



Report to the Plan Commission

May 7, 2012

Legistar I.D. #25830
6746 Fairhaven Road
PUD Amendment

Report Prepared By:
Timothy M. Parks, Planner
Planning Division

Requested Action: Approval of a request to rezone 6746 Fairhaven Road from Planned Unit Development-Specific Implementation Plan (PUD-SIP) to Amended Planned Unit Development-General Development Plan-Specific Implementation Plan (PUD-GDP-SIP) to allow a 10-unit multi-family building approved as an owner-occupied condominium to be built as a 10 rental apartment units.

Applicable Regulations & Standards: Section 28.12(9) provides the process for zoning map amendments; Section 28.07(6) of the Zoning Ordinance provides the requirements and framework for Planned Unit Developments.

Summary Recommendation: The Planning Division recommends that the Plan Commission recommend **approval** of Zoning Map Amendment ID 3598 and 3599, rezoning 6746 Fairhaven Road from PUD-SIP to Amended PUD-GDP-SIP, to the Common Council subject to input at the public hearing and the conditions from reviewing agencies beginning on page 4 of this report.

Background Information

Applicant & Property Owner: Thomas Ellefson, Ellefson Construction; 1018 Gammon Lane, Suite 100; Madison.

Proposal: The applicant is requesting approval of an Amended PUD-GDP-SIP to allow a partially constructed 10-unit multi-family building approved as an owner-occupied condominium to be completed as 10 rental apartment units. The applicant wishes to resume construction as soon as all regulatory approvals have been granted, with completion anticipated by August 2012.

Parcel Location: The subject of the Amended PUD-GDP-SIP is a 0.62-acre parcel located on the east side of Fairhaven Road, approximately 400 feet northwest of Maple Grove Drive; Aldermanic District 7 (King); Madison Metropolitan School District.

Existing Conditions: The subject site is developed with the foundation and underground parking level for the 10-unit building and is zoned PUD-SIP.

Surrounding Land Use and Zoning:

North: 42-unit Country Grove Condominium building and future expansion land, zoned PUD-SIP; undeveloped land in the Town of Verona;

South: 16-unit Twisted Tree Condominium and expansion land, and 33-unit New Centurion Condominiums, both zoned PUD-SIP;

West: Undeveloped land, zoned PUD-SIP and W (Wetland District); City-owned greenway;

East: Spring Creek Condominiums, zoned PUD-SIP .

Adopted Land Use Plan: The Cross Country Neighborhood Development Plan recommends that the subject site and surrounding properties be developed with medium-density residential uses.

Environmental Corridor Status: This subject site is not located within a mapped environmental corridor.

Public Utilities and Services: The subject site is served by a full range of urban services.

Zoning Summary: The subject site will be zoned Amended PUD-GDP-SIP and no substantive physical changes to the 10-unit building site are proposed. The project will be reviewed in the following sections.

Other Critical Zoning Items	
Yes:	Utility Easements, Barrier Free
No:	Wellhead Protection, Urban Design, Floodplain, Landmarks, Waterfront Development
<i>Prepared by: Pat Anderson, Asst. Zoning Administrator</i>	

Previous Approval

On October 15, 2002, the Common Council approved a request to rezone properties generally addressed as 4002 Maple Grove Drive from R4 (General Residence District) to PUD-GDP and PUD-GDP-SIP. The approved general development plan called for the future construction of 94 multi-family condominium residences and 33 multi-family rental residences on four lots created by Certified Survey Map. The specific implementation plan also approved with this application called for the construction of 50 multi-family condominium units in 4 buildings on a 2.62-acre parcel generally located west of Maple Grove Drive and east of Fairhaven Road, including the subject site.

Project Review, Analysis & Conclusion

The applicant, Thomas Ellefson, is requesting approval of an Amended PUD-GDP-SIP to allow a partially constructed 10-unit townhouse building approved as an owner-occupied condominium to be built instead as a 10 rental units. The subject site is a 0.62-acre parcel located on the easterly side of Fairhaven Road, approximately 400 feet northwest of Maple Grove Drive. The concrete foundation and underground parking level of the 10-unit townhouse building were constructed, but construction above grade was stopped and the foundation is currently capped. The subject site is part of a 2.62-acre parcel generally located west of Maple Grove Drive and east of Fairhaven Road (Lot 1, CSM 10769, attached) and was depicted as expansion area on the plat of Spring Creek Condominium (attached), which was declared for the two 12-unit townhouse buildings and one 16-unit townhouse building located to the east and south on the same lot.

