

STAFF REPORT

Application:	Variance Request to allow in the Urban Residential zoning district a residential planned unit development (PUD) consisting of three townhomes and one single unit (7 total single-family dwellings) on a 2.47 acre parcel (2.50 acres or larger required by ordinance).
Applicant:	Brock Leagjeld
Property Owner:	Thompson Riley LLC
Agenda Item:	4(a)

Background Information:

- **Proposal:** The applicants are proposing to combine 5 existing platted single-family residential lots and re-subdivide them into a planned unit development that would result in 7 single-family dwellings - 3 attached townhomes (6 dwelling units) and 1 detached townhome (1 unit). This application requires a separate conditional use permit and preliminary plat approval as well as the variance the subject of this hearing. The variance is due to the combined size of the lot being re-subdivided being 2.47 acres when 2.5 acres is the minimum lot size required for a planned unit development. The Planning Commission held the public hearings for the preliminary plat and conditional use permit on February 26, 2024 and has recommended approval of those applications provided that the variance is also granted. Those recommendations will be heard by the Town Board at their March 18, 2024 regular meeting.
- **Location:**
 - Property address: None (Old Glory Drive)
 - Sec/Twp/Range: 14-128-37
 - Parcel number(s): 03-1298-410, 03-1298-420, 03-1298-430, 03-1298-440, and 03-1298-450
- **Zoning:** UR - Urban Residential
- **Lot size:** Approx. 107,593 sq ft (2.47 acres) according to provided survey.
- **Septic System Status:** The property is adjacent to and will be served by existing ALASD sewer lines (one cut into the road is needed to make these connections - all other connections would use existing stubs). Water would be supplied by one shared well for all 7 dwelling units.
- **Natural Features:**
 - Floodplain: The existing and proposed structures are not within an identified floodplain.
 - Bluff/Steep Slopes: The lot does not contain a bluff. The lot does not contain steep slopes.
 - Wetlands: There are not wetlands on or immediately adjacent to the property.
 - Current Shoreline Conditions: N/A

Board of Adjustment Action: The Board of Adjustment may approve the variance request, deny the request(s), or table the request(s) if the Board should need additional information from the applicant. If the Board should approve or deny the request, the Board should state the findings which support either of these actions.

Staff Comments:

1. This application requires a separate approval of both a conditional use permit (for being platted as a planned unit development) and for a preliminary plat. The Planning Commission has held those public hearings already and recommended approval of both provided this variance is also granted and several other conditions are met. Those conditions as recommended by the Planning Commission are:
 - a) The applicant shall meet all requirements of the Douglas County park dedication ordinance.
 - b) The applicant shall meet all applicable requirements and permits as required by the Alexandria Lakes Area Sanitary District (ALASD) in connecting to its sewer collection system and repair any damage to Township roads in making that connection.
 - c) All grading or other land disturbance occurring on the property - whether by the subdivider or future owners of individual lots - shall be subject to the requirements of the Township, the Minnesota Pollution Control Agency (MPCA) or other applicable local, state or federal regulations.
 - d) Current and future property owners shall be responsible to identify and comply with all other local, state and federal regulations applicable to their proposed use and alteration of their property.
 - e) The approval of this preliminary plat shall be void unless the related conditional use permit and variance applications are also approved.
2. The Town Board is scheduled to address the Planning Commission's recommendation at its regularly scheduled March 18, 2024 meeting.

Staff Recommendation: Based on the findings of fact and discussion listed below, Staff recommends approval of the proposed Variance.

If the application or some version of the application is approved, Staff would recommend consideration for the following conditions of approval (or tabling of the application to allow for review of revised plans consistent with the following):

1. The approval of this variance shall be void unless the related conditional use permit and preliminary plat applications are also approved.

Applicable Statutes/Ordinances: See Appendix A.

Findings of Fact: The following findings of fact are presented by Staff for consideration by the Board of Adjustment:

- 1) **Variations shall only be permitted when they are in harmony with the general purposes and intent of the official control.**

Findings Supporting Approval

The proposed improvements would be in harmony with the general purpose and intent of the requirements because the requested variance is for only 0.03 acres less than what is normally required. The planned unit development as proposed will still meet other applicable requirements, such as impervious coverage and property line setbacks, and there are other similar planned unit developments in the immediate area. The number of units allowed in the development is the same as would be allowed if the lot were 2.5 acres in size.

Findings Supporting Denial

The proposed improvements would not be in harmony with the general purpose and intent of the requirements because varying from the minimum lot size normally required for planned unit developments creates over-crowding of property.

2) Variances shall only be permitted when they are consistent with the comprehensive plan.

