CASE SUMMARY

APPLICATION TYPE: USE ON REVIEW



File Number: 12-B-20-UR Related File Number:

Application Filed: 10/26/2020 **Date of Revision:**

Applicant: HUBER PROPERTIES, LLC - CLEAR WATER PARTNERS, LLC

PROPERTY INFORMATION

General Location: Southwest of Emory Church Rd., East side of I-140, North of Westland Dr.

Other Parcel Info.:

Tax ID Number: 144 02016 & 02009 Jurisdiction: County

Size of Tract: 24.29 acres

Access is via Emory Church Rd., a minor collector street with a 21' pavement width within a 50' right-of-

way.

GENERAL LAND USE INFORMATION

Existing Land Use: Vacant

Surrounding Land Use:

Proposed Use: Multi-dwelling development Density: 4.68 du/ac

Sector Plan: Southwest County Sector Plan Designation: LDR (Low Density Residential) / HP (Hillside Prote

Growth Policy Plan: Planned Growth Area

Neighborhood Context: This area has developed with a mix of low and rural density residential uses under the PR & A zones.

and an assisted living facility and church in the RN-6 and RN-1 zones.

ADDRESS/RIGHT-OF-WAY INFORMATION (where applicable)

Street: 0 Emory Church Rd.

Location:

Proposed Street Name:

Department-Utility Report:

Reason:

ZONING INFORMATION (where applicable)

Current Zoning: PR (Planned Residential) (k) / F (Floodway)

Former Zoning:
Requested Zoning:

Previous Requests:

Extension of Zone:

History of Zoning: The property was rezoned from A to PR < 5 du/ac with 3 conditions.

PLAN INFORMATION (where applicable)

Current Plan Category:

Requested Plan Category:

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SUBDIVISION INFORMATION (where applicable)

Subdivision Name:

No. of Lots Proposed: No. of Lots Approved: 0

Variances Requested:

S/D Name Change:

OTHER INFORMATION (where applicable)

Other Bus./Ord. Amend.:

PLANNING COMMISSION ACTION AND DISPOSITION

Planner In Charge: Mike Reynolds

Staff Recomm. (Abbr.): WITHDRAW the application as requested by the applicant.

Staff Recomm. (Full):

Comments:

This proposal is for a 96-unit apartment complex on the west side of Emory Church Road on a site with 18.455 acres above the 820 contour, which is the elevation of the TVA flowage easement for the Fort Loudoun Lake reservoir. The subject site has a total of 22.941 acres, including the area below the 820 contour, most of which is below the summer pool level for the lake. There are four 3-story buildings proposed in the southwest corner of this property, on top of the hillside that is adjacent to Pellissippi Parkway. The parkway is designated a scenic highway by the State Scenic Highway System Act of 1971, which limits the heights of buildings to 35 feet within 1000 feet of the scenic highway. The proposed buildings have a low profile shed roof and are less than 35 feet tall. The access to the site is from Emory Church Road and the required sight distance will need to be certified during permitting.

Background

The subject site is part of a larger 101+ acre area that was zoned PR < 5 du/ac in 2013 (9-A-13-RZ). A Use on Review (UOR) development plan for the PR zoned property was approved in 2013 for 312 apartment units and 3 detached residential lots (9-B-13-UR). There was also a marina proposed that was ultimately denied during the appeal process. The 3 residential lots have been platted and 240 apartment units have been constructed on the east side of Emory Church Road. The 2013 UOR approval had 72 apartment units in four 2-story buildings on the subject lot in the same general location as the current proposal. The main differences between the 2013 development plan for this site and the current proposal are each of the four buildings will be 3-stories tall instead of 2-stories, and the current plan has two buildings near the western (Pellissippi Pkwy) boundary line and the previous plan had the buildings further to the east on the site and parking lot near the western boundary.

Density

The PR (Planned Residential) zoning for this site allows up to 5 dwelling units per acre (du/ac). The proposed apartment complex will have a density of 5.2 du/ac on the subject site that has 18.455 buildable acres above the 820 contour, which is greater than the maximum of 5 du/ac permitted by the sector plan and the PR zoning. However, the density for the entire area zoned PR is 4.68 du/ac so the proposed development is still in compliance with the zoning and sector plan.

At the time of the rezoning and UOR approvals in 2013, the exact acreage of the properties was unknown, including the acreage above the TVA flowage easement at the 820 contour. Acreage below the 820 contour is considered unbuildable and is not used when calculating the maximum number of dwelling units. The 2013 UOR approval had a condition that stated, "Prior to the issuance of any building permit, providing a survey for the entire property that identifies the land area (with an acreage calculation) that is above the 820 contour. This survey will verify the land area that is available for density calculation." This survey was recorded at the Register of Deeds office in September 2016.

The development that has occurred on these properties to-date, including the apartment complex on the east side of Emory Church Road and the three house lots, are in compliance with the 2013 UOR approval.

Traffic Impact Study

The Westland Cove Traffic Impact Study (Ajax Engineering, September 2013) was prepared to address the impact of the proposed development on Emory Church Road. This study assumed the site would be developed with 356 apartment units and a 75 berth marina. The TIS specifically states that "it

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should be noted that the results ... for the apartments are shown with additional units as currently planned. This would allow for an additional apartment 28-unit building being planned and developed without having to update this report." The total number of dwelling units existing (243) and proposed (96) is 339 units, which is less than the 356 units in the TIS, excluding the assumed traffic for the marina that was not developed. Since the total number of requested units (339) will remain less than the total in the 2013 study (356), a new TIS was not required. The road improvements that were required as part of the 2013 UOR approval have already been completed, including improvements to the Emory Church Road and Westland Drive intersection which involved the acquisition of right-of-way and the installation of turn lanes and a traffic signal.

