

III. B.

Memorandum Department of Planning & Public Works



To: Planning and Public Works Committee
From: Mara M. Perry, Senior Planner
Date: 9/24/2009
RE: **P.Z. 12-2009 New Kinkead Estates (James and Suzanne Burnley):** A request for a change of zoning from an "R3" Residence District to an "R6A" Residence District for a 1.26 acre tract of land located at 1000 N. Woods Mill Road, ¼ mile south of the intersection of Woods Mill Road and Olive Boulevard. (16Q310021)

Summary

James and Suzanne Burnley are requesting a change of zoning from an "R3" Residence District to a "R6A" Residence District. A preliminary plan is not necessary as the Petitioner is requesting a "straight zoning" and no Attachment A will be developed. That is, the subject site will be developed directly from the requirements of the Residential District section of the City of Chesterfield Zoning Ordinance without exceptions. A Public Hearing was held on July 27, 2009 and a second Public Hearing to amend the legal description was held on September 14, 2009.

At the September 14, 2009 meeting of the Planning Commission, a recommendation for approval of the above-referenced matter was approved by a vote of 9-0.

Attached please find a copy of staff's report, a letter from the lawyer for adjacent property owners, an easement, Staff Exhibits and the Site Survey.

Respectfully submitted,

Mara M. Perry, AICP
Senior Planner

Cc: Michael G. Herring, City Administrator
Rob Heggie, City Attorney
Michael O. Geisel, Director of Planning and Public Works
Aimee Nassif, Planning and Development Services Director



VIII.B.

690 Chesterfield Pkwy W • Chesterfield MO 63017-0760
Phone: 636-537-4000 • Fax 636-537-4798 • www.chesterfield.mo.us

Planning Commission Vote Report

Subject: Rezoning Vote Report

Meeting Date: September 14, 2009

From: Mara M. Perry, AICP, Senior Planner

Location: 1000 N. Woods Mill Road, ¼ mile south of the intersection of Woods Mill Road and Olive Boulevard. (16Q310021)

Petition: P.Z. 12-2009 New Kinkead Estates (James and Suzanne Burnley)

Proposal Summary

James and Suzanne Burnley are requesting a change of zoning from an “R3” Residence District to a “R6A” Residence District. A preliminary plan is not necessary as the Petitioner is requesting a “straight zoning” and no Attachment A will be developed. That is, the subject site will be developed directly from the requirements of the Residential District section of the City of Chesterfield Zoning Ordinance without exceptions.

Department Input

This request meets all of the development requirements of the City of Chesterfield for a straight zoning request. The “R6A” allows for single family, two family and multiple family type residential uses. To date, the petitioner has not submitted plans for development of this site.

Zoning Analysis

The surrounding properties were zoned and built prior to the incorporation of the City of Chesterfield. The developments to the east and west of the subject site are currently multi-family residential units. The developments were built under the terms of a Planned Environmental Unit “PEU” with St. Louis County. The properties to the north and south of the subject site are non-residential uses with a childcare center to the south and a tennis club to the north.

Surrounding Land Use and Zoning

The land use and zoning for the properties surrounding this parcel are as follows:

North: The property to the north is the Forest Lake Racquet Club, zoned “C8” Planned Commercial District.

South: The property to the south is the Children’s Discovery Learning Center, zoned “R3” Residence District with a “CUP” Conditional Use Permit.

East: The property to the east is Woods Glade Condominiums zoned “R3” Residence District.

West: The property to the west is Four Seasons zoned “R3” Residence District.



View looking north along Woods Mill Road



View looking south along Woods Mill Road



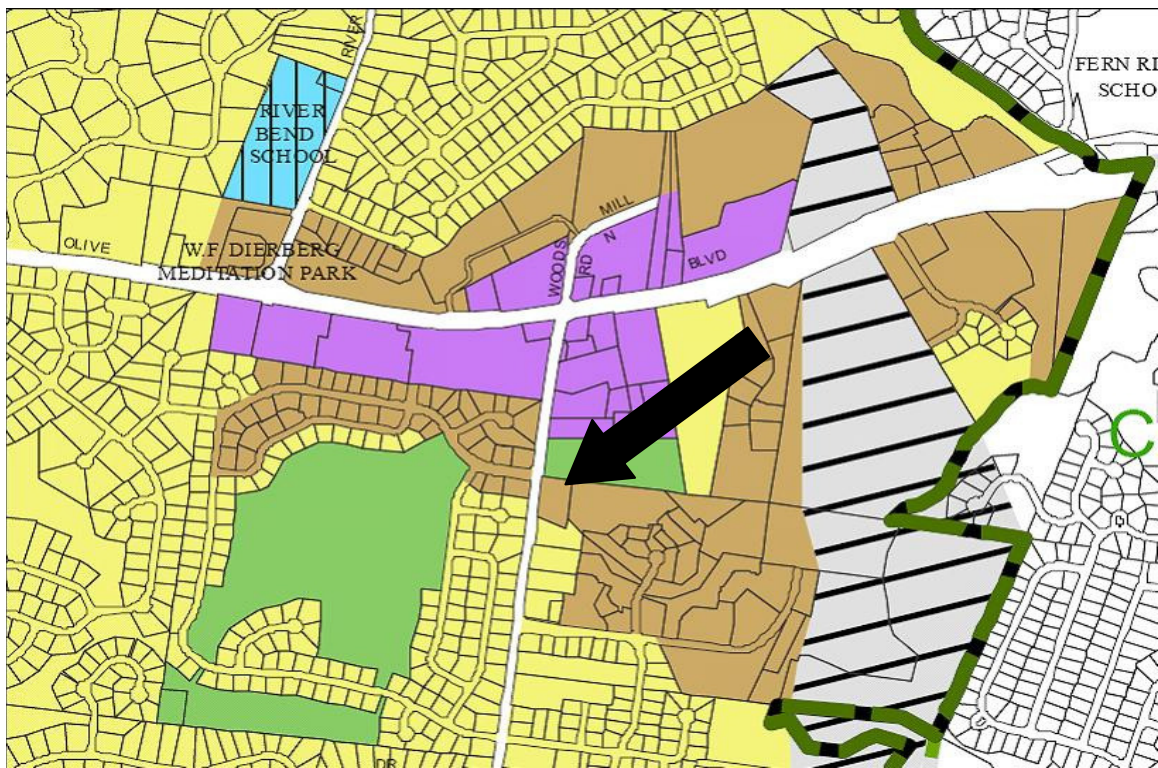
A view looking east along Forest Lac Road



