

WASHINGTON CITY
CITY COUNCIL MEETING
STAFF REVIEW

HEARING DATE: October 14, 2020

ACTION REQUESTED: Amended Final Plat approval for the Pine View Estates, Phase 1 subdivision, located at approximately 1977 West Alondra Drive.

APPLICANT: Michael and Sandra Day

OWNER: Same

ENGINEER: Bush and Gudgeon Inc.

REVIEWED BY: Drew Ellerman, Community Development Director

RECOMMENDATION: Recommend approval with conditions

Background

The applicant is requesting approval of an Amended Final plat for the Pine View Estates, Phase 1 subdivision, located at approximately 1977 West Alondra Drive. The reason for this amendment request is simply to split lot number 1 of the subdivision into lot 1A (0.49 ac. in size) and lot 1B (0.55 ac. in size). The subdivision size and acreage remains the same as the originally approved subdivision.

This item was tabled at the September 2nd, 2020 Planning Commission meeting. The reason for the tabling was to allow for the applicant to provide a copy of the CC&R's in regard to whether or not there are stated minimum lot sizes within the CC&R's and subdivision itself. A copy is provided, and staff has found no stated minimum lot size regulated by the CC&R's.

There is also no minimum lot size as per zoning due to the fact that this subdivision is zoned PUD (approved back in the 1990's) with no specified design guidelines or any other regulating criteria pertaining to the zoning itself.

Staff has reviewed the proposed amended final plat and finds it conforms to the PUD zoning of this development. The subdivision also remains in compliance with the Subdivision Ordinance of the City. The Planning Commission reviewed this request at their September 16, 2020 meeting.

Recommendation

The Planning Commission unanimously recommended approval of the Amended Final Plat for the Pine View Estates, Phase 1 subdivision - splitting Lot #1 into lots 1A and 1B, onto the City Council, based on the following original findings and subject to the following original conditions:

Findings

1. The amended final plat meets the land use designation as outlined in the General Plan for the proposed area.
2. That the amended final plat conforms to the Washington City Zoning Ordinance and Subdivision Ordinance as outlined.

Conditions

1. All improvements shall be completed or bonded for prior to recording the final plat.
2. A current title report policy shall be submitted prior to recording the final plat.
3. Any referenced control monuments related to this subdivision shall be in place prior to recordation of the final plat. A stamped and signed letter from a professional land surveyor licensed in the state of Utah that verifies that the referenced control monuments are in place shall be submitted to the Community Development Department for filing prior to plat recordation.
4. Where applicable, in the General Notes where the terms "Home Owners Association", or "Property Owners", shall be changed to read as "Property Owners and/or Home Owners Association".
5. That a post maintenance agreement be recorded prior to the recording of the final plat.

Conditions

1. Only those items as listed and as shown on the attached exhibits are allowed on the site. No other items will be allowed on the premises without additional approval from the city.
2. Building permits will be required for the work performed as part of this amended Conditional Use Permit.

Commissioner Hollie asked when they added are the cross arms the same or larger.

Larson Quick from T Mobile stated they will not be expanding the current antennae.

Commissioner Hansen asked what the reason for the addition was.

Mr. Quick answered because of the Sprint merger.

Commissioner Hansen asked if there is still room for additions.

Larson Quick answered Yes, there is still room for additions. We did the engineering and the three antennas will make up 75% of maximum capacity, so there will be room for one more.

Commissioner Smith opened the public hearing.

Danice stated there is one comment.

Commissioner Hollie motioned to close the public hearing.

Commissioner Hansen seconded the motion.

Motion passed unanimously.

Commissioner Hansen motioned to approve the conditional use permit to expand to the existing cell tower.

Commissioner Hollie seconded the motion.

Motion passed unanimously.

6. PLAT AMENDMENT

- a. Public Hearing for consideration and recommendation to City Council for Pine View Estates Phase 1 Plat Amendment located at approximately 1977 West Alondra Drive. The purpose is to split the current lot into 2 lots. Applicants are Michael and Sandra Day.

