

**ZONING AMENDMENT,**  
**PLANNED UNIT DEVELOPMENT &**  
**SUBDIVISION STAFF REPORT**

**Date: September 21, 2006**

<b><u>NAME</u></b>	O. A. Pesnell, Jr.
<b><u>SUBDIVISION NAME</u></b>	Brookview at Brookside Subdivision
<b><u>LOCATION</u></b>	North and East sides of Pesnell Court at its North terminus, extending to the West side of Inverness Subdivision, Unit Two.
<b><u>CITY COUNCIL DISTRICT</u></b>	District 6
<b><u>PRESENT ZONING</u></b>	R-1, Single-Family Residential and R-3, Multi-Family Residential
<b><u>PROPOSED ZONING</u></b>	R-3, Multi-Family Residential
<b><u>AREA OF PROPERTY</u></b>	18.0 ± Acres
<b><u>CONTEMPLATED USE</u></b>	<p>Rezoning from R-1, Single-Family Residential, and R-3, Multi-Family Residential, to R-3, Multi-Family Residential, to eliminate split zoning in a proposed one-lot residential subdivision and planned unit development, Planned Unit Development to allow 22 single-family residential dwellings on a single building site with private street access, and Subdivision of two parcels and two lots into one lot.</p> <p><b>It should be noted, however, that any use permitted in the proposed district would be allowed at this location if the zoning is changed. Furthermore, the Planning Commission may consider zoning classifications other than that sought by the applicant for this property.</b></p>
<b><u>TIME SCHEDULE</u></b>	Immediate
<b><u>ENGINEERING COMMENTS</u></b>	<p>The existing bridge that was constructed without benefit of a permit was later permitted via a court order as a “low-water” crossing only and only to access utilities. Therefore, a new bridge must be constructed to access the single-family residences and permitted via the Land Disturbance permitting process. The bridge should be constructed to FHWA/AASHTO standards for a residential street to provide safe passage for the citizens. In</p>

addition, it must meet all FEMA floodway/floodplain requirements and Fire Department requirements for access.

All existing drainage easements should be shown on the preliminary plat and the COM Engineering Department will require a drainage easement at any place public water crosses the property.

A Common Area should be shown for stormwater detention which must be constructed and operating properly prior to submittal of the final plat. All wetlands should be shown.

Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit. The applicant is responsible for verifying if the site contains wetlands. The site can be checked against the National Wetlands Inventory on the COM web site Environmental Viewer. If the site is included on the NWI, it is the applicant's responsibility to confirm or deny the existence of regulatory wetlands.

### **TRAFFIC ENGINEERING**

#### **COMMENTS**

Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards.

### **URBAN FORESTRY**

#### **COMMENTS**

Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64).

### **FIRE DEPARTMENT**

#### **COMMENTS**

No comments.

### **REMARKS**

The applicant is requesting Zoning approval to rezone a site from R-1, Single-Family Residential, and R-3, Multi-Family Residential, to R-3, Multi-Family Residential, to eliminate split zoning in a proposed one-lot residential subdivision and planned unit development, Planned Unit Development approval to allow 22 single-family residential dwellings on a single building site with private street access, and Subdivision approval to combine two parcels and two lots into one lot. Single-family residential dwellings are allowed by right in R-3, Multi-Family Residential Districts.

The application proposes to extend an existing age-restricted housing development that is serviced by Pesnell Court, which terminates at the Southern end of the site under review.

The Southern portion of the site in question was the subject of an unsuccessful application for Zoning, Planned Unit Development and Subdivision approval in October 2003. At that time, the applicant proposed the development of an elder center and dining hall. The application was denied due to extensive floodplain and wetland concerns.

The floodplain and wetland concerns still exist, and it should be noted that this application does not delineate wetlands, as required by Section IV.A.2.i. of the Subdivision Regulations. It

should also be pointed out that it appears that the floodplain delineation on this application is different than as depicted on the revised application that was denied in October 2003.

The current site plan depicts a proposed private paved road serving 22 proposed single-family detached homes that will be rented to people aged 65 and older. As multiple dwelling units are proposed on a single building site, and as the site is split-zoned, Zoning and PUD applications are required. The Subdivision application is required to create the single lot.

The legal description for the application fails to include Lot 3 of the Pesnell Subdivision, however, that lot is depicted as being included in the application.