View looking into the subject site

Comprehensive Plan Analysis

The subject site is located within the Residential Multi-Family land use designation.



Site Area History

The subject tract was zoned prior to the incorporation of the City of Chesterfield. The existing house on the site was built in 1951.

In September of 2002, a petition for Rezoning to an "R-5" Residence District and a Planned Environmental Unit was applied for by the petitioners. The Preliminary Plan for the Planned Environmental Unit showed four structures with two units each for a total of eight (8) units. The plan showed the units as two (2) story with a two (2) car front basement entry garage. A Public Hearing was held on May 28, 2003. There were six speakers at the Public Hearing. In August and December of 2003, the petitioner sent letters requesting that the project remain

open while addressing outstanding issues on the request. In March 2004, the project was put on hold by the Department pending the Petitioner's response. In September 2006, the project was removed from Active Status.

Issues

A Public Hearing was held on July 27, 2009 and an Issues Meeting was held on August 24, 2009. The research for the issues have been included again in this report. A second Public Hearing is being held on September 14, 2009 to amend the legal description for this site. It was discovered that two legal descriptions had been recorded for this piece of property. All other issues have been addressed and staff has no outstanding issues on this rezoning.

This information below was previously provided in the Issues Report dated August 24, 2009:

Adjacent Zoning and Densities

The subject site is located in the middle of a number of different subdivisions which were developed prior to the incorporation of the City of Chesterfield. The Planning Commission asked that staff identify in this report the densities to which those developments were built.

Subdivision	Existing Zoning	Current Lot Size	Number of Units per Building	Total Number of Units	Land Area per Unit
Proposed New Kinkead Estates	"R3"	1.26	n/a	n/a	n/a
Four Seasons (data is for multiple family only)	"R3"	0.195 to 0.674	3 to 14	239	1,693 sq ft to 4,040 sq ft
Wood Lake Condominiums	"R3" PEU	1.614 to 3.879	2 to 4	84	3,850 sq ft to 5,632 sq ft
Woods Glade Condominiums	"R3" PEU	1.226 to 3.856	2 to 4	51	4,096 sq ft to 5,340 sq ft
Woods Glen Condominiums	"R3" PEU	0.197 to 2.391	2 to 8	111	2,014 sq ft to 5,989 sq ft

Based on the densities, if these developments were being built today they would have to be developed under the following Zoning Districts listed and shown below. Please be advised that the Wood Lake Condominiums, the Woods Glade Condominiums and the Woods Glen Condominiums if petitioned to be built today would not meet the "Distance Between Buildings" setback requirements for these districts.

The graphic below shows what these existing surrounding developments would need to be zoned to if they applied for their current densities today.



The following table shows what the subdivisions would look like based on the required zoning should they petition for development today:

Subdivision	Existing Zoning	Zoning Based on Density				
		"R6A"	"R6AA"	"R6"	"R7"	"R8"
Proposed New Kinkead Estates	"R3"	n/a				
Four Seasons (data is for multiple family only)	"R3"	2 lots	11 lots	22 lots	5 lots	1 lot
Wood Lake Condominiums	"R3" PEU	3 lots	1 lot			
Woods Glade Condominiums	"R3" PEU	2 lots				
Woods Glen Condominiums	"R3" PEU	7 lots	3 lots	4 lots		

Traffic

An issue regarding the impact of congestion along Wood Mill Road was raised should this property be rezoned. The development is located on Woods Mill Road north of the proposed relocation of 141 with its extension to Olive Street Road. The road is owned and maintained by the Missouri Department of

Transportation (MoDOT). Staff has asked for input from MoDOT in regards to any traffic studies that have been performed to see what the impact on this northern portion of the roadway would be once the 141 extension is complete. **MoDOT provided Staff with the 2008 Annual Average Daily Traffic (AADT) for the Woods Mill Road (MO 141) between Ladue Road (RT AB) and Olive Boulevard (MO 340) which was 16,455 AADT. They also provided the assumed Average Daily Traffic (ADT) number that is being projected once the 141 Extension project is complete which was 8,000 ADT.**

Access

An issue was raised regarding the existing easement for Forestlac Drive. It was specifically asked whether there is any language concerning who will maintain that easement and who has rights to access within the easement. The easement is for "...road and public utility purposes for the joint and mutual use and benefit of the present or future owners of the above tracts, their heirs and assigns, over, under, along and across...". Maintenance of the roadway was not addressed in the easement language. A copy of the Easement which was recorded in Deed Book 2502 Page 53 on November 12, 1948 has been included as an attachment to this report. As this is an easement and not a public road, the maintenance does not fall on the City of Chesterfield.