Background

Drew Ellerman reviewed the report: The applicant is requesting approval of an Amended Final plat for the Pine View Estates, Phase 1 subdivision, located at approximately 1977 West Alondra Drive. The reason for this amendment request is simply to split lot number 1 of the subdivision into lot 1A (0.49 ac. in size) and lot 1B (0.55 ac. in size). The subdivision size and acreage remains the same as the originally approved subdivision.

Staff has reviewed the proposed amended final plat and finds it conforms to the PUD zoning of this development. The subdivision also remains in compliance with the Subdivision Ordinance of the City.

Recommendation

Staff recommends that the Planning Commission recommend approval of the Amended Final Plat for the Pine View Estates, Phase 1 subdivision - splitting Lot #1 into lots 1A and 1B, onto the City Council, based on the following original findings and subject to the following original conditions:

Findings

1. The amended final plat meets the land use designation as outlined in the General Plan for the proposed area.
2. That the amended final plat conforms to the Washington City Zoning Ordinance and Subdivision Ordinance as outlined.

Conditions

1. All improvements shall be completed or bonded for prior to recording the final plat.
2. A current title report policy shall be submitted prior to recording the final plat.
3. Any referenced control monuments related to this subdivision shall be in place prior to recordation of the final plat. A stamped and signed letter from a professional land surveyor licensed in the state of Utah that verifies that the referenced control monuments are in place shall be submitted to the Community Development Department for filing prior to plat recordation.
4. Where applicable, in the General Notes where the terms "Home Owners Association", or "Property Owners", shall be changed to read as "Property Owners and/or Home Owners Association".
5. That a post maintenance agreement be recorded prior to the recording of the final plat.

Mr. Ellerman asked that the engineer correct the lot labeling to lot 1A and 1B.

Commissioner Smith asked because this is an amendment do the residents have to sign off on the amended plat?

Mr. Ellerman stated that is why the city holds the public hearing and every property owner in the subdivision gets notice.

Commissioner Hollie asked what the intent for the second lot was.

Mr. Ellerman stated his understanding is that the property owner is using it to build a home for his son.

Commissioner Hansen asked about the setbacks.

Mr. Ellerman answered that both homes would have to meet the setbacks even with the driveway.

Commissioner Hansen stated his concern is that when the next property owner would have to meet the setbacks.

Mr. Ellerman answered that both homes have to meet the setbacks regardless of the driveway or who owns the property.

Commissioner Scheel asked if this opens the door for additional flag lots.

Mr. Ellerman stated there are some concerns with additional requests but the zoning allows it and the CC&Rs don't restrict it.

Commissioner Hansen asked what the comments were from the citizens.

Kathy Spring stated that there are two concerns. One is that this sets a precedent for splitting lots and the other is that people in the subdivision are doing apartments and additional buildings that they rent out.

Commissioner Musso asked if this is setting a precedent for splitting lots.

Mr. Ellerman stated he doesn't have a concern.

Brandon Wright stated public works doesn't have any concerns.

Commissioner Hollie asked if residents are doing additions to do apartments or are splitting the lot.

Mr. Ellerman stated he is aware of people turning additions to their houses and additional buildings into apartments and they don't have a building permit.

Commissioner Hansen asked what the ramifications of doing this were.

Mr. Ellerman stated that they could be cited for doing it.

Commissioner Hansen asked if the CC&Rs could state that this isn't allowed.

Mr. Ellerman stated the CC&Rs would have to state that this isn't allowed. They could change the zoning to minimum lot sizes or amend the CC&Rs.

Commissioner Hansen stated he is feeling a little uncomfortable with this request because the citizens don't appear to be in favor of subdividing.

Mr. Ellerman stated he has asked the applicant if their CC&Rs restrict it. He researched the zone change and there wasn't any information.

Commissioner Scheel asked about animal rights.

Mr. Ellerman stated that some have animal rights.

Commissioner Hansen asked if the adjacent lot could do this as well.

Mr. Ellerman answered yes.

Tara Pentz stated there are multiple comments.

Commissioner Musso stated the comments address CC&R and what is the size limit of the casita.

Mr. Ellerman answered the casita or detached accessory building would be 650 square feet.

Commissioner Hollie commented that Mr. Christensen stated there is something in their CC&Rs that is prohibited.