The site is bounded to the South by an existing R-3, Multi-Family Residential District that contains existing elderly / assisted-living facilities, and apartment complexes. East, North and West of the site are single-family residences and vacant land located in an existing R-1, Single-Family Residential District.

As stated in Section 64-9. of the Zoning Ordinance, the intent of the Ordinance and corresponding Zoning Map is to carry out the comprehensive planning objective of sound, stable and desirable development. While changes to the Ordinance are anticipated as the city grows, the established public policy is to amend the ordinance only when one or more of the following conditions prevail: 1) there is a manifest error in the Ordinance; 2) changing conditions in a particular area make a change in the Ordinance necessary and desirable; 3) there is a need to increase the number of sites available to business or industry; or 4) the subdivision of land into building sites makes reclassification of the land necessary and desirable.

The site is depicted as residential on the General Land Use Component of the Comprehensive Plan, which is meant to serve as a general guide, not a detailed lot and district plan or mandate for development. Moreover, the General Land Use Component allows the Planning Commission and City Council to consider individual cases based on additional information such as the classification request, the surrounding development, the timing of the request, and the appropriateness and compatibility of the proposed use and zoning classification.

The applicant's accompanying Subdivision application necessitates the rezoning in order to correct a split-zoning condition that would occur if the subdivision is approved, and to allow multiple dwelling-units on a single lot.

As stated in Section 64-5. of the Zoning Ordinance, Planned Unit Development review examines the site with regard to its location to ensure that it is generally compatible with neighboring uses; that adequate access is provided without generating excess traffic along minor residential streets in residential districts outside the PUD; and that natural features of the site are taken into consideration. PUD review also examines the design of the development to provide for adequate circulation within the development; to ensure adequate access for emergency vehicles; and to consider and provide for protection from adverse effects of adjacent properties as well as provide protection of adjacent properties from adverse effects from the PUD. PUD approval is site plan specific, thus any changes to the site plan must be approved by the Planning Commission.

The site under review appears to contain extensive floodplains and wetlands associated with Milkhouse Creek. It is not clear if the site plan and plat accurately depict the limits of the existing floodplains and wetlands, especially when compared to the 2003 application. Staff is not able to determine if the proposed development would impact these natural features, thus the site plan and plat should be revised to accurately depict these features.

The proposed private road will be approximately 1600 feet long, from where it starts at Pesnell Court to its cul-de-sac termination. As Pesnell Court is itself a cul-de-sac off of Cottage Hill Road, the proposed design will result in a development with extremely limited access. The private road will also have a nearly ninety degree turn near where it intersects Pesnell Court; this proposed turn should be modified to so that the curvature of the private road meets minimum Traffic Engineering and AASHTO requirements. Furthermore, full compliance with Fire Department regulations will be required in order to ensure the safety of future residents.

The applicant is proposing a PUD that includes, for the purposes of the Zoning Ordinance, “multi-family” residential development, and consequently, PUD landscape area requirements apply. Section 64-5.C.2. of the Zoning Ordinance requires 700 square feet of open space per dwelling unit, which cannot include streets, drainageways, parking areas, service areas and land covered by buildings. Furthermore, compliance with the tree and landscaping requirements of the Zoning Ordinance will be required due to the proposed R-3 zoning of the site. Therefore, the site plan should be revised to indicate compliance with the tree and landscaping requirements, as well as to provide the required calculations for the landscape area / open space.

Due to the extent of the proposed development, full compliance with the City’s stormwater regulations will be required. As PUD approval is site plan specific, and as a stormwater detention basin will likely be required, the applicant should consult with the Engineering Department and revise the site plan as necessary to depict any required stormwater detention.

There is no indication on the site plan as to the proposed location of any dumpster or other waste storage facility. The location of the storage area for the dumpster must be indicated on the site plan, and the location and required screening must comply Section 64-4.D.9. of the Zoning Ordinance, as well as with all other applicable regulations.

It also appears that one of the proposed homes encroaches upon the required setback along the North property line. The site plan should be revised to ensure that all structures meet setback requirements delineated in the Zoning Ordinance, and that appropriate adjacency buffers are depicted.

Subdivision review examines the site with regard to promoting orderly development, protecting general health, safety and welfare, and ensuring that development is correlated with adjacent developments and public utilities and services, and to ensure that the subdivision meets the minimum standards set forth in the Subdivision Regulations for lot size, road frontage, lot configuration, etc.