The applicant wishes to construct the 10-unit structure as approved but operate the building as a rental property. The approved plans for the building call for all of the two-story townhouse units to contain two bedrooms and front porches. The building will be served by 18 underground parking stalls accessed from an entrance located along the northerly side wall of the building. Additional parking for this building will be located in 5 surface stalls located along the southerly side wall. No changes to the architecture of the approved building or the site plan are proposed with this request.

The desire to operate the building as a rental property is not permitted by the zoning text that was approved when the Savanna on the Park Planned Unit Development was approved in 2002. Both the general development plan and specific implementation plan zoning texts approved for the subject site

expressly state that the 10 subject units and the 40 units developed in the 3 adjacent buildings would be owner-occupied. The recorded zoning texts (attached) include language stating that it is not the intent of the developer (“declarant”) to develop these units as rental property. A restriction was included that limited the rental of the units to one year while they are being marketed for sale to owner occupants, with the ability to extend a lease for only one additional year. Further, the family definition in the zoning text for the owner-occupied units was the R1 Single-Family Residence District, which is more restrictive than the R4 General Residence District that is more customarily used in planned unit developments containing multi-family residences. The inherent difference between the family definitions in the R1 and R4 districts is the number of unrelated persons that may occupy a dwelling unit in addition to the primary occupant, which is fewer in R1 zoning than in the R4 district. The zoning texts approved for the Savanna on the Park Planned Unit Development were proposed in this fashion by the developers and were not a condition of approval required by the City.

The applicant has submitted a zoning text with the proposed amendment that would eliminate the provisions requiring owner occupancy, though the family definition for the 10-unit townhouse building would continue to be the more restrictive R1 district.

The zoning text is an integral part of any planned unit development approved by the Plan Commission and Common Council, and a significant change to a zoning text such as the one proposed by the applicant can only be approved by an amendment to the planned unit development by the Council following a recommendation by the Plan Commission. The Planning Division is not opposed to the proposed amended planned unit development zoning for the subject property, which proposes only a change in tenancy for the building, and no physical changes to the building or changes to the project density.

Because no substantive changes to the proposed building are proposed, the Amended PUD-GDP-SIP request was not sent to the Urban Design Commission for review. Staff believes that any minor changes to the building or site plans proposed as part of the final plans for the 10-unit building can be addressed at the staff level as minor alterations to the specific implementation plan.

The applicant has separately submitted a one-lot CSM to create a lot for the subject parcel formally separating it from Lot 1 of CSM 10769 and the Spring Creek Condominium plat. The creation of such a CSM lot is allowed as a result of a recent amendment to the Subdivision Regulations (MGO Section 16.23), which allowed the creation of lots by CSM from existing lots in a condominium plat as long as the new lot(s) are not part of a condominium and are capable of connecting to City water and sewer services. Typically, such lots will have been identified as expansion areas on the condominium plat. The lots created under this ordinance provision may share cross access, parking, and stormwater management facilities if such sharing was required by any zoning approval for the property and if adequate easements and/or agreements are provided, subject to the approval of the City Engineer, City Traffic Engineer, and Planning Director. Staff believes that the applicant’s proposed one-lot CSM will meet the above criteria and will be approved administratively.

Staff Recommendations, Conditions of Approval & General Ordinance Requirements

Major/Non-Standard Conditions are shaded

Planning Division Recommendation (Contact Timothy M. Parks, 261-9632)

The Planning Division recommends that the Plan Commission recommend **approval** to the Common Council of Zoning Map Amendment 3598 and 3599, rezoning 6746 Fairhaven Road from PUD-GDP to

Amended PUD-GDP-SIP, subject to input at the public hearing, the following Planning Division condition(s) and the conditions from reviewing agencies:

1. That the applicant work with the Planning Division and Zoning Administrator to refine the final zoning text for this property prior to final approval and recording, and issuance of building permits.
2. That the Signage section of the zoning text be revised prior to final approval to state that all signage for the project shall be limited to the maximum permitted in the R4 zoning district. All signage for the building shall be approved as a minor alteration to the PUD-SIP by the Urban Design Commission or its secretary, the Zoning Administrator, and Director of the Planning Division following a recommendation by the district alderperson.