Mr. Ellerman explained that there wasn't a specific quote.

Commissioner Hollie asked about lot 3 and how they can have two homes.

Commissioner Scheel stated it could be a large garage.

Mr. Ellerman stated that a garage could have an attached casita.

Commissioner Hansen explained he has just learned through his own experience with CC&Rs. He stated that the Day's seem to have a right to do the request.

Commissioner Hollie stated the citizens should have presented specific restrictions in their CC&Rs,

Mr. Ellerman stated he would like to see it and would bring it to the City Council.

Commissioner Hansen said his CC&Rs state that there is only one main structure and can't be divided.

Jeff Starkey stated that the city doesn't enforce CC&Rs because they are private. If they come to the city with a problem we inform them that the city doesn't enforce CC&Rs. The city doesn't get into private rules of a subdivision. We shouldn't base a decision on CC&Rs but we can take a look at what would be a restriction on a request from an applicant.

Commissioner Hollie stated that Mr. Ellerman has always said that we don't enforce CC&Rs. We are to consider the ordinance set by the city.

Commissioner Hansen stated he would like to see the CC&Rs. He stated that Lot 3 has already set a precedence.

Commissioner Smith asked Mr. Starkey if a plat is amended does the public hearing take place of the signing of the plat.

Mr. Starkey answered that Mr. Ellerman is correct that the public hearing is for the purpose to see if there is opposition to the request and to consider the opposition.

Commissioner Smith stated he agrees with the CC&Rs comments but he is concerned with the citizen in opposition to amending the plat.

Mr. Starkey explained there are people that have stated their opposition. If the zone was 1 acre they would not be able to subdivided. This is an old PUD and didn't have any standard to the lot sizes.

Commissioner Hollie asked Mr. Starkey if the zone was straight zoning they would have been allowed to come with this request.

Mr. Starkey answered that is correct and Mr. Ellerman would have looked at the PUD density to see if it would allow for additional lots. He explained that with this old PUD there isn't much information.

Commissioner Hansen motioned to close the public hearing.

Commissioner Hollie seconded the motion.

Motion passed unanimously.

Commissioner Musso states there are some lots that have large out buildings. He stated his concern is setting a precedent for doing this.

Commissioner Hollie stated he would rather they come in with a request than to do it without a building permit.

Commissioner Musso stated he would like to have some of the residents come up with the specific restrictions of their CC&Rs.

Mr. Ellerman stated that he would recommend tabling this to give people evidence of their CC&Rs or they can move it forward. He stated he wouldn't recommend changing the CC&Rs before this is decided.

Commissioner Hollie asked if they bring in CC&Rs with information how does that influence them when we don't enforce CC&Rs.

Mr. Ellerman stated if they brought something in we could see if they should be asking for this but again we don't enforce CC&Rs. He stated he is just trying to keep this out of court.

Commissioner Hansen asked Mr. Ellerman why he recommended approval.

Mr. Ellerman answered that he asked the applicant to bring in any information they had in the CC&Rs but they couldn't find it.

Commissioner Musso stated he feels that this should be tabled to give time to sort things out.

Commissioner Hansen stated he agrees with tabling because if the CC&Rs don't have it he would agree with the applicant.

Commissioner Musso motioned to recommend tabling to September 16, 2002 to allow time to research CC&Rs to see if there is language that would restrict or allow the request.

Commissioner Hollie seconded the motion.

Motion passed unanimously.

- b. Public Hearing for consideration and recommendation to City Council for Wilbur Acres Plat 3rd Amendment located at 960 South 1900 East. The purpose of this amendment is to amend lot 2 to change the common property in the rear. Applicants are Fred and Mary Buksa.

Public comment for this item will be accepted at: washingtoncity.org/meetings until the close of the public hearing by the commission.

Background

Drew Ellerman reviewed the report: The applicant is requesting approval of an Amended Final plat for the Wilbur Acres Amended No. 3 subdivision, located at approximately 960 South 1900 East. The reason for this amendment request is simply to turn the "limited common area" associated on lot #2, into private ownership for lot #2. This kind of change occurred on other lots within this specific subdivision on previous occasions. Lot #2 was not part of those previous amendments, but is now taking advantage of turning its limited common area into private ownership.

