

# SUPPLEMENTAL STAFF REPORT

## PLN-MAR-24-00008 3743 FREEDOM, LLC



### LETTER OF JUSTIFICATION

In the supplemental letter of justification, the applicant provides a greater amount of information about the changes within the area that they opine make the current 60,000 square-foot maximum building area conditional zoning restriction inappropriate. The applicant first states that there were physical factors of the site that were not considered at the time of the application in 2017 that make the R-4 zone restriction condition inappropriate. The 60,000 square-foot restriction was offered by the original applicant in 2017 to accommodate the size of the planned senior residential use, while retaining the existing buildings that were associated with Bluegrass Baptist School. The approved preliminary development plan associated with the 2017 rezoning listed the size of the existing school building as 15,012 square feet. During the review for this proposal, the current applicant has found that the original plan did not correctly account for the usable basement space in the structure, which would bring the size of the structure up to 21,012 square feet. As a result, the total size of development within the R-4 zoned portion of the site on the approved preliminary plan is 64,036 square-feet, which exceeds the 60,000 square-foot limit that was allowed based on the conditional zoning restriction. Based on that information, the applicant contends that the original condition was inappropriate, as it was too small to accommodate the corresponding development plan that was approved by the Planning Commission.

Additionally, the applicant contends that there have been social changes in the demographic makeup in the area that make increasing the size restriction to accommodate additional senior housing appropriate. To demonstrate the changes, the applicant has provided census population data from the time of the original Map Amendment Request in 2017, as well as current data from 2024. Based on the statistics provided by the applicant, the Census Tract 40.01, which the subject property is located in experienced only minor overall population growth during this time, with an increase of 2.01% in the total number of residents since 2017. However, during that same time period, the number of individuals aged 60 and older within this census tract has significantly rose, up 14%. Additionally, the number of individuals in the oldest age demographic band (85 years and older), experienced an increase of 120.51% from 2017 to 2024 for this tract. The applicant opines that an increase in the scope of the project is needed in order to address the changing population of the neighborhood and the corresponding growing need for senior affordable housing.

Finally, the applicant cites economic factors they opine have changed since the 2017 rezoning. The applicant states that since the 2017 rezoning, development costs have risen significantly, claiming their construction costs have increased over 30% in that time period. The applicant opines that increases in development cost necessitate an increase in the number of overall units and building size in order for development of the site to remain viable. While the economics of the applicant's proposed development do provide insight into the changes of scope from the 2017 proposal, the increase in development costs is a larger trend that is not specific to this particular property or area, and does not meet the threshold required by the ordinance to amend conditional zoning restrictions.

While staff disagrees with the applicant's economic justification, staff agrees that there are social and physical changes in the area that were not anticipated when the original conditional zoning restrictions were placed on the property, and that make the current restriction inappropriate. The applicant's proposed modified condition more accurately accounts for existing development, retains a cap on the total amount of development on the parcel to ensure neighborhood compatibility, while providing necessary affordable senior housing for an area that has a growing senior population.

### PUBLIC ENGAGEMENT

In the initial staff report, staff emphasized the need for the applicant to conduct further outreach with the surrounding neighborhood. The applicant indicated that they attempted to arrange an on-site meeting with

members of the Riverpark neighborhood, but that neither of the two existing neighborhood contacts on file were able to be reached. At this time, staff has not received any letters of opposition or calls responding to the mailed notice or sign posting on the property.

**STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASONS:**



1. The miscalculation of the size of the existing school structure at is a difference in the physical character of the site that was not considered at the time of the 2017 zone change, which makes the current conditional zoning restriction in the Medium Density (R-4) zone inappropriate.
2. There has been a significant increase within the elderly population within Census Tract 40.01 that constitutes a social change, and results in a greater need for senior affordable housing within the immediate area.
3. The conditional zoning restriction unreasonably restricts the utilization of the subject property, and would prohibit the development that was approved by the Planning Commission within the corresponding Preliminary Development Plan from 2017.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following amended use restrictions shall apply:
  - A. Principal Permitted uses Within P-1 zoned area shall be limited to only the following:
    1. Offices for business, professional, governmental, civic, religious and charitable organizations
    2. Schools for academic instruction.
    3. Medical and dental offices and clinics.
    4. Studios for work or teaching of fine arts.
    5. Places of religious assembly and Sunday schools.
    6. Nursing homes, personal care homes, and assisted living facilities.
    7. Kindergartens, nursery schools or child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain twenty-five (25) square feet per child.
    8. Beauty shops and barber shops, not exceeding 2,000 square feet in floor area, which employ no more than five licensed cosmetologists.
    9. Adult day care centers.
  - B. Accessory Uses within the P-1 zone shall be limited to only the following:
    1. Parking areas or structures.
    2. Non-commercial recreational uses listed in the P-1 zone.
  - C. Conditional Uses within the P-1 zone shall be limited to only the following:
    1. Offices of veterinarians, and animal hospitals (without overnight boarding).
    2. Parking lots and structures.
  - D. Conditional Uses within the R-4 zone shall be limited to only the following:
    1. Permitted conditional uses in the R-1A zone.
    2. Nursing homes, personal care homes, and orphanages.
    3. Assisted living facilities, boarding and lodging houses, and hospitality houses for more than eight(8)persons, provided that no use under this section may be less than 500 feet from another use permitted under this section.
    4. Community centers (without overnight accommodations).
    5. Kindergartens, nursery schools or child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain twenty-five (25) square feet per child.
    6. Parking lots, as permitted in Article 16-3 of the Zoning Ordinance.

E. Other Use Restrictions:

1. The P-1 zoned land shall be limited to a maximum 3,000 square-foot, one-story building. Signage for such building shall be limited to one wall-mounted, non-illuminated sign, and shall be a maximum of ten (10) square feet in size.
2. The R-4 zoned land shall be limited to a maximum of 80,000 square feet of total floor area.
3. A landscape buffer of at least fifteen (15) feet in width shall be provided along the southern and eastern property boundaries, with plantings as specified by Article 18-3(a)(1)2 of the Zoning Ordinance, including a 6-foot tall privacy fence.
4. Outdoor lighting shall be shielded and directed away from any adjacent residential zone. Lighting attached to a pole or any structure shall be a maximum of twenty (20) feet in height.
5. No drive-through facilities shall be permitted on the subject property.

These use and buffering restrictions are appropriate and necessary to ensure greater compliance with the 2045 Comprehensive Plan, and to protect the adjoining residential land uses from development that is out of character with the existing neighborhood,

5. This recommendation is made subject to approval and certification of PLN-MJDP-24-00033 Melody Village Unit 3-C Blk C Lot 12 (Freedom Senior Apartments), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.