings, 8 proposed duplex buildings and 24 detached dwelling units on approximately 16 acres, located at 2250 Lake Pointe Dr. and forwarding the request to the City Commission with a recommendation of approval, subject to the following conditions:

1. Prior to release of the Special Use Permit for issuance of a building permit:
 - a. Submission and approval of public improvement plans for sanitary sewer extension.
 - b. Execution of a site plan performance agreement.
2. The applicant shall submit a revised Special Use Permit drawing showing a second access point to the development, located from the northwest cul-de-sac to Lake Pointe Drive, per the approval of the City Fire Prevention Division.

Commissioner Kelly asked when the parking for the development was originally approved if it included stacked parking in the driveways.

Ms. Day said yes.

Commissioner Josserand said his thoughts about the project were flavored by the issue of stacked parking. He said the Code required that when new development was create there be one parking spot per bedroom. He said in general it was bad planning to utilize too much stacked parking, especially for structures created for non-related residents, such as students. He said if this had been proposed as a new project he would vote against it just for the parking. He said he was pleased that they had language in the homeowner association by-laws regarding non-renters.

Commissioner Kelly agreed that had it been a new project he may not have been supportive of stacked parking. He said regarding the question about unit 27 was a challenge because Planning Commission does not look at individual units. He said he could not consider in his decision specifically unit 27 but rather the entire Special Use Permit.

Commissioner Culver said he supported and agreed with a lot of the comments made by Planning Commission. He said there was an existing plan and development in place and they were having to adapt to the market and that was what they were doing with this. He said if the plan was changed dramatically now it would be a disservice to the current homeowner association owners. He said the density would go down with this scenario. He was sympathetic to parking concerns but that the parking met the requirements of the Code.

Commissioner Struckhoff said he supported infill development. He said in this case, despite his concerns about parking, the requirements had been met. He supported the motion.

Unanimously approved 9-0.