Staff has reviewed the proposed amended final plat and finds it conforms to the Heavy Industrial (I-2) zoning of this development. The subdivision also remains in compliance with the

Commissioner Hansen asked if this is adjacent to the R-1-15 that they just approved.

Mr. Ellerman replied yes. He explained that the smaller Washington County parcel showing on the exhibit will be annexed into the city.

Danice Bulloch stated there were not any public comments.

Public comment for this item will be accepted at: washingtoncity.org/meetings, until the close of the public hearing by the commission.

Commissioner Hansen motioned to close the public hearing.

Commissioner Phetsomphou seconded the motion.

Motion passed unanimously.

Commissioner Smith asked about the lot sizes of the subdivision to the north.

Mr. Ellerman answered they are about 8,000 to 9,000 square foot lots.

Commissioner Smith asked if there is only one access to the subdivision to the north.

Mr. Ellerman stated that they will probably have to match up with Harvest Lane

Commissioner Scheel asked what the general plan is for the St George property.

Mr. Ellerman answered he didn't know for sure. Probably as high a price as they can get, maybe commercial.

Commissioner Phetsomphou asked what happened to the plan on the corner.

Mr. Ellerman stated that they moved their project.

Commissioner Hansen motioned to recommend approval to the City Council with the findings and recommendations of staff.

Commissioner Scheel seconded the motion.

Motion passed unanimously.

6. PLAT AMENDMENT

- a. Tabled from September 2, 2020: Public Hearing for consideration and recommendation to City Council for Pine View Estates Phase 1 Plat Amendment located at approximately 1977 West Alondra Drive. The purpose is to split the current lot into 2 lots. Applicants are Michael and Sandra Day.

Background

Drew Ellerman reviewed the report: This item was tabled at the September 2nd, 2020 meeting. The reason for the tabling is to allow for the applicant to provide a copy of the CC&R's in regard to whether or not there are stated minimum lot sizes within the CC&R's and subdivision itself. A copy is provided, and staff has found no stated minimum lot size regulated by the CC&R's.

The applicant is requesting approval of an Amended Final plat for the Pine View Estates, Phase 1 subdivision, located at approximately 1977 West Alondra Drive. The reason for this amendment request is simply to split lot number 1 of the subdivision into lot 1A (0.49 ac. in size) and lot 1B (0.55 ac. in size). The subdivision size and acreage remains the same as the originally approved subdivision.

Staff has reviewed the proposed amended final plat and finds it conforms to the PUD zoning of this development. The subdivision also remains in compliance with the Subdivision Ordinance of the City.

Recommendation

Staff recommends that the Planning Commission recommend approval of the Amended Final Plat for the Pine View Estates, Phase 1 subdivision - splitting Lot #1 into lots 1A and 1B, onto the City Council, based on the following original findings and subject to the following original conditions:

Findings

1. The amended final plat meets the land use designation as outlined in the General Plan for the proposed area.
2. That the amended final plat conforms to the Washington City Zoning Ordinance and Subdivision Ordinance as outlined.

Conditions

1. All improvements shall be completed or bonded for prior to recording the final plat.
2. A current title report policy shall be submitted prior to recording the final plat.
3. Any referenced control monuments related to this subdivision shall be in place prior to recordation of the final plat. A stamped and signed letter from a professional land surveyor licensed in the state of Utah that verifies that the referenced control monuments are in place shall be submitted to the Community Development Department for filing prior to plat recordation.

4. Where applicable, in the General Notes where the terms “Home Owners Association”, or “Property Owners”, shall be changed to read as “Property Owners and/or Home Owners Association”.

5. That a post maintenance agreement be recorded prior to the recording of the final plat.

Commissioner Hansen stated he doesn't have a problem with this request but is concerned with the violations that were found with this request.

Mr. Ellerman stated he goes after violations by complaint or is something that he sees. He stated he has turned in some violations.

Commissioner Hansen stated he has talked to some of the citizens especially the one that has an additional house in the backyard. He stated he appreciates this applicant for coming in to do the right process.

Mr. Ellerman stated after he read the CC&Rs they need 75% of the people in the subdivision to change their CC&Rs or do straight zoning.