The following conditions have been submitted by reviewing agencies:

City Engineering Division (Contact Janet Dailey, 261-9688)

3. The condominium amendment/ addendum, ingress-egress easement agreement and Certified Survey Map shall all be approved by the City and recorded with the Register of Deeds prior to issuance of building permits. This will allow for proper Address-Parcel-Owner (APO) information to be added to appropriate City databases. This is required to ensure that proper permits are issued for the appropriate properties (PIN) as well as under current APO data.
4. The submitted plan provides no grading or erosion control plans nor does it indicate which building is being constructed or the building elevations. This site is adjacent to a flood plain. The applicant shall provide USGS elevations, show the flood plain and the elevation of the building relative to the flood plain.
5. Note on the site plans which buildings or improvements have already been constructed and which improvements are proposed.
6. The applicant shall replace all sidewalk and curb and gutter abutting the property, which is damaged by the construction, or any sidewalk and curb and gutter that the City Engineer determines needs to be replaced because it is not at a desirable grade regardless of whether the condition existed prior to beginning construction.
7. All work in the public right of way shall be performed by a City-licensed contractor.
8. All damage to the pavement on Fairhaven Road adjacent to this development shall be restored in accordance with the City's Pavement Patching Criteria.
9. The plan set shall be revised to show a proposed private internal drainage system on the site. This information shall include the depths and locations of structures and the type of pipe to be used.
10. The applicant shall demonstrate compliance with Section 37.07 and 37.08 of the Madison General Ordinances regarding permissible soil loss rates. The erosion control plan shall include Universal Soil Loss Equation (USLE) computations for the construction period. Measures shall be implemented in order to maintain a soil loss rate below 7.5-tons per acre per year.
11. Prior to final approval, this project shall comply with Chapter 37 of the Madison General Ordinances regarding stormwater management. Specifically, this development is required to: control 80% TSS

(5 micron particle) off of new paved surfaces; provide infiltration in accordance with Chapter 37 of the Madison General Ordinances; provide substantial thermal control, and; complete an erosion control plan and complete weekly self-inspection of the erosion control practices and post these inspections to the City of Madison website as required by MGO Chapter 37.

12. The plan set shall be revised to show more information on proposed drainage for the site. This shall be accomplished by using spot elevations and drainage arrows or through the use of proposed contours. It is necessary to show the location of drainage leaving the site to the public right-of-way. It may be necessary to provide information off the site to fully meet this requirement
13. The applicant shall submit, prior to plan sign-off, digital CAD files to the Land Records Coordinator in the Engineering Division. (Lori Zenchenko) lzenchenko@cityofmadison.com. The digital copies shall be drawn to scale and represent final construction including: building footprints, internal walkway areas, internal site parking areas, lot lines/ numbers/ dimensions, street names, and other miscellaneous impervious areas. All other levels (contours, elevations, etc) are not to be included with this file submittal. E-mail file transmissions are preferred. The digital CAD file shall be to scale and represent final construction. Any changes or additions to the location of the building, sidewalks, parking/pavement during construction will require a new CAD file. The single CAD file submittal can be either AutoCAD (dwg) Version 2001 or older, MicroStation (dgn) Version J or older, or Universal (dxf) format. Please include the site address in this transmittal.
14. The applicant shall submit, prior to plan sign-off, digital PDF files to the City Engineering Division. The digital copies shall be to scale, shall have a scale bar on the plan set, and shall contain the following items: building footprints; internal walkway areas; internal site parking areas; lot lines and right-of-way lines; street names, stormwater management facilities and; detail drawings associated with stormwater management facilities (including if applicable planting plans).
15. The applicant shall submit prior to plan sign-off, electronic copies of any Stormwater Management File including: SLAMM DAT files; RECARGA files; TR-55/HYDROCAD/etc., and; sediment loading calculations. If calculations are done by hand or are not available electronically the hand copies or printed output shall be scanned to a PDF file and provided.
16. The area adjacent to this proposed development has a known flooding risk. All entrances shall be 2-feet above the adjacent sidewalk elevation or 1 foot above the 100-year regional flood elevation (whichever is greater). This includes garage entrances
17. The applicant's utility contractor shall obtain a connection permit and excavation permit prior to commencing the storm sewer construction.
18. The site plan shall be revised to show all existing public sanitary sewer facilities in the project area as well as the size, invert elevation, and alignment of the proposed service.

Traffic Engineering Division (Contact Bryan Walker, 267-8754)

19. The furthest northerly driveway on Fairhaven Road is a shared driveway with the neighboring property addressed as 3848 Maple Grove Drive. A plan showing both the proposed Planned Unit Development along with the PUD to the north shall be updated and submitted as part of the final site plan.

Zoning Administrator (Contact Pat Anderson, 266-5978)
This agency did not submit comments for this request.

Parks Division (Contact Kay Rutledge, 266-4714)
This agency did not submit comments for this request.

Fire Department (Contact Bill Sullivan, 261-9658)
The Madison Fire Department does not object to this proposal provided the project complies with all applicable fire codes and ordinances

Water Utility (Contact Dennis Cawley, 261-9243)
This agency did not submit comments for this request.

Metro Transit (Contact Tim Sobota, 261-4289)
This agency did not submit comments for this request.