

**CITY OF PEWEE VALLEY
ORDINANCE 3, SERIES 2021
AN ORDINANCE RELATING TO THE APPROVAL OF REZONING,
APPROVAL OF A DEVELOPMENT PLAN AND BINDING ELEMENTS FOR
PROPERTY LOCATED AT 7400 & 7607 FRIENDSHIP DRIVE, CONTAINING
47.07 ACRES, AND BEING IN THE CITY OF PEWEE VALLEY, CASE
NUMBER PZ-20-016&17**

WHEREAS, the City Council of the City of Pewee Valley has received and reviewed the findings and recommendations of the Oldham County Planning Commission dated November 24th, 2020, Case No. PZ-20-016&17, as provided in KRS 100.211;

WHEREAS the Oldham County Planning Commission has recommended to the City Council of the City of Pewee Valley that the proposed rezoning and Development Plan be approved with certain binding elements, on the following described property, and

WHEREAS the owners of the property herein described have agreed to certain Binding Elements, now, therefore,

BE IT ORDERED BY THE CITY OF PEWEE VALLEY:

Section 1. That based upon the record, detailed findings and favorable recommendation contained in the records of the Oldham County Planning Commission (which Findings are hereby incorporated in full herein), the requested rezoning to Planned Unit Development (PUD), the Development Plan, Master Plan and Binding Elements on the herein described property (more particularly referred to in the legal description found in the records of Case No. PZ-20-016&17), is approved, subject to the hereinafter provided Binding Elements.

Section 2. The following shall be considered binding elements with respect to the property described in Section 1 of this ordinance:

1. The development shall be in accordance with the approved Development Plan, the approved Master Plan, all applicable sections of the Oldham County Comprehensive Zoning Ordinance and agreed upon binding elements unless amended pursuant to this ordinance. Any changes/additions/alterations to any Development Plan, Master Plan, Landscape Plan, or any binding element(s) shall be submitted to the Oldham County Planning Commission and the City of Pewee Valley for review and approval. Any changes/additions/alterations not so approved by both the Oldham County Planning Commission and the City of Pewee Valley shall not be valid and if constructed be subject to code enforcement action.
2. The approval of Planned Unit Development zone for this site, along with the Development Plan and the Master Plan, are all based and conditioned on the Applicant's testimony that the site will only be used as a life plan community for older individuals, as well as disabled individuals, who desire a continuum of care, from skilled nursing services, memory care, assisted living and independent living. This condition provides

the factual basis for the PUD approval, which zoning designation is only appropriate for an area developed as a single entity under a common use plan. Therefore, the approval of PUD zoning, the Development Plan and Master Plan is hereby specifically conditioned by the City of Pewee Valley Council upon the property only being used as a life plan community for older, or disabled individuals. Specifically, the proposed independent living apartments and cottages/duplex units cannot subsequently be used for dwelling units not consistent with the use as a life plan community. Rental of the independent living apartments and cottages/duplex units shall be restricted to older adults, over 55 years of age, in compliance with the Housing for Older Persons Act of 1995 or for disabled persons of any age. Prior to this development ever being used for independent living apartments and cottages/duplex units which are not so restricted, a revised Master Plan and Development Plan must be submitted for the review and approval of the Oldham County Planning Commission and the City of Pewee Valley.

3. The entrance to the facility from KY Highway 146 (the intersection of Friendship Drive and KY Highway 146), is not aligned with the Houston Lane intersection, which also crosses a heavily used railroad with little queue space on the KY Highway 146 side of the crossing. The left turn movements between Friendship Manor and Houston Lane are conflicting and the danger is exacerbated by the misalignment of the intersections, the heavy traffic load on KY Highway 146 and the rail crossing. None of those conditions are proposed to be mitigated in this application and further, the Applicant has two other entrances to this development, which do not have these dangerous conditions. For those reasons, the entrance to this development from KY Highway 146 shall be one-way in only. Applicant shall submit for review and approval of the Oldham County Planning Commission and the City of Pewee Valley details on signage and implementation of the one-way designation.
4. Applicant shall submit with its construction plans detail on sight distance clearing and street lighting around the Friendship Drive/Reamers Road intersection.
5. Before any permit, including but not limited to building permit, or site disturbance permit