The application will create one 18-acre  $\pm$  lot with approximately 50 feet of frontage on a public street, Pesnell Court. The lot will abut three land-locked parcels, located West and North of the

site. As the application has not proposed the provision of a public street, street stubs cannot be required to the land-locked parcels. However, future subdivision of the proposed lot should be denied unless a public street is built on the site, and access is provided to the adjacent land-locked parcels.

The minimum building setback line required in Section V.D.9. of the Subdivision Regulations is not shown for the lot, but would be required on the final plat.

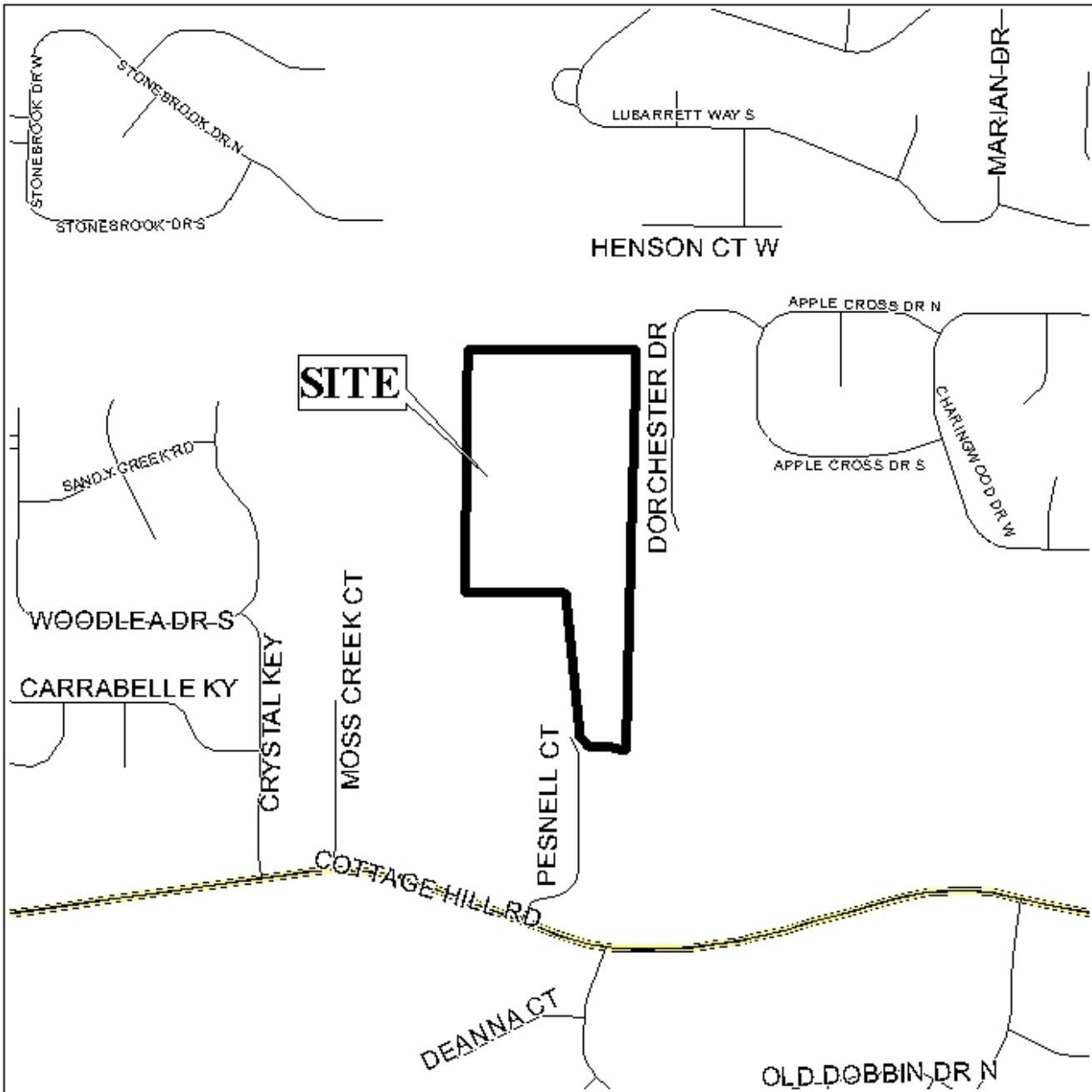
### **RECOMMENDATION**

**Rezoning:** The rezoning request is recommended for Holdover until the October 19<sup>th</sup> meeting to accommodate revisions listed under the PUD recommendations.