Proposed Density

The Planning Commission asked if Staff could determine the amount of units that could be built on the subject site. The design of the site can vary greatly based on the type and size of the units being proposed as well as many other design factors. Staff has developed four Exhibits showing four different possible development scenarios. These plans were based off some known development requirements but have not been reviewed by any outside agencies. Each exhibit has the assumed design options listed.

A second letter was received by Staff from the Law Office which represents the Wood Lake Residents Association. The letter readdresses the issues that the residents brought up in the Public Hearing which were Traffic Congestion and Safety, Maintenance of Forestlac Drive and Use of the Parcel. The letter also summarizes concerns from the Issues Meeting held on August 24, 2009. Please see the attached letter for their issues.

Request

Staff has reviewed the Rezoning request and the proposed change of zoning adheres to all applicable requirements of the City of Chesterfield. Staff requests action on the Rezoning for P.Z. 12-2009 New Kinkead Estates (James and Suzanne Burnley)

Respectfully submitted,



Mara M. Perry, AICP
Senior Planner

Attachments

1. Letter from Law Office of Marvin J. Nodiff, P.C. dated September 8, 2009
2. Easement from Deed Book 2502 Page 53
3. Staff Exhibits 1-4
4. Site Survey

Law Office of Marvin J. Nodiff, P.C.

Attorneys at Law

Marvin J. Nodiff
Sarah M. Bucltmann
Todd J. Billy
Of Counsel: Ira M. Berkowitz
The Community Association Lawyers

500 North Skinker Boulevard
St. Louis, Missouri 63130
(314) 727-8989 Fax: 725-0066
marvin@nodiffcalaw.com
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imberk@inlink.com

September 8, 2009
(via fax #636-537-4798)

Planning Commission
City of Chesterfield
690 Chesterfield Parkway West
Chesterfield, MO 63017

Attn: Mara Perry, Senior Planner

Re: **P.Z. 12-2009 "New Kinkead Estates" -- James & Suzanne Burnley**
Comments on Proposed Rezoning

Dear Ms. Perry:

Please be advised that our office represents Wood Lake Residents Association, located in the City of Chesterfield, and that the Board of Directors has authorized the following comments on the proposed rezoning referenced above.

The Wood Lake community is situated immediately east of the subject parcel, and consists of a total of 246 residential units located in three condominiums: Woods Glade Condominium (51 units), Wood's Glen Condominium (111 units), and Wood Lake Condominium (84 units). The 246 owners of the condominium units are members of the Association. The Association is responsible for operation of recreation facilities and maintains retention lakes and other common ground for the owners and other residents of the community, totaling approximately 400 adults.

The application would rezone the subject parcel of 1.26 acres from "R3" to "R6A." The current use of the property is a single-family dwelling. The proposed R6A zoning classification would allow single-family and other residential uses, including attached housing: two-family, three-family, or multi-family dwellings. The applicant proposes twelve (12) dwellings on the subject parcel.

The Association expresses the following concerns for consideration by the Planning Commission.



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1. Traffic Congestion and Safety. Access to the subject parcel is from Woods Mill Road to Forestlac Drive. Forestlac Drive is a private roadway that provides vehicular access (in addition to Land-O-Woods) for the entire community of Wood Lake plus access for staff and members of Forest Lake Tennis Club.

MoDOT, in its comments, states that no direct access from the subject property to Woods Mill Road would be granted by MoDOT. The Association has the same concerns. Woods Mill Road is a two-lane, hilly roadway at the intersection with Forestlac. This intersection already exhibits heavy vehicular use as indicated by the following numbers of vehicles using Woods Mill in this area:

- Patrons and staff of Forest Lake Tennis Club
- 625 employees work at Parkway School District campus*
- 398 students drive daily to Parkway Central High School*
- 148 school buses*
- 50 trucks used by the Facilities Department of the School District*
- Vehicles operated by the general public.

*(*data provided by Parkway Central School District)*

Currently, exiting from Forestlac Drive onto Woods Mill Road is a severe problem due to the heavy use of Woods Mill at this intersection. Without even counting the general public, if half of the 1200 vehicles connected with Parkway School District utilize Woods Mill Road north of the campus and cross Forestlac Drive twice on a daily basis, plus residents of Wood Lake, the intersection is already excessively congested.

Adding twelve (12) more multi-family dwellings, with a potential of 24 vehicles plus guests and visitors, at this congested intersection would not only exacerbate a difficult situation, but would increase the risks to traffic safety for all motorists navigating this intersection.

2. Maintenance of Forestlac Drive. The roadway of Forestlac Drive is subject to an easement agreement that dates back to 1948. This agreement does not address maintenance. Responsibility for maintenance, repair, and snow removal has been left to the respective three owners: the Burnleys (entrance only), Forest Lake Tennis Club, Inc. (north half), and Woods Glade Condominium (south half).

