

## **ZONING ORDINANCE CHANGE PETITION REVIEW REPORT**

<b>Petition Number:</b>	Z 22-01
<b>Petitioner:</b>	City of Ballwin 1 Government Ctr. Ballwin, MO 63021
<b>Project Name:</b>	Waterford Subdivision (2020) Rezoning
<b>Requested Action:</b>	Zoning Ordinance Change
<b>Public Hearing Date:</b>	November 7, 2022
<b>Code Section:</b>	Zoning Ordinance, Article VI
<b>Location:</b>	Waterford Subdivision
<b>Existing Land Use/Zoning:</b>	County Residential/ R-4
<b>Surrounding Land Use/Zoning:</b>	North – City of Ellisville Boundaries South – City of Ellisville Boundaries West – Residential/R-3 East – City of Ellisville Boundaries
<b>Plan Designation:</b>	Not in Plan

## **Project Description:**

Effective on January 1, 2021, Waterford subdivision was officially annexed into and became a part of the City of Ballwin. The subdivision comprised the entirety of a pocket of Unincorporated St. Louis County between the cities of Ballwin and Ellisville remaining from the 1999 Southwest Annexation. The subdivision is bounded on three sides by the City of Ellisville and from the west, Ballwin's former city limits. The annexation was championed by the local residents who obtained a petition containing signatures of not less than 75% of the residents of the subdivision, allowing the City of Ballwin to undertake an annexation process known as a Simplified Boundary Change: Annexation. In the Plan of Intent that Ballwin filed with the Boundary Commission of St. Louis County, Ballwin stated that it would change the zoning district designation in this area from the current County zoning to the closest approximate Ballwin zoning classification that was appropriate.

According to Missouri case law, the zoning district classification of an annexed property cannot automatically change as the result of an annexation. Ballwin's former process in the 1970s, whereby the zoning of an annexed property automatically changed to a single family residential classification upon annexation was involved in a lawsuit (*Dahman v. City of Ballwin*, 1972). It was determined by the court not to be a valid exercise of a municipality's zoning authority, although it had been a common practice by many municipalities at the time to automatically rezone newly annexed properties. The court ruled that properties annexed by a jurisdiction retain their previous zoning district classification until the district classification is formally changed.

This petition serves as the beginning of the formal process to change the zoning classification of the area within the 2020 Waterford Subdivision Annexation Area from the current St. Louis County R-4 zone to the Ballwin R-3 Single Family Dwelling District.

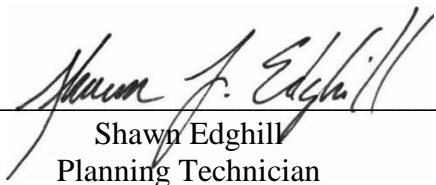
### **Zoning Ordinance Requirements Appendix A, Article VI (Residential/ R-3 District):**

- Article VI, Section 1 is a general introductory statement and imposes no design or plan requirements so it is not germane to this review.
- Art. VI, Sec. 2 establishes uses allowed by right in the R-3 district. The subdivision is made up of 27 parcels, 26 of which are detached single-family residences. The remaining parcel is a common ground located at 224 Reinke Rd containing a detention basin. The land uses located within the subdivision are compliant with our list of permitted land uses in the R-3 district.
- Art. VI, Sec. 3 establishes a height limitation of 45'. All residential structures within the subdivision are pre-existing. Any future structures proposed in the subdivision will be required to meet the height limitation.
- Art. VI, Sec. 4 (1) establishes a front yard depth of not less than 20', which matches with St. Louis County's currently applied R-4 district and should not result in any non-conformities.
- Art. VI, Sec. 4 (2) establishes a side yard depth of 8'. St. Louis County's R-4 district requires 6'. Any pre-existing structures or structures under review by the City of Ballwin which are not compliant with the R-3 side yard regulation will be considered grandfathered in. Any future structures proposed following the effective date will be required to meet the new side yard requirement.

- Art. VI, Sec. 4 (3) establishes a rear yard depth of not less than 15', which matches with St. Louis County's currently applied R-4 district and should not result in any non-conformities.
- Art. VI, Sec. 4 (4) refers to the allowed intensity of use, wherein every lot shall have an area of not less than 20,000 square feet. A caveat is provided in Art. IV, Sec. 4(a), wherein it states that if the lot is recorded prior to June 1, 1991, such lot may be used for a single-family dwelling. The subdivision was constructed 1989-1990 and was platted using St. Louis County's Density Development procedure, allowing for flexibility in lot sizes and design in low-density residential zoning categories. Lot sizes in the subdivision range from 6,000 square feet to 14,638 square feet. The aforementioned caveat under Section 4(a), allows for the lots to be rezoned to Ballwin's R-3 without the issue of non-conformity.
- Art VI, Sec. 4 (5) refers to the minimum width of the lots, wherein it states that no building shall be erected on any lot having a width of less than 100 feet at the street line, with a caveat under Art. IV, Sec. 4 (5) (b), permitting for a reduction of the minimum lot width to 70 feet at the street line with the condition that the lot has access to and buildings thereon are connected to a sanitary sewer. The subdivision is fully built out, however, for the sake of any future need for new construction, it should be noted that the Planned Environmental Unit (PEUs) applied to this area for denser development under St. Louis County at the time when this subdivision was platted permitted many lots in Waterford to have widths as low as 60 feet. Similar PEUs apply to other subdivisions within the County's R-3 and R-4 districts, and were applied to subdivisions such as Oakwood Farms prior to Ballwin's annexation and rezoning in 1999 and 2003, respectively. It is my consideration that Ballwin's R-3 is the still most appropriate zone regardless of this fact, and that any lot within this subdivision with a lot width lower than the 70 foot minimum provided under Art. IV, Sec. 4 (5) (b), should be considered for variance to permit construction of a detached single-family dwelling unit.
- Art. VI. Sec. 4(6) refers to dwelling area regulations. Given that the subdivision is built out, no pre-existing residential structures will be held accountable to these regulations. Any future structures proposed in the subdivision will be required to meet the dwelling area requirements.

#### **Staff Comments:**

The primary reason for adopting Ballwin zoning district classifications in annexed areas is that the County zoning classifications frequently allow conditional uses that are not allowed in similar Ballwin districts. The County zoning code utilizes different procedures, ancillary regulations, and standards that do not blend with Ballwin's ordinances. Adopting Ballwin zoning district classifications in the annexed area makes for greater consistency across all of Ballwin's residential neighborhoods and minimizes the possibility of an unacceptable land use or activity being established or forced into a neighborhood due to inconsistencies with zoning district regulations. A map of Ballwin showing the annexed area zoning plan and copies of the St. Louis County and Ballwin district regulations are attached.

  
 Shawn Edghill  
 Planning Technician