**Planned Unit Development:** The PUD request is recommended for Holdover until October 19<sup>th</sup>, with revisions due to Urban Development by October 3<sup>rd</sup>, to give the applicant time to address the following: 1) revision of the legal description for all applications (zoning, PUD, subdivision) to include Lot 3 of the Pesnell Subdivision; 2) revision of the site plan and subdivision plat to comply with Engineering comments listed at the beginning of the staff report, including the accurate depiction of all floodplain and wetland areas and drainage easements on the site plan and plat; 3) revision of the private street to provide a more direct linkage to Pesnell Court, and provision of a turn-around at the midpoint of the private street, as well as at the terminus; 4) consultation with Fire / Rescue to determine modifications to the private street or site plan necessary to comply with their regulations, and revision of the site plan as appropriate; 5) revision of the site plan to depict compliance with the open space and tree and landscaping requirements of the Zoning Ordinance, including the necessary site calculations required by Section 64-5.C.2. of the Zoning Ordinance; 6) depiction and labeling of any required stormwater detention basins; 7) depiction and labeling of dumpster locations, with screening that complies with Section 64-4.D.9. of the Zoning Ordinance; 8) revision of the site plan to ensure that all proposed structures meet setback requirements; 9) provision and depiction of a 10-foot wide vegetative buffer and 6 to 8 foot high privacy fence or wall where the portion of the site to be developed abuts adjacent R-1 districts; 10) placement of a note on the site plan stating that maintenance of all common areas, private streets, and detention areas is the responsibility of the property owners; and 11) placement of a note on the site plan stating that lighting shall be so arranged that the source of light does not shine directly into adjacent residential properties or into traffic, per the requirements of Section 64-4.A.2. the Zoning Ordinance.

**Subdivision:** The Subdivision request is recommended for Holdover until the October 19<sup>th</sup> meeting to accommodate the PUD revisions, and the following requirements: 1) revision of the plat to accurately depict all floodplain and wetland areas and drainage easements, per Engineering Comments; and 2) revision of the legal description to include Lot 3 of the Pesnell Subdivision.

