



# USE ON REVIEW REPORT

▶ **FILE #:** 12-B-20-UR

**AGENDA ITEM #:** 21

**AGENDA DATE:** 12/10/2020

▶ **APPLICANT:** HUBER PROPERTIES, LLC - CLEAR WATER PARTNERS, LLC

OWNER(S): John Huber

TAX ID NUMBER: 144 02016 & 02009

[View map on KGIS](#)

JURISDICTION: County Commission District 5

STREET ADDRESS: 0 Emory Church Rd.

▶ **LOCATION:** Southwest of Emory Church Rd., East side of I-140, North of Westland Dr.

▶ **APPX. SIZE OF TRACT:** 24.29 acres

SECTOR PLAN: Southwest County

GROWTH POLICY PLAN: Planned Growth Area

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

UTILITIES: Water Source: First Knox Utility District

Sewer Source: First Knox Utility District

WATERSHED: Tennessee River

▶ **ZONING:** PR (Planned Residential) (k) / F (Floodway)

▶ **EXISTING LAND USE:** Vacant

▶ **PROPOSED USE:** Multi-dwelling development

4.68 du/ac

HISTORY OF ZONING: The property was rezoned from A to PR < 5 du/ac with 3 conditions.

SURROUNDING LAND USE AND ZONING: North: Fort Loudoun Lake, residences / F (Floodway) & A (Agricultural)

South: Assisted living facility / RN-6 (Multi-Family Residential Neighborhood)

East: Apartments, rural residential / PR (Planned Residential) & A (Agricultural)

West: Pellissippi Pkwy, vacant land, residences / PR (Planned Residential) & A (Agricultural)

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.

## STAFF RECOMMENDATION:

▶ **APPROVE** the development plan for a multi-dwelling development with up to 96 apartment units and a reduction of the peripheral setback from 35 feet to 20 feet along the southwestern boundary and 30 feet along the southern boundary, as shown, subject to 11 conditions.

1. Connection to sanitary sewer and meeting any other relevant requirements of the utility provider.

2. Provision of street names which are consistent with the Uniform Street Naming and Addressing System within Knox County (County Ord. 91-1-102).
3. Meeting all applicable requirements of the Scenic Highway System Act under Tennessee Code Annotated (TCA), Section 54-17-115(a). See Exhibit A.
4. Certifying that the required sight distance is available at the access to Emory Church Road and providing the documentation to Knox County Engineering and Public Works for review and approval during permitting.
5. Installation of the landscaping shown on the development plan within 6 months of the issuance of an occupancy permit for this project, or posting a bond with the Knox County Dept. of Engineering and Public Works to guarantee its installation.
6. The sign for the development at the entrance shall meet the standards of the zoning ordinance.
7. Meeting all applicable requirements of the Knox County Fire Marshal's Office.
8. No other residential units are to be located on the subject site, including parcel 144-02016, until a Use on Review development plan is approved for such use. The referenced parcel is part of a plat recorded in 2016 (Lot 6 on the Final Plat for Melgaard Property) and is referenced as a buildable lot. This lot is zoned PR and has not been approved for a residential structure.
9. (REVISION 12/7/2020) Providing a sidewalk on the eastern side of Emory Church Road from the entrance of the existing Westland Cove apartment complex to the southern property line of the subject lot, which aligns approximately with the southern lot line of parcel 144-02111.
10. Meeting all applicable requirements of Knox County Engineering and Public Works.
11. Meeting all applicable requirements of the Knox County Zoning Ordinance.

With the conditions noted, this plan meets the requirements for approval in the PR District and the other criteria for approval of a use on review.

**COMMENTS:**

REVISION 12/7/2020 -- Condition #9 was added to the staff report at the request of Knox County Engineering and Public Works. This property is located within the Parental Responsibility Zone of A.L. Lotts Elementary school and is required to install a sidewalk along its road frontage according to the Knox County "sidewalk ordinance" (Chapter 54, Article IV. Section 54-81). The condition is to install the sidewalk on the east side of the road because there is already a section of sidewalk on Emory Church Road near the Wesland Drive intersection. The sidewalk will extend from the driveway access of the existing Westland Cove apartment complex to align with the southern boundary of the subject property, which aligns approximately with the southern lot line of parcel 144-02111.

The total number of conditions did not change because #9 was accidentally skipped in the original staff report.

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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.

NOTE: There are some discrepancies with the land area between the 2013 rezoning and use on review applications and subsequent surveys of these properties, which the acreage and density calculations in this report are based upon. These discrepancies are still under review and could impact the staff recommendation if it is determined that the requested density is not available. At this time, it appears that the necessary density is available.

#### 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 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.

#### EFFECT OF THE PROPOSAL ON THE SUBJECT PROPERTY, SURROUNDING PROPERTY AND THE COMMUNITY AS A WHOLE

- 1) Utilities are available to service the site.
- 2) While by appearance an apartment complex is high density, the clustering of the residential development on the site allows for the protection of the steeper portions of the site. The overall density for the entire development falls within low density category.
- 3) The clustering of the residential density on the site allows for the preservation of approximately 5.403-acres on the subject site and approximately 16.6-acres total for the development above the 820 contour that accounts for 23% of the total buildable area.

#### CONFORMITY OF THE PROPOSAL TO CRITERIA ESTABLISHED BY THE KNOX COUNTY ZONING ORDINANCE

- 1) With the stated conditions, the proposal meets the standards for development within a PR (Planned Residential) Zone and all other requirements of the Zoning Ordinance.

2) The proposed subdivision is consistent with the general standards for uses permitted on review: The proposed development is consistent with the adopted plans and policies of the General Plan and Sector Plan. The use is in harmony with the general purpose and intent of the Zoning Ordinance. The use is compatible with the character of the neighborhood where it is proposed. The use will not significantly injure the value of adjacent property. The use will not draw additional traffic through residential areas because it is located on a minor collector street.

#### CONFORMITY OF THE PROPOSAL TO ADOPTED PLANS

- 1) 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 proposed development is consistent with the Sector Plan.
- 2) 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.
- 3) The site is located within the Planned Growth Area on the Knoxville-Knox County-Farragut Growth Policy Plan map.

ESTIMATED TRAFFIC IMPACT: A traffic impact study was prepared by the applicant. The findings of that study were used in formulating the recommendations of this staff report.

ESTIMATED STUDENT YIELD: 9 (public school children, grades K-12)

Schools affected by this proposal: A. L. Lotts Elementary, West Valley Middle, and Bearden High.

- Potential new school population is estimated using locally-derived data on public school student yield generated by new housing.
- Students are assigned to schools based on current attendance zones as determined by Knox County Schools. Students may request transfers to different zones, and zone boundaries are subject to change.
- Estimates presume full build-out of the proposed development. Build-out is subject to market forces, and timing varies widely from proposal to proposal.
- Student yields from new development do not reflect a net addition of children in schools. Additions occur incrementally over the build-out period. New students may replace current population that ages through the system or moves from the attendance zone.

The Planning Commission's approval or denial of this request is final, unless the action is appealed to the Knox County Board of Zoning Appeals. The date of the Knox County Board of Zoning Appeals hearing will depend on when the appeal application is filed. Appellants have 30 days to appeal a Planning Commission decision in the County.