



Department of Planning & Community & Economic Development

Planning Division

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TO: Plan Commission

FROM: Kevin Firchow, AICP, Planning Division

DATE: March 21, 2016

SUBJECT: ID [41822](#) – Creating Section 28.022-00227 of the Madison General Ordinances to change the zoning of property located at 1910 Tennyson Lane, 12th Aldermanic District, from the SR-V2 (Suburban Residential - Varied 2) District to the SR-C1 (Suburban Residential - Consistent 1) District because applicant for re-zoning request has failed to satisfy conditions of approval.

This zoning map amendment is a City-sponsored ordinance, necessary to implement an approval condition imposed on a previously approved zoning map amendment (ID [36328](#)).

Background

On January 20, 2015, the Common Council conditionally approved a zoning map amendment request rezoning a portion of 1910 Tennyson Lane from the SR-C1 (Suburban Residential-Consistent 1) District to the SR-V2 (Suburban Residential-Varied 2) District. That request was submitted concurrently with a conditional use request (ID [36101](#)) and a preliminary plat (ID [36298](#)) for the purpose of allowing a two-building, 72-unit apartment complex and future single-family development on the subject site. A revised preliminary and final plat adjusting the site boundaries were approved by the Common Council on October 6, 2015. (ID [39480](#)).

The Common Council's 2015 rezoning approval included a Plan Commission-recommended condition (Condition #56) that stated "The SR-V2 zoning shall expire and revert back to the SR-C1 district should a conditional use not be approved, lawfully commenced, and building permits issued within one year of the Common Council rezoning approval." The developer has not yet satisfied this condition and, therefore, this ordinance is necessary to effect the reversion of the zoning as required by the Common Council. The apartment complex could not proceed under SR-C1 zoning.

When this "expiration" condition was originally recommended by the Planning Division, there were questions on whether the competitive funding for the approved project would be awarded, and in turn, whether that project would proceed. The Planning Division's intent was to closely tie that zoning map amendment to the specific conditional use approval. The apartment development received the aforementioned funding; however, the applicant did not complete the sign-off process within one year.

While the aforementioned approval condition has not been met, the applicant/developer of the apartment complex (Tom Sather) and the current property owner (Thomas Keller) have indicated it is their intent to move forward with the proposed development. As such, they do not support this proposed zoning amendment.

Status of Approvals

In addition to the zoning question, the subject development includes multiple other components. At this time, the applicant is taking steps to advance the various components necessary before being able to receive building permits. This includes finalizing the Plat, Conditional Use, and Demolition approvals.

In regards to the Plat, the applicant has submitted the final plat for final City and State review. Part of the City sign-off process is finalizing the terms of the developer agreement to install streets and other infrastructure. These agreements have been drafted and agreed to with City Engineering and the development team. Final review of these agreements by the Board of Public Works and Common Council cannot proceed until this zoning question is resolved. There remain some conditions of approval to complete and outstanding fees that must be paid prior to final sign-off and recording of the Plat.

In regards to the Conditional Use, staff notes that the Conditional Use for the residential building complex also expired in January 2016. Unlike the zoning component, the Zoning Code provides an option to administratively extend the conditional use approval. Such a request could be considered by the Director of the Department of Planning and Community and Economic Development (DPCED) subject to the standards of 28.182(9)(b). If the Common Council action allows appropriate zoning for the project to remain, the Director has indicated she will consider an administrative extension for the Conditional Use after consultation with the District Alder.

If extended, the applicant must also submit plans for final City agency review to ensure approval conditions and other ordinance standards are met. This step must be complete prior to the completion of the conditional use and the issuance of permits. The applicant team discussed this process with reviewing agencies at the March 17 Development Assistance Team (DAT) meeting. After plans are submitted, the review time can vary and take several weeks, largely dependent if the plans meet approval conditions and other requirements.

In regards to the Demolition Permit, staff notes that the principal agricultural/industrial building on the subject was approved for demolition by the Plan Commission in 2013, but has not yet been raised. Any opportunity to administratively extend that approval will expire in April 2016. The Planning Division notes that there are outstanding Building Inspection orders on the principal and accessory buildings. Many of these structures remain within proposed rights-of-way which will need to be resolved.

Attached is an email from Mr. Sather's team regarding their proposed schedule to obtain building permits. In summary, their sign-off schedule anticipates building permits being obtained by May 2016. Mr. Sather's team may be present at the public hearing to further discuss.

Conclusion and Recommendation

This proposed zoning ordinance is a follow-up to the January 2015 Common Council approval. The Council conditioned their approval upon the SR-V2 zoning expiring and reverting back to the SR-C1 district if certain requirements related to the proposed apartment complex were not completed by January 2016. The applicant has not satisfied these requirements. To formally implement this condition the Common Council would need to approve this zoning change ordinance.

As summarized above, there remain several outstanding items that need to be addressed prior to the applicant being able to obtain building permits. Notwithstanding the number of items left to complete,

staff acknowledges that the developer's team has been working with staff from various agencies for the last two months in order to advance various development components.

Considering these ongoing efforts, the Planning Division, does not recommend approval of this ordinance at this time. The Division, however, is concerned with the lack of progress and has questions as to whether the project will ultimately move forward. Section 28.182(5)(a)3 of the Zoning Code states that the Plan Commission may recommend conditions that are consistent with the intent of the zoning ordinance and will protect the public interest. As such, the Division believes it would be reasonable to provide a limited extension of the zoning approval, providing the applicant additional time to complete the many outstanding items.

The Planning Division recommends that the Plan Commission forward a **Substitute Zoning Map Amendment ID 28.022-00227 to the Common Council with a recommendation of approval**. That ordinance should maintain the current zoning of as SR-V2 (Suburban Residential – Varied 2) District until October 1, 2016, at which time the zoning of the property located at 1910 Tennyson Lane, 12th Aldermanic District, shall change to SR-C1 (Suburban Residential – Consistent 1) District, unless the conditional use has been lawfully commenced and the building permits have been issued for said property, in which case the zoning shall remain SR-V2 (Suburban Residential-Varied 2). This recommendation is subject to input at the public hearing.

Cc: Natalie Erdman, Director DPCED
Ald. Larry Palm, District 12
Thomas Keller
Thomas Sather, TW Sather Company

Firchow, Kevin

Subject: Tennyson Ridge Timeline

From: Gary Woolever [mailto:garywoolever@verisichem.com]
Sent: Wednesday, March 16, 2016 3:45 PM
To: Firchow, Kevin
Cc: [mailto:jeff.liebergen@edison.com] Jeff Liebergen; Tom Sather
Subject: Re: Tennyson Ridge Timeline

Kevin,

Below is the anticipated schedule for the Tennyson project.

DAT Site Plan review meeting; March 17, 2016
Submit Final Plat to State; March 18, 2016
Site Plan revisions; Week of March 21, 2016
Plat returned from State; Week of March 28, 2016
Final Whitman Lane plans & permits; Week of April 4, 2016
Plat sign off meeting; Week of April 4, 2016
Plat Recorded; Week of April 4, 2016
Site Plan sign off; Week of April 11, 2016
Preconstruction meeting; Week of April 18, 2016
Start of Construction; Week of May 1, 2016

PROJECTED TIMELINE -
PREPARED BY APPLICANT'S TEAM