

Payson City Planning Commission Staff Report, July 11, 2018

Request for Recommendation of Approval for Use of the RMO-1 Overlay Zone to Accommodate a Planned Residential Community in the R-1-9, Residential Zone

Approval Process:

Development Review Committee:	Technical and Administrative Review
Planning Commission:	Recommendation to City Council
City Council:	Approval or Denial (Legislative Action)

Background

The applicant, Jerry Robinson, is requesting a recommendation of approval from the Planning Commission and approval from the City Council for use of the RMO-1, Two-Family Residential Overlay Zone to accommodate a Planned Residential Community in the R-1-9, Residential Zone. The proposed development is arranged on Utah County Parcels 43:025:0005, 49:310:0001, 49:310:0002, and 49:310:0003 located north of 1130 South between 1100 West and Turf Farm Road (1270 West). The majority of the property is owned by Elwood & Susan Wall, with and a smaller portion (0.64 acres) owned by Payson City Corporation. The applicant has entered into a purchase contract with each owner and has received authorization from the owners to submit the land use application.

The property is located in the R-1-9, Residential Zone; a zoning district that allows a mixture of single-family dwellings and two-family dwelling structures with approval of an overlay zone. The proposed development includes an existing dwelling (Wall) and the construction of six (6) single-family dwellings and twelve (12) twin home structures for a total of thirty-one (31) residential units (single-family and twin homes) on approximately 6.13 acres.

The RMO-1 Overlay Zone was established to provide areas for two-family structures (duplex and twin homes) designed to be compatible with surrounding uses. The City Council recently amended the RMO-1 Overlay Zone to accommodate Planned Residential Communities, which can provide neighborhoods with a mixture of single-family and two-family structures on larger infill lots. The applicant is proposing to use the newly adopted ordinance to create a Planned Residential Community on the subject property.

The applicant is only requesting approval of the overlay zone at this time. Acknowledging approval of the overlay zone is a legislative action of the City Council, in which the Council is not obligated to approve, the applicant would like to obtain approval of the overlay zone before the subdivision process is completed. If the overlay zone is approved, the applicant will need to apply for subdivision approval and satisfy the applicable provisions of the development ordinances of Payson City.

To establish project density, layout, and design, the applicant must obtain approval for use of the RMO-1 Overlay Zone from the City Council, following a recommendation from the Planning Commission. Prior to forwarding a recommendation to the City Council, the Planning Commission is required to hold a public hearing in order to receive input from the public in relation to the proposal of the applicant. The public hearing has been properly noticed and courtesy notices have been mailed to property owners within five hundred (500) feet of the proposed subdivision. It should be noted that only one public hearing will be conducted for this project. Public comment will be recorded, documented, and included in the City Council packet for consideration.

Analysis

As mentioned above, the applicant is only requesting approval of the RMO-1 Overlay Zone at this time. The overlay zone allows the City Council to examine the specific needs of each request to encourage proper use of the property. If approval of the overlay zone is granted, the applicant will be required to submit additional information and obtain additional approvals to develop the property as proposed. It should be noted that approval of the overlay zone does

not modify or waive any requirements of the land use ordinances. The number, layout, or configuration of the lots/units may need to be modified to satisfy the requirements of the land use and development ordinances.

At this time, the Planning Commission will need to determine if use of the overlay zone is appropriate in this location and if the proposed density, project layout and design, and housing product is appropriate in this neighborhood.

Necessary Approvals

In order to develop the property as proposed, the applicant will need to obtain two approvals from the City Council: use of the RMO-1, Two-Family Residential Overlay Zone and preliminary/final approval of a subdivision. Although the approval process for each request is similar, the type of action is different.

- **RMO-1, Two-Family Residential Overlay Zone.** A request for use of an overlay zone is a **legislative action**. A legislative action is made only by the City Council, who has broad discretion in balancing private conduct against the public health, safety and general welfare of the community. Because the City Council has great deference in how the community grows, the Council may approve, amend and approve, or deny the land use application. Any modifications to project density, layout and design, housing product, and any other similar land use and development considerations should be addressed at this time. Once approval is granted, the applicant is eligible to develop the property consistent with the approval and in a manner that satisfies the land use and development ordinances.
- **Preliminary/Final Approval (Subdivision).** A request for subdivision approval that satisfies the minimum requirements of the zone (traditional subdivision), or a project that is consistent with a previous approval granted by the land use authority (i.e. overlay zone), is an **administrative action (or ministerial)**. The land use authority is responsible to review the application to ensure the project satisfies any previous approvals, and the law and policies in effect at the time the land use application was submitted. When the requirements of the law or policy have been satisfied, approval is required; there is no discretion to deny the application. In other words, the Planning Commission and City Council cannot change the rules at this stage of the project.

Recognizing the delineation between a legislative action and an administrative action, the Planning Commission and City Council will need to determine the appropriate conditions of approval for each request. If the necessary changes are outlined in the adopted land use and development ordinances, the items will be addressed at the time of subdivision review and approval. If the proposed development can be enhanced by implementing additional requirements beyond those outlined in the adopted code or by modifying the project layout, these must be addressed through legislative action (i.e. overlay zone).