Findings Supporting Approval

The granting of the requested variance(s) is not inconsistent with the Comprehensive Plan because it would represent an anticipated use within the relevant zoning district(s) and the requested variance from the normal minimum lot size for planned unit developments is minimal and there are other similar planned unit developments in the immediate area.

Findings Supporting Denial

None

3) The property owner proposes to use the property in a reasonable manner not permitted by an official control.

Findings Supporting Approval

The proposed use of the property is reasonable because it allows for more marketable types of dwellings than what is currently allowed on the parcels, will meet all applicable regulations except for the 0.03 acre variance on overall lot size and because there are other similar planned unit developments in the immediate area.

Findings Supporting Denial

None

4) The plight of the landowner is due to circumstances unique to the property not created by the landowner.

Findings Supporting Approval

The plight of the landowner is due to factors that they did not create because the need for the variance(s) is due to the size of lots as originally platted. There is no reasonable way to obtain the additional 0.03 acres needed to meet the required lot size standard for planned unit developments.

Findings Supporting Denial

The applicant has the ability to purchase, develop and/or sell the lots as they are currently platted and the need for the variance is caused only by their desire to re-plat the properties into a PUD and develop in a different method than what is currently allowed.

5) The variance, if granted, will not alter the essential character of the locality.

Findings Supporting Approval

The essential character of the area would not be altered because the proposed PUD is very similar in character to that of others in the immediate area and the design of homes will be similar to other non-PUD dwellings in the immediate area.

Findings Supporting Denial

None

6) Economic considerations alone do not constitute practical difficulties.

Findings Supporting Approval

Economic considerations are not the only reason the applicant cannot meet the requirements of the ordinance because there are non-economic factors involved, as mentioned above.

Findings Supporting Denial

Economic considerations are the only reason the applicant cannot meet the requirements of the ordinance because the primary reason for requesting the variance is to make the development and sale of the land more profitable for the applicant.

7) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.

Findings Supporting Approval

The proposed use is identified as a conditional use in the zoning district where the applicant's property is located.

Findings Supporting Denial

None

Appendix A

Applicable Statutes and Ordinances

Minnesota Statutes

462.357 (2016) OFFICIAL CONTROLS: ZONING ORDINANCE.

Subd. 6. Appeals and adjustments.

Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the zoning ordinance. The board of appeals and adjustments has the following powers with respect to the zoning ordinance:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.

(2) To hear requests for variances from the requirements of the zoning ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the ordinance. The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

Alexandria Township/Douglas County Regulations

SECTION IV. PLANNED UNIT DEVELOPMENT

A. PURPOSE.

The purpose of a planned unit development is to enable imaginative and creative land uses which emphasizes flexibility, open space and the preservation of unique or sensitive features of the property. The customary one lot - one building requirement is altered in an effort to accomplish the following:

1. To encourage a more creative and efficient approach to the use of land than the traditional "lot-block" style of development that allows for variety in the types of developments

available to the residents of the Township. Planned Unit Developments are to be characterized by integrated site planning that may involve aspects of landscape design, building architecture, common use of structures and facilities, mixing of complementary land uses, clustering of dwelling lots and buildings or through other means. Planned Unit Developments are not intended simply as a means to increase densities or otherwise vary standard zoning regulations or land use planning principles, but to allow for greater flexibility in the design of developments that achieves the intent of the Comprehensive Plan or serves a public purpose in ways that other development styles may not.

2. To create open spaces and conserve unique or sensitive features of the property by preserving or minimizing the disturbance or alteration of areas with unique natural or cultural value. These may include hills and ridges, streams, wetlands, scenic views, wildlife habitat and nesting areas, unique geologic features, steep or erosive slopes and bluffs, woodland areas, prairie lands, shallow groundwater supplies, near-shore aquatic vegetation or habitat, historic structures and features, and other sensitive or unique aspects of the property.
3. To create opportunities for greater efficiency in the provision and long-term maintenance of water and sewer facilities, streets and roads, parking areas, and other similar infrastructure or facilities by reducing the amount of land that is altered, disturbed or otherwise changed to accommodate the development.

C. ZONING USE DISTRICT REGULATIONS

2. Other Zoning Districts (UR, C-U, C-R, I)¹

A planned unit development may be allowed in the UR, C-U, C-R and I districts, provided a conditional use permit has been approved by the Town Board. Developments must contain a tract of land 2.5 acres or larger and have a minimum lot width of three hundred (300) feet.

¹ Amended 5/21/2007 (Resolution #07-06) and Amended 7/2/2007 (Resolution #07-09)