Open Space

The proposed apartment complex will have an amenity area that includes a clubhouse and outdoor space. The existing apartment complex on the east side of Emory Church Road has its own amenity area. There are 5.403 acres of platted conservation area on the subject site and 14.846 acres of platted conservation area on the east side of Emory Church Road. These conservation areas were part of the consideration to allow up to 5 dwelling units per acre since it is within the Hillside Protection area on the sector plan. These conservation areas were platted in 2016.

Peripheral Setback

The applicant is requesting a peripheral setback reduction from 35' to 20' along the southwestern boundary, which is along the Pellissippi Parkway frontage of the lot. This reduction is to allow the small structure for the dumpster to be located as proposed. The peripheral setback adjacent to the apartment buildings will remain 35' setback along this frontage. The request for a 30' peripheral setback is along a lot line that is shared with an assisted living facility. The proposed grading on the subject site will not extend to the edge of the property line, which is the highest point on the property, and will allow for some mature vegetation to remain between the two properties.

DEVELOPMENT STANDARDS FOR USES PERMITTED ON REVIEW (ARTICLE 4.10 - SECTION 2)

The planning commission, in the exercise of its administrative judgment, shall be guided by adopted plans and policies, including the general plan and the following general standards:

- 1) THE PROPOSED USE IS CONSISTENT WITH THE ADOPTED PLANS AND POLICIES, INCLUDING THE GENERAL PLAN AND SECTOR PLAN.
- A. The Southwest County Sector Plan designates this property for low density residential uses with a maximum density of 5 du/ac. At a density of 4.68 du/ac for the overall development, the proposal is consistent with the sector plan.
- B. The property is located in the Hillside Protection area on the sector plan. With the proposed conservation areas and other undisturbed areas, the development in conformance with the general recommendations of the Hillside and Ridgetop Protection Plan.
- C. The site is located within the Planned Growth Area on the Knoxville-Knox County-Farragut Growth Policy Plan map.
- 2) THE USE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ZONING ORDINANCE.
- A. The PR (Planned Residential) zone is intended to provide optional methods of land development which encourage more imaginative solutions to environmental design problems. Residential areas thus established would be characterized by a unified building and site development program, open space for recreation and provision for commercial, religious, educational, and cultural facilities which are integrated with the total project by unified architectural and open space treatment. Each planned unit development shall be compatible with the surrounding or adjacent zones. Such compatibility shall be determined by the planning commission by review of the development plans.
- B. The proposed multi-family structures within this phase (phase 2) of the Westland Cove development do not have the same design characteristics as those that are constructed on the east side of Emory Church Road (phase 1). For instance, the proposed structures have a low slope, shed style roof and the existing structures in phase 1 have roofs with higher slopes and gables of varying size. A consistent architectural design is less important in this case though because the buildings in the two phases are not adjacent and not easily viewed together because of the change in topography and mature trees that are within conservation easements.
- C. The PR (Planned Residential) zoning for this site allows up to 5 dwelling units per acre (du/ac). The proposed development will have a density of 5.2 du/ac on the 18.455 buildable acres on this site, however, the density for the entire area zoned PR is 4.68 du/ac so the overall development is still in compliance with the zoning.
- 3) THE USE IS COMPATIBLE WITH THE CHARACTER OF THE NEIGHBORHOOD WHERE IT IS PROPOSED, AND WITH THE SIZE AND LOCATION OF BUILDINGS IN THE VICINITY.
- A. The multi-family development is compatible with the surrounding uses, which include an assisted

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living facility and church to the south, and phase 1 of this development and large lot single family houses to the east.

- B. The parkway is designated a scenic highway by the State Scenic Highway System Act of 1971, which limits the heights of buildings to 35 feet within 1000 feet of the scenic highway. The proposed buildings have a low profile shed roof and are less than 35 feet tall.
- 4) THE USE WILL NOT SIGNIFICANTLY INJURE THE VALUE OF ADJACENT PROPERTY.
- A. The adjacent property to the south contains an assisted living facility and is at the base of a hillside which they graded to construct their facility.
- B. The two uses will be separated by the top of the ridgeline between them.
- 5) THE USE WILL NOT DRAW ADDITIONAL TRAFFIC THROUGH RESIDENTIAL AREAS.
- A. This development has access to Emory Church Road which is a minor collector street.
- 6) THE NATURE OF DEVELOPMENT IN THE SURROUNDING AREA IS NOT SUCH AS TO POSE A POTENTIAL HAZARD TO THE PROPOSED USE OR TO CREATE AN UNDESIRABLE ENVIRONMENT FOR THE PROPOSED USE.

Withdrawn prior to publication?: Action Appealed?:

A. There are no known uses in the area that could be a potential hazard or create an undesirable environment for to the proposed residential uses.

Action:	Withdrawn	Meeting Date:	3/11/2021
Details of Action:			
Summary of Action:	WITHDRAW the application as requested by the applicant.		
Date of Approval:	Date of Denial:	Postponements:	2/11/2021

Date of Withdrawal:

3/11/2021

LEGISLATIVE ACTION AND DISPOSITION

LEGISLATIVE ACTION AND DISPOSITION			
Legislative Body:	Knox County Board of Zoning Appeals		
Date of Legislative Action:		Date of Legislative Action, Second Reading:	
Ordinance Number:		Other Ordinance Number References:	
Disposition of Case:		Disposition of Case, Second Reading:	
If "Other":		If "Other":	
Amendments:		Amendments:	
Date of Legislative Appeal:		Effective Date of Ordinance:	

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