

RE: AN ORDINANCE OF THE NIXA CITY COUNCIL AMENDING THE OFFICIAL ZONING MAP BY CHANGING THE CLASSIFICATION OF APPROXIMATELY 17.37 ACRES LOCATED IN THE 700 BLOCK OF SOUTH ELEGANT DRIVE FROM SINGLE-FAMILY RESIDENTIAL (R-1) TO TWO-FAMILY RESIDENTIAL (R-4)

Background:

The property owner of approximately 17.37 acres of undeveloped property located in the 700 block of South Elegant Drive, has requested to rezone their property from Single-Family Residential (R-1) to Two-Family Residential (R-4). The property was originally annexed into the City of Nixa in 2005 as part of 118.8-acre parent parcel annexation. A preliminary plat featuring two-family (R-4) residential zoning and single-family (R-7, R-11) residential zoning districts no longer in used by the City, was approved in 2005 for the Richmond subdivision which contained the property in question. For the specific 17 acres in question, the original Richmond pre-plat from 2005 showed 38 single-family lots. Only one phase of the Richmond Subdivision was developed and since then the undeveloped portions have sold to different developers, a portion in 2019, developer, except for the 17 acres in question. CRM Built, LLC purchased the 17 acres in December of 2021.

Analysis:

Land Use

The property subject to the application is presently vacant and contains no buildings or structures. The subject property is bounded by South Elegant Drive to the east and south; Single-Family Structures to the north (Tiffany Highlands Subdivision) and west (The Ridge Subdivision).

The Future Land Use Designation map adopted as part of the 2006 update for the Nixa Comprehensive Plan, shows this parcel zoned single-family but also shows that there should be R-4 zoning adjacent to the subject property. That specific R-4 zoning was part of the original Richmond zoning and when the developers of the Forest Heights Subdivision purchased the property, they down zoned the R-4 property to single-family in 2019.

The proposed land use change is consistent with the Nixa Comprehensive Plans Land Use Chapter's locational criteria for residential housing for low density residential (page

79-80). Goal #4, Objective #4.A, Activity #4.A.i has three criteria to consider for low density residential (greater than 1 unit and up to 6 units per acre) could:

1. Include areas that are or can be adequately buffered from adverse impacts of adjacent land uses;
2. Be areas conducive to quiet residential settings;
3. Include pedestrian accessibility to neighborhood or multi-neighborhood shopping, educational and/or recreational facilities.

This rezone is supported by Goal #4, Objective #4.B of the Nixa Comprehensive Plans Land Use Chapter (pg. 81). The objective states to increase densities in residential neighborhoods when the proposed development demonstrates that it could be compatible with and complement existing residential neighborhoods. The activities associated with this objective are to have land ready to support the residential demands of the city and to promote more diversity in our residential housing stock.

Transportation

The subject property is primarily served by South Elegant Drive (Secondary Arterial) and will also access the stubbed-out road of East Southridge Street (Local). Traffic flows are to and from the subject properties will most likely flow to/from nearby East Mt. Vernon Street (Primary Arterial), which serves as a regional arterial. The transportation facilities serving the subject property for collection and arterial purposes have sufficient capacity to support residential traffic likely to be generated from the proposed zoning change.

Where the subject property will intersect with South Elegant Drive, as required by the provisions of the Nixa City Code, there will need to be a study of the probable traffic impacts at the time of development. That study will inform the nature and extent of physical improvements that will be needed to ensure the safe and efficient flow of traffic at these intersections.

The stubbed-out right-of-way sections of South Elegant Drive located along the north and south part of the subject property, are not necessarily the points of access for this property. This portion of South Elegant Drive was constructed as part of phase 1 of the Richmond subdivision. It connected the portion of South Elegant Drive that was constructed as part of Tiffany Highlands phase 3, to Old Bittersweet Road. If the northern stubbed out right-of-way were to be used as an access point to the subject property, it would be approximately 200 feet from East Diamond Avenue which would make that point of access a violation of Sec. 115-170(c) which states that no two streets may intersect an arterial street on the same side within 1,000 feet of each other therefore it cannot be approved as an access point. This code was in place at the time of construction of the Richmond subdivision.

Public Utilities (Water, Wastewater, Electric)

Municipal water, sanitary sewer, and electric utilities are immediately accessible to the site and are all sufficient in capacity to serve the proposed residential zoning change.

Stormwater Management

The development of the subject property will require the management of stormwater runoff to prevent flooding hazards as well as to promote water quality (both during construction and afterward). The subject property appears to contain no sinkholes. The property also does not contain any FEMA Flood Hazard Areas.

Other Public Services

The proposed zoning change could potentially add traffic to the City's jurisdiction, which will impact a variety of public services in proportion to those increases. Ideally, the impact of these additional patrons will produce economies sufficient to cover additional costs. The City's development regulation will require standards to be met to ensure sufficient access to the site for emergency response, rescue, and fire suppression.

Density

Current density standards for the R-4 zoning district is 5.45 dwelling units per acre. The site is 17.374 acres which will allow for a maximum of 94 dwelling units.
(17.374 X 5.45 = 94.68)

During the review of the density standards for this project, Staff identified an error in our recently updated density standards which caused our traditional transitional zoning method to be incorrect. In a normal transitional zoning system, when going from a commercial or industrial district to a low-density residential district, there would be a buffer from the commercial or industrial, down to the low-density residential. That buffer would normally consist of either high-density multifamily or medium-density multifamily before transitioning to the less dense residential. With our current density standards, we have flipped single-family residential and two-family residential. This means our two-family residential (R-4) zoned district is less dense than our single-family residential (R-1) zoned district. Current density standards for R-1 is 6.60 dwelling units per acre. For R-4 the current standard is 5.45 dwelling units per acre. When we use this 17-acre site as an example, if zoned R-1, the max number of dwelling units would be 114, compared to the 94 max dwelling units for the R-4 zoned district. The City will still maintain a transitional zoning model with two-family residential acting as a transition to single-family residential, until such time that the density standards can be updated.

Planning and Zoning Commission

A public hearing was held January 3, 2023, at the regular meeting of the Planning and Zoning Commission. During the public hearing, concerned neighbors of the subject property expressed a variety of concerns, potential rental properties will cause an increase in crime, increase in traffic and the impacts it could have on neighborhood kids playing in the area, decrease in property values, bad soil to build upon, stormwater impacts on the detention basin in the Richmond subdivision, traffic speed on Elegant, they feel this rezone does not comply with the Comprehensive Plan, overcrowded schools, and County roads in the area that cannot handle more traffic.

Another concern a neighbor expressed, was that this rezone is spot zoning. Spot zoning is when incompatible zoning is approved to be next to or amongst each other, without any approved plan (future land use map) showing that potential zoning arrangement. In this case, the two zoning districts in question are single-family residential and two-family residential. These are two residential zoning districts; they are compatible zoning districts. For example, if the property owner of this 17-acre site wanted to zone the property industrial, if approved, that would be spot zoning because the City does not have any adopted plans or language in the Comprehensive Plan to justify the zoning of industrial in the middle of single-family residential.

The Planning and Zoning Commission voted 4 to 3 to not recommend approval to City Council. The Commissioners did not offer any justification for the nay votes.

Recommendation:

Staff recommends approval of this application.

MEMO SUBMITTED BY:

Scott Godbey | Director of Planning and Development

sgodbey@nixa.com | 417-725-5850

1 **AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA REZONING THE REAL**
2 **PROPERTY GENERALLY IN THE 700 BLOCK OF SOUTH ELEGANT DRIVE FROM A**
3 **SINGLE-FAMILY RESIDENTIAL (R-1) DISTRICT TO A TWO-FAMILY RESIDENTIAL**
4 **(R-4) DISTRICT.**

5 _____
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7 **WHEREAS** an application has been filed for a zoning change of the property
8 generally located in the 700 block of South Elegant Drive (“Application”); and
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10 **WHEREAS** the Application requests that the City Council rezone said property
11 from a Single-Family Residential (R-1) District to a Two-Family Residential (R-4) District;
12 and
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14 **WHEREAS** the Planning and Zoning Commission held a public hearing on the
15 Application at the Commission’s January 3, 2023, meeting; and
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17 **WHEREAS** the Commission, after considering the Application, staff’s
18 recommendation regarding the Application, and after holding a public hearing on the
19 Application, issued a recommendation of disapproval of the Application; and
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21 **WHEREAS** the City Council, now having considered the Application, staff’s
22 recommendation regarding the Application, and after providing an opportunity for public
23 comment on the Application, now desires to rezone the subject property and amend the
24 City’s official zoning map to reflect City Council’s action.
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26 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
27 **NIXA, AS FOLLOWS, THAT:**
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29 **SECTION 1:** The real property generally located in the 700 block of South Elegant
30 Drive and being more specifically described on “Council Bill Exhibit A,” which is attached
31 hereto and incorporated herein by this reference as though fully set forth herein, is hereby
32 rezoned from a Single-Family Residential (R-1) district, or such other zoning district that
33 may apply to said real property, to a Two-Family Residential (R-4) District, and the
34 regulations applicable to said district, as established in the Nixa City Code, shall hereafter
35 apply to said real property.
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37 **SECTION 2:** The Director of Planning and Development, pursuant to section 117-
38 57 of the Nixa City Code, shall amend the City’s official zoning map, said map being
39 established pursuant to section 117-56 of the Nixa City Code, to reflect the zoning action
40 contemplated by this Ordinance.
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42 **SECTION 3:** This Ordinance shall be in full force and effect from and after its final
43 passage by the City Council and after its approval by the Mayor, subject to the provisions
44 of section 3.11(g) of the City Charter.
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47 **ADOPTED BY THE COUNCIL THIS 23rd DAY OF January, 2023.**

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ATTEST:

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PRESIDING OFFICER

CITY CLERK

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55 **APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2023.**

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ATTEST:

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MAYOR

CITY CLERK

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63 APPROVED AS TO FORM:

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CITY ATTORNEY

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COUNCIL BILL EXHIBIT A

LEGAL DESCRIPTION

SOURCE OF DESCRIPTION: BOOK 2022 AT PAGE 13753 AND BOOK 2021 AT PAGE 23385

ALL THAT PART OF THE NORTHWEST QUARTER (NW1/4) OF THE NORTHWEST QUARTER (NW1/4) IN SECTION 19, TOWNSHIP 27 NORTH, RANGE 21 WEST, LYING NORTH AND WEST OF ELEGANT DRIVE (AS IT NOW EXISTS), IN NIXA, CHRISTIAN COUNTY, MISSOURI, EXCEPT LOT ONE (1), FINAL PLAT RICHMOND PHASE 1, A SUBDIVISION IN THE CITY OF NIXA, CHRISTIAN COUNTY, MISSOURI.

AND ALSO, ALL OF LOT ONE (1) OF THE FINAL PLAT OF RICHMOND PHASE 1, A SUBDIVISION IN THE CITY OF NIXA, CHRISTIAN COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF.

SAID TRACT BEING 17.374 ACRES (MORE OR LESS) AND IS SUBJECT TO ANY EASEMENTS, RIGHTS-OF-WAY, OR RESTRICTIONS OF RECORD.