The Burnleys previously requested a rezoning of the subject property in approximately 2004. As part of this procedure, the Burnleys proposed to amend the easement agreement, and the City of Chesterfield placed a condition that the portion of Forestlac Drive on the Burnley parcel be constructed to public street standards. The cost-sharing arrangement proposed by the Burnleys for funding the costs was unacceptable to the other parties for the reason that the Tennis Club would bear 50%, Woods Glade Condominium Association would bear 40%, and the Burnleys would bear only 10%.

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Accordingly, the prospect of adding more multi-family dwellings at the subject parcel, with the consequence of new financial burdens for Woods Glade Condominium Association that would benefit the Burnleys, is unacceptable.

3. Use of the Parcel. While the applicants are not required to propose an actual use of the subject parcel unless rezoning is approved, we cannot provide a complete analysis without a site development plan.

The Association is concerned about excessive density on this parcel and related issues of height, mass and design of the structure(s); location of parking spaces, storm water control; noise; trash; exterior lighting; fencing; landscape buffers and other measures to preserve the integrity of the Wood Lake community; and related matters that could only be evaluated with a site development plan. Accordingly, in view of the potential serious impacts of rezoning that allows multiple-family use, the Association must oppose this application for rezoning.

4. Concerns of Wood Lake Residents.

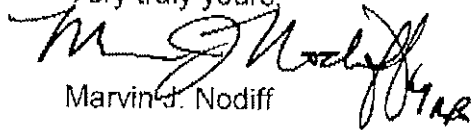
- Comparing Wood Lake to the parcel discussed above is not appropriate. Wood Lake development was 35-40 years ago and those standards were not comparable to the Chesterfield restrictions of today.
- Distance between the ends of the buildings does not meet today's standards and has not been mentioned that the footage front to front and back to street footage allows large amounts of common ground.
- With respect to the parking, Wood Lake was deemed to have only one place per condo for garage parking. The outdoor parking was never mentioned. Parcel plans would accommodate 2-1/2 spaces (to include guest parking). Wood Lake meets those standards and guest parking for the parcel could overflow to Forestlac Drive and Beaulac, a private street in Wood Lake which would cause more congestion.
- Under Chesterfield's Public Road Standards, Chesterfield would not be required to maintain the Forestlac Drive adjacent to the subject property; although the narrow access from Forestlac into the property is not designed for the number of vehicles (16).
- A new survey indicates the area is 1.1 acres. That amount of land would seem to overload the parcel if multiple dwellings are constructed, even though the square footage is now approved by Chesterfield but would need to be "tightly engineered" as one Planning Commission member expressed.
- It is critical that storm water be controlled effectively within the boundaries of the subject property.

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Conclusion. For all the above reasons, the Board of Directors of Wood Lake Residents Association, with approximately 400 residents, must oppose the application for rezoning of the subject parcel.

Your kind attention to this matter is appreciated.

Very truly yours,

A handwritten signature in black ink, appearing to read 'M. J. Nodiff', with a stylized flourish at the end.

Marvin J. Nodiff

cc: Board of Directors
Community Manager

...in witness where person or persons, singular or plural, natural or artificial, interested in the premises of this deed, and the covenants and agreements hereinafter contained shall bind and come to the benefit of, respectively, the heirs, assigns, successors and legal representatives of said "First Party"; and any legally appointed successor of said "First Party" and the heirs, assigns and legal representatives of said "Third Party". In Witness Whereof, the said party of the first part has executed this present on of the day and year first above written.

Marie O. Reardon

State of Missouri, }
 City of St. Louis }
 On this 10th day of November, 1948, before me personally appeared Marie O. Reardon to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed. And the said Marie O. Reardon further declared herself to be single and unmarried. In Testimony Whereof, I have hereunto set my hand

Copy of Deed
 Lester Kuba
 Notary Public
 City of St. Louis, Mo.

and affixed my official seal in the City and State aforesaid, the day and year first above written. My term expires October 15, 1949.

Lester Kuba Notary Public.

Filed For Record Nov. 12, 1948 At 4:29 O'Clock P.M. Gerald J. Dammert Recorder of Deeds

11/15/48
 11/15/48
 11/15/48

48579 47-7
 Easement For Road And Public Utilities Purposes. 112-16430
 I, Edward O. Sahn and Jeanette Sahn, his wife, are the owners of the following described property situated in the County of St. Louis and State of Missouri, to-wit: A tract of land in U. S. Survey 367, Township 45 North, Range 5 East and described as follows: Beginning at a point in center line of Woodsmill Road 60 feet wide, distant South 6 degrees 39 minutes West 1079.06 feet from the intersection of said center line, with South line of Olive Street Road 60 feet wide; thence South 82 degrees 45 minutes East 30 feet to an iron pipe in East line of Woodsmill Road, which said point is the point of beginning of the tract hereinafter described; thence South 82 degrees 45 minutes East 9,238 feet to an iron pipe; thence North 10 degrees 09 1/2 minutes West 372.61 feet to an iron pipe; thence North 89 degrees 17 minutes West 809.76 feet to an iron pipe in East line of Woodsmill Road; thence along said road line, South 6 degrees 39 minutes West 262.21 feet to place of beginning, containing 6.144 acres according to a survey made by Knopp and Steell.

11/15/48
 11/15/48
 11/15/48

Filed For Record Oct 26 1948 At 11:03 O'Clock A.M. Gerald J. Dammert Recorder of Deeds
 County of St. Louis, Missouri
 Notary Public
 Lester Kuba

Surveying Company, on July 28, 1947. Whereas, Harry L. Beckenholdt and Catherine H. Beckenholdt, his wife, are the owners of the following described property situated in the County of St. Louis and State of Missouri, to wit: Lot 3 of the Subdivision in Portion of the Kinkead Estate in U. S. Survey 367, containing 64.95 acres, more or less; Excepting therefrom that part of said property condemned for establishment of Woods Mill Road. Whereas, it is desired to create an easement for road and public utilities purposes over, under, along and across the following described strip of land hereinafter described. Now Therefore, the said Frederick O. Salm and Jeanette Salm, his wife, and Harry L. Beckenholdt and Catherine H. Beckenholdt, his wife, in consideration of the mutual advantage accruing to said parties because of the establishment of said easement and of the sum of One Dollar each to the other paid, do hereby create and establish an easement for road and public utilities purposes for the joint and mutual use and benefit of the present or future owners of either of above tracts, their heirs and assigns, over, under, along and across the following strip of land situated in the County of St. Louis and State of Missouri, to wit: An easement 50 feet wide for road and public utilities purposes in U. S. Survey 367, Townships 45 and 46 North, Range 5 East, the other line of which is described as follows: Beginning at an iron pipe in the East line of Woods Mill Road, 60 feet wide, with the line dividing the property of Frederick O. Salm and wife on the North as described in deed recorded in Book 2297 Page 469 of the St. Louis County Records, and the property of Harry L. Beckenholdt and wife on the South as described in deed recorded in Book 2416 page 284 of the St. Louis County Records; thence South 82 degrees, 45 minutes East along said dividing line a distance of 900 feet. **TO HAVE AND TO HOLD** the said Easement unto the present and future owners of said tracts forever. Said easement shall run with the Land. In Witness Whereof, the said parties hereto have hereunto set their hands this 15th day of August, 1948.

Frederick O. Salm
 Jeanette Salm
 Catherine H. Beckenholdt
 Harry L. Beckenholdt

State of Missouri) ss. On this 15th day of August 1948 before me personally appeared
 County of St. Louis) Frederick O. Salm and Jeanette Salm, his wife, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed. In Testimony

Copy of Seal
 R. E. Rose
 Notary Public
 County of St. Louis, Mo.

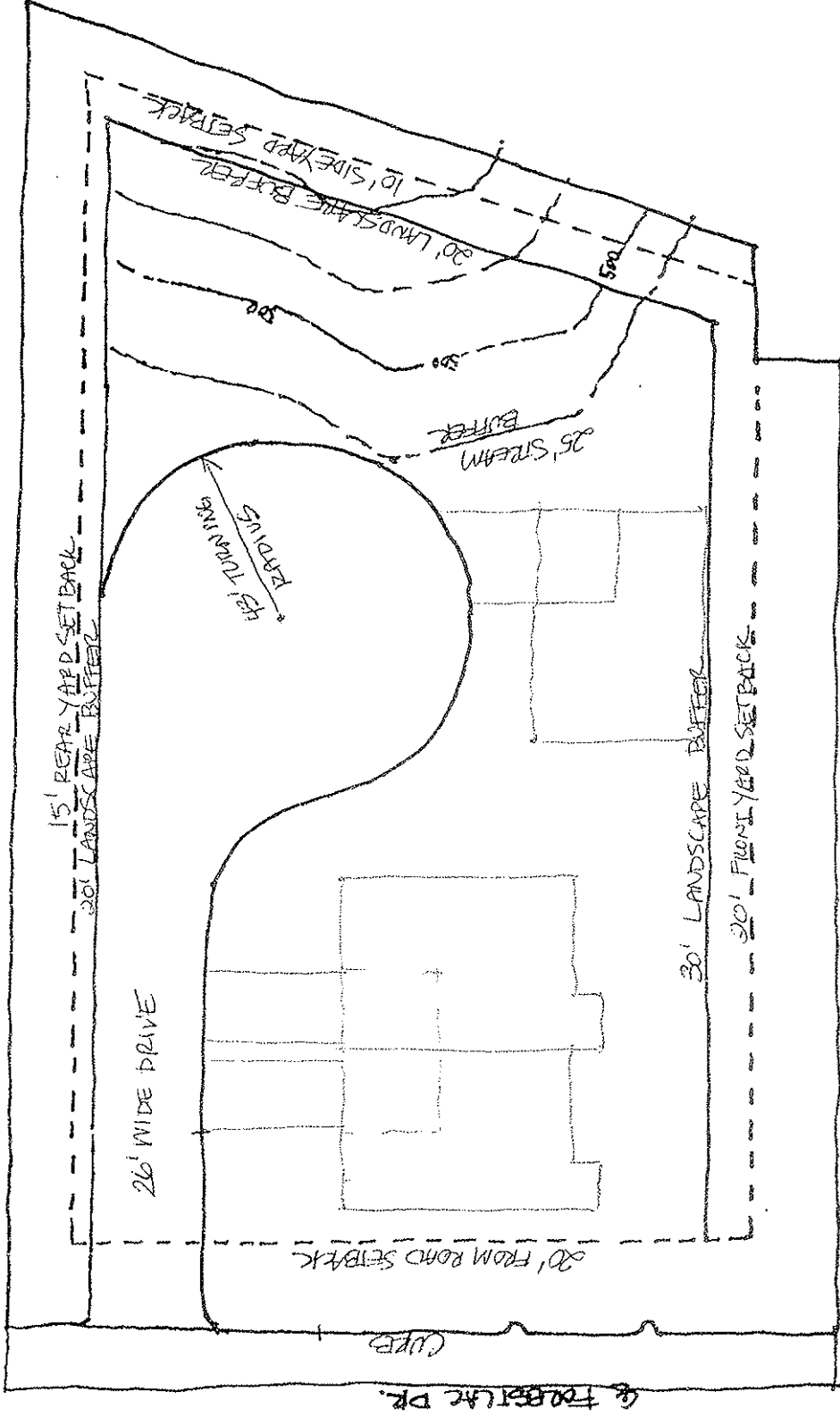
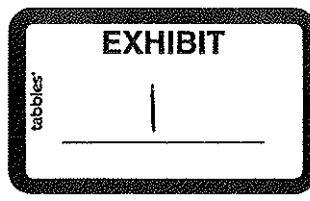
Hereby, I have hereunto set my hand and affixed my official seal in the County and State of Missouri, the day and year first above written.
 My term expires Sept 8 - 1950 R. E. Rose Notary Public.

State of Missouri) ss. On this 15th day of August 1948, before me personally appeared
 County of St. Louis) Harry L. Beckenholdt and Catherine H. Beckenholdt, his wife, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed. In Testimony Whereof, I have hereunto

Copy of Seal
 R. E. Rose
 Notary Public
 County of St. Louis, Mo.

set my hand and affixed my official seal in the County and State of Missouri, the day and year first above written. My term expires Sept. 8 - 1950 R. E. Rose Notary Public.

Filed For Record Oct 26 1948 At 11:03 O'Clock A.M. L. J. Donath Recorder of Deeds



1" = 40'

NORTH WOODS MILL (60' W.) ROAD

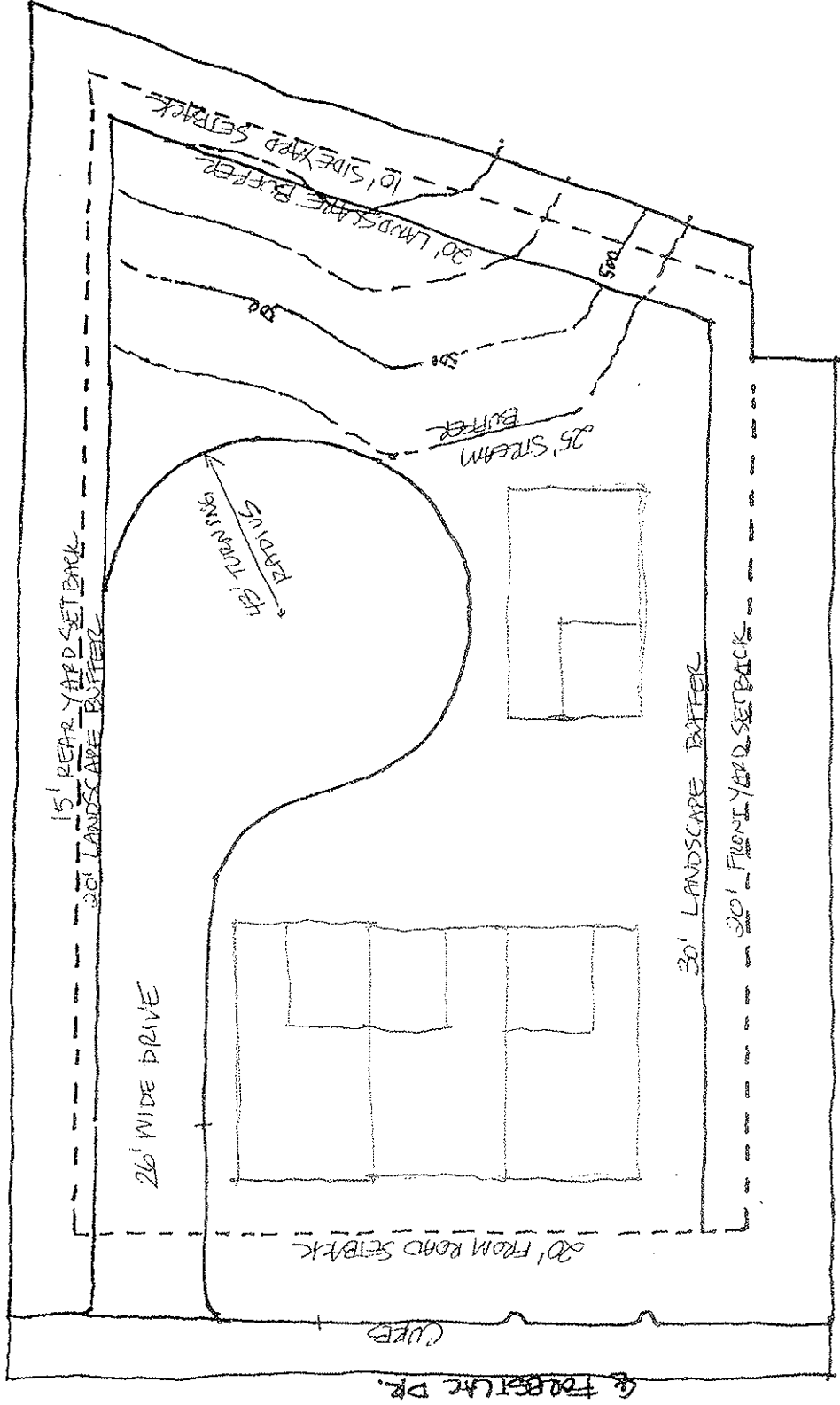
EXHIBIT #1: (Assumed Design)