Commissioner Hansen stated he would add a condition that there should be something done about the other violations and would like City Council to give a directive to investigate them.

Commissioner Scheel stated the applicant is doing the process the right way and by doing this it makes the property sellable.

Commissioner Smith stated he didn't see a problem in the CC&Rs but amending the final plat would have to agree to it. He stated that the public hearing covers the requirement to sign the plat. He stated his concern is that if the public doesn't agree there would be a problem with consenting.

Mr. Ellerman stated that the violators didn't ask for consent.

Commissioner Hansen stated that they should have changed their CC&Rs.

Mr. Ellerman stated that others have said that years ago someone tried it and it was turned down 20 some years ago and that should have been the time to change the CC&Rs.

Commissioner Hollie joins the meeting.

Commissioner Hansen asked the Day's if there has ever been talk about changing the CC&Rs.

Mr. Day stated that they have lived there for about 20 years. He stated that many years ago there was an architectural committee but they haven't had one for a long time. He stated there are rental units and a lot of illegal uses in the Pine View Estates subdivision.

He stated that his next door neighbors are okay with this. He stated he was alarmed to hear the objections because there are so many violations.

Commissioner Hansen asked if Mr. Day knew of the additional rental property.

Mr. Day stated that it was originally built for a mother in law building.

Commissioner Musso stated that in the CC&Rs there isn't any stipulation for the lot size.

Commissioner Hansen stated he thought he read that the lots have to be ½ acre.

Mr. Day stated he doesn't think there are any restrictions. He stated that there are some lots that are smaller than a half acre.

Commissioner Scheel asked what the plan for the house was.

Mr. Day stated it would be about 1,600 square foot one story and off of Sandia.

Mr. Ellerman stated he can't not use Sandia.

Mr. Day stated that there aren't horse rights.

Commissioner Hollie stated that the CC&Rs allow for horses but the city would not allow it due to the zoning.

Commissioner Hansen asked about the concern of changing a final plat and the approval of the citizens.

Commissioner Smith stated that the only difference is that it only affects this one lot. If it was something larger he would have more concern. He stated he doesn't have too much of a problem with this.

Commissioner Hansen asked if others could do this if they don't change their CC&Rs.

Commissioner Smith answered yes. He said that this is a little different because it is on a corner lot that is creating a flag lot.

Commissioner Hansen stated he is concerned if they approve this one and not others.

Attorney Starkey stated that it is good to be concerned with setting a precedent. He stated that Commissioner's Smith statement that this is a corner lot gives a basis why this isn't a precedent.

Mr. Day stated that at the corner of Sandia and Cimarron has already made the precedence.

Mr. Ellerman stated it is a shop. He restores vehicles with a lift, that is why the roof is so high.

Commissioner Hansen stated he would like the citizens in this subdivision to change their CC&Rs to allow it or not allow it if they don't want this to continue.

Commissioner Scheel stated he agrees with Commissioner Hansen. He stated that the people in the subdivision need to look at the future.

Commissioner Musso stated that when splitting property you have to redo your loans and may change the value of the property.

Commissioner Hansen stated his concern is future property owners and what problems will occur.

Commissioner Smith stated that the reason this item was table was to view the CC&Rs.

Mr. Day stated they own the property and will remain in the house for the rest of his life and he wants to have family nearby.

Commissioner Musso motioned to recommend approval to City Council with the findings and conditions of staff.

Commissioner Hollie seconded the motion.

Commissioner Musso Aye

Commissioner Hollie Aye

Commissioner Hansen Aye

Commissioner Phetsomphou abstained.

Commissioner Scheel Aye

Commissioner Smith Aye.

Motion passed unanimously.

Mr. Ellerman stated that there will be a meeting September 30, 2020 combined with the Planning Commission and City Council at 6:00 PM at City Hall.

Commissioner Hollie motioned to adjourn the Planning Commission Meeting.

Commissioner Hansen seconded the motion.

Motion passed unanimously.

Meeting adjourned: 6:55 PM

Washington City

Signed By: _____


Jason Smith, Chairperson

Attested to: _____

Kathy Spring, Zoning Technician