# LOCATOR MAP

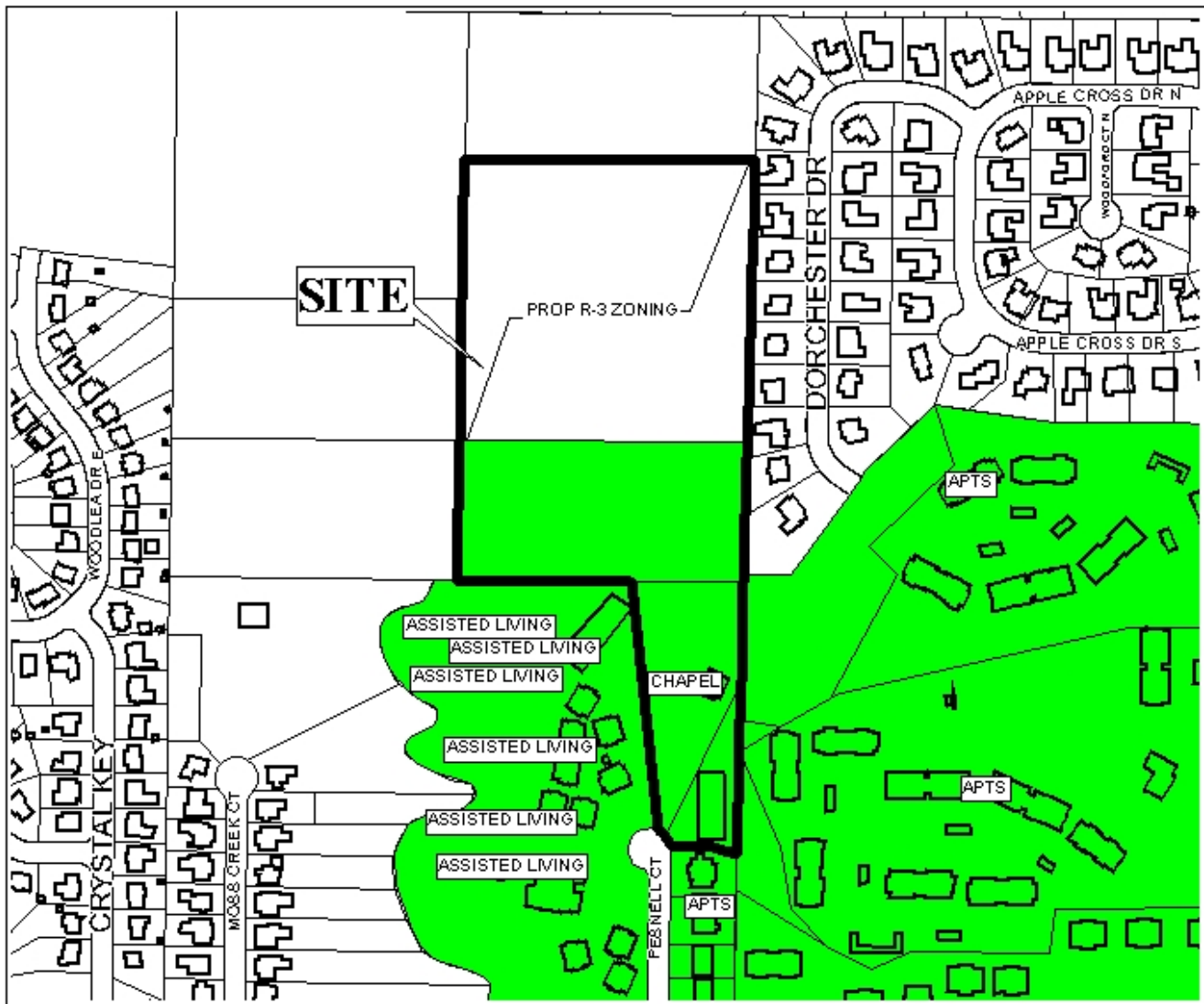


APPLICATION NUMBER 8 & 9 & 10 DATE September 21, 2006  
APPLICANT O. A. Pesnell, Jr.  
REQUEST Subdivision, Planned Unit Development, Rezoning



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# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



Single-family residential units are located to the west and east of the site. Apartments are located to the east of the site. Assisted living facilities are located to the south of the site.

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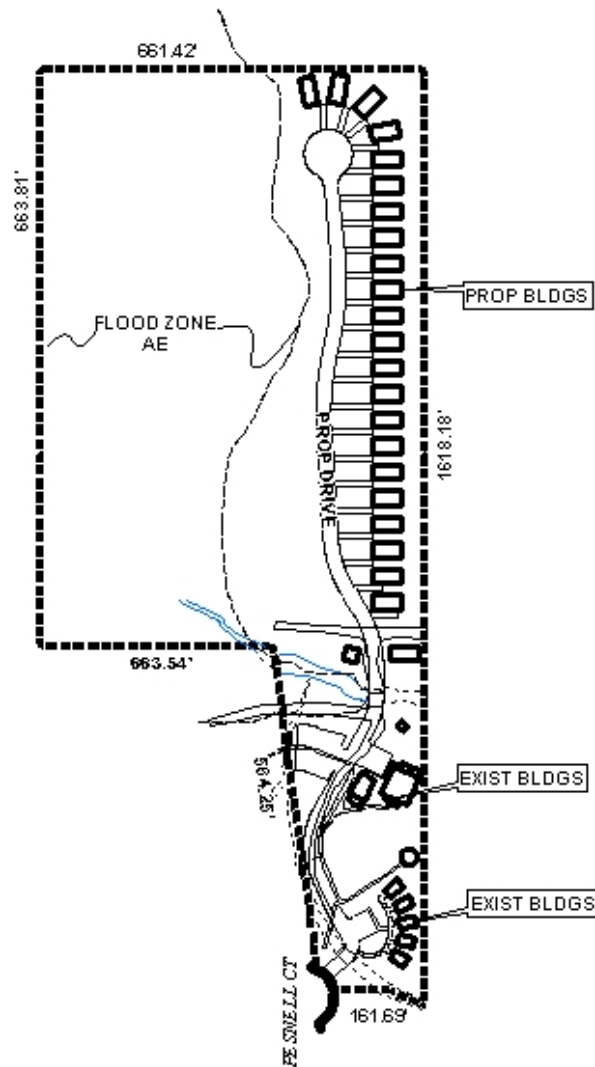
REQUEST Subdivision, Planned Unit Development, Rezoning

LEGEND

R-1	R-2	R-3	R-A	R-B	H-B	B-1	LB-2	B-2	B-3	B-4	B-5	I-1	I-2
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# SITE PLAN



The site plan illustrates the proposed drive, buildings, and existing buildings.

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