- Three (3) Units
- Two Car Garages
- 3,200 Square Foot Units
- One (1) Single Family Detached Unit
- One (1) Two Family Attached Unit
- 18,243 Square Feet Land Area Per Unit

Known Development Requirements*:

- "R6A" Structure Setbacks
- Landscape Buffers
- Stream Buffer
- Thirty (30) Percent Tree Preservation
- Forty (40) Percent Open Space
- "R6A" Minimum Land Area Per Unit

* This does not include review by the following outside agencies: Metropolitan Sewer District, Monarch Fire Protection District, MoDOT



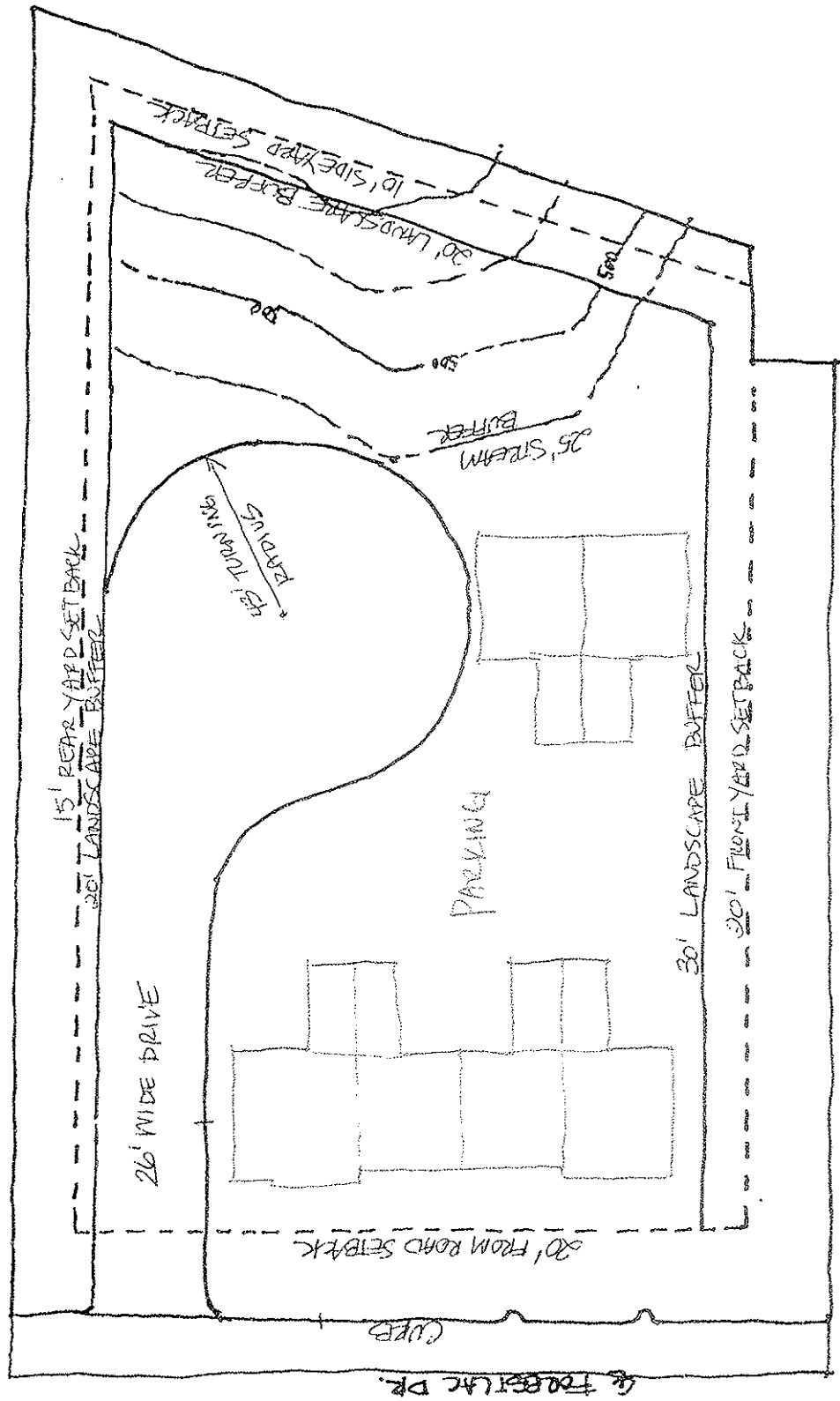
NORTH WOODS MILL (60' W.) ROAD

1" = 40'

- Known Development Requirements*:
- "R6A" Structure Setbacks
 - Landscape Buffers
 - Stream Buffer
 - Thirty (30) Percent Tree Preservation
 - Forty (40) Percent Open Space
 - "R6A" Minimum Land Area Per Unit

- EXHIBIT #2: (Assumed Design)**
- Four (4) Units
 - Two Car Garages
 - 2,600 Square Foot Units
 - One (1) Single Family Detached Unit.
 - One (1) Three Family Attached Unit (as Condominium)
 - 13,682 Square Feet Land Area Per Unit

* This does not include review by the following outside agencies: Metropolitan Sewer District, Monarch Fire Protection District, MoDOT



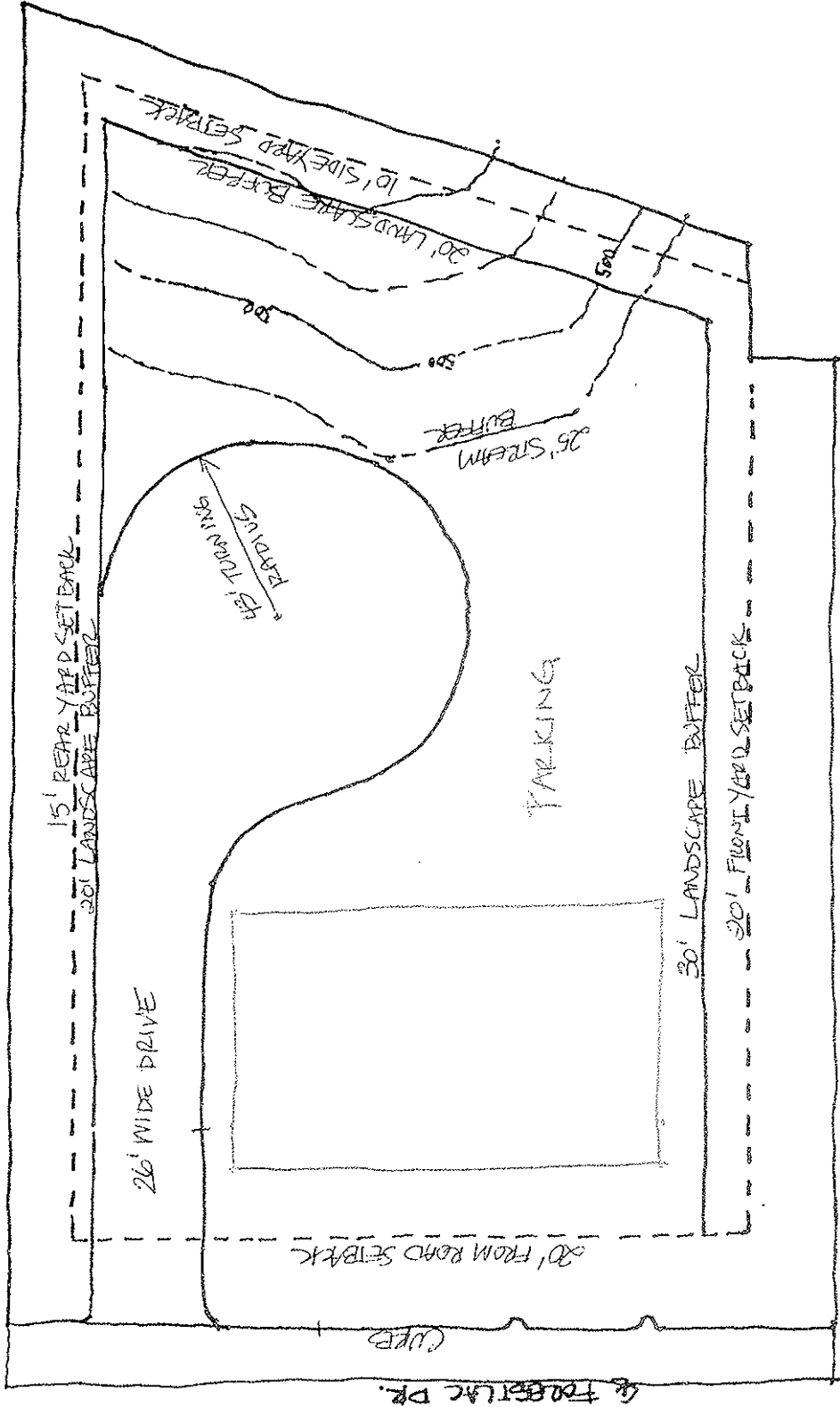
NORTH WOODS MILL (60' W.) ROAD

- Known Development Requirements*:
 "R6A" Structure Setbacks
 Landscape Buffers
 Stream Buffer
 Thirty (30) Percent Tree Preservation
 Forty (40) Percent Open Space
 "R6A" Minimum Land Area Per Unit

EXHIBIT #3: (Assumed Design)

- Six (6) Units – Matches Design of Woods Glade Condos
 One Car Garages
 1,800 Square Foot Units
 One (1) Four Family Attached Unit (as Condominium)
 One (1) Two Family Attached Unit (as Condominium)
 9,121 Square Feet Land Area Per Unit

* This does not include review by the following outside agencies: Metropolitan Sewer District, Monarch Fire Protection District, MoDOT



NORTH WOODS MILL (60' W.) ROAD

- Known Development Requirements*:
 "R6A" Structure Setbacks
 Landscape Buffers
 Stream Buffer
 Thirty (30) Percent Tree Preservation
 Forty (40) Percent Open Space
 "R6A" Minimum Land Area Per Unit

EXHIBIT #4: (Assumed Design)

- Eight (8) Units – Matches Design of a Four Seasons bldg.
- Parking on site or in Basement
- 1,200 Square Foot Units
- One (1) Eight Family Apartment Building
- 6,841 Square Feet Land Area Per Unit

* This does not include review by the following outside agencies: Metropolitan Sewer District, Monarch Fire Protection District, MoDOT