Density

The applicant is entitled to use the property consistent with the requirements of the underlying zone, R-1-9, that would allow a single-family dwelling on 9,000 square foot lot with at least 90 feet of frontage. The Planned Residential Community with the RMO-1 Overlay Zone approval permits all units (single-family and twin home units) to have a minimum average area of 5,400 square feet per unit. This density is average throughout the development to allow for enhanced utilization of green space and amenities. As proposed, the average lot area per unit is 6,380 square feet. The Planning Commission and City Council will need to determine if the proposed number of units and the mix of housing product is appropriate in this neighborhood. Although the average lot area exceeds the minimum requirement of the overlay zone, the Planning Commission and City Council may alter the number of units, proportion of single-family/two-family structures, etc.

Project Layout and Design

The applicant is proposing to create a small-scale community in an existing residential area. The community will consist of clustered housing units (twin homes and single-family) accessed from public streets. Planned Residential Community architectural requirements ensure that homes will engage with public streets through street-facing orientation and strong architectural elements, such as porches, porticos, windows, and rooflines. Homes are required to engage with open areas, to avoid “walling off” green space. The applicant must obtain approval of the following:

- Use of an alternate street cross-section. The applicant is requesting approval of a 44' right-of-way with 30' as asphalt, and curb, gutter and sidewalk on both sides of the street. The roads are proposed to be dedicated to Payson City to be used as public streets. It is also proposed the garage access for Units 3-13 be accommodated by a private alley. The width of the alley must satisfy the minimum requirements of the Payson City Fire Department.
- Internal setbacks. The structures satisfy the required perimeter setback of 25 feet. Internal setbacks within the community must be appropriate for the neighborhood style and approved by the land use authority. The distance between buildings varies from 10 feet to 16 feet. The Planning Commission and City Council will need to determine if the proposed internal setbacks are appropriate.
- Project fencing. The Planning Commission and City Council will need to determine if project fencing is necessary. At a minimum, staff would suggest that fencing be required along the north property line to separate potential incompatible land uses (commercial/residential). Land use transition requirements must be implemented along the north property line.
- Open space and amenity plan. The applicant is proposing a small open space area with a play area south of Unit 26. The Planning Commission and City Council will need to determine if the open space area and proposed amenities are sufficient for the number of units proposed. Additional information will need to be provided regarding the use, ownership, and improvements of the open space area.

If approval is granted, the applicant will need to prepare project drawings (preliminary plan, construction drawings, final plat) for review by staff, the Planning Commission and City Council. The drawings must be consistent with the overlay zone approval and adopted ordinances, and all improvements completed consistent with the specifications of Payson City. Each lot/unit must have access to municipal services, including drinking water, pressurized irrigation, wastewater, and power service.

Housing Product

The City Council has imposed specific design criteria for structures included in a Planned Residential Community. The Planning Commission and City Council will need to determine if the proposed housing product is consistent with the adopted design guidelines. Building materials, dwelling size and height, general architecture and other design details should be conditions of approval and included in a development agreement recorded in the office of the Utah County Recorder.

Subdivision Approval and Compliance with City Regulations

City staff has completed a review of the proposed project for compliance with the applicable requirements of the Payson Municipal Code. However, it must be noted that the review was limited to the proposed use of the RMO-1 Overlay Zone. Additional information and review is necessary for the division of land to accommodate the subdivision. The applicant must properly address the requirements of the land use and development ordinances for the project (overlay and subdivision).

The Planning Commission and City Council may require additional information in order to make a well-informed decision or impose additional conditions to ensure the new structures will satisfy the purpose and objectives of the RMO-1 Overlay Zone and the land use goals of the City Council.

Recommendation

The applicant is seeking approval for use of the RMO-1, Two-Family Residential Overlay Zone to accommodate a Planned Residential Community in the R-1-9, Residential Zone. The Planning Commission will need to determine if the applicant has adequately addressed the provisions of Section 19.6.8 of the Zoning Ordinance and the construction of six (6) single-family dwellings and twelve (12) twin home structures is suitable in this location.

Approval of the RMO-1 Overlay Zone is similar to a zone change request. The Planning Commission is under no obligation to recommend approval and the City Council is under no obligation to approve the use of the overlay zone. The applicant is entitled to use the property consistent with the requirements of the underlying zone, R-1-9,

that would allow a single family dwelling on a 9,000 square foot lot with at least 90 feet of frontage. Following a public hearing to receive public comment, the Planning Commission may:

1. Remand the request of the applicant back to staff for further review. The Planning Commission should select this option if it is determined that the applicant has not provided enough information for the Planning Commission to formulate and forward a well-informed recommendation to the City Council.
2. Recommend approval of the request for use of the overlay zone contingent upon the satisfaction of conditions. Staff would suggest that if the Planning Commission recommends approval for use of the overlay zone contingent upon the satisfaction of Section 19.6.8 and appropriate conditions, the applicant will be required to develop the property consistent with the regulations of the development ordinances and the land use goals of Payson City.
3. Recommend denial of the use of the overlay zone. The Planning Commission should select this option if it is determined that the proposed development is not the preferred infill option for the subject property.

Each recommendation of the Planning Commission should include findings that indicate reasonable conclusions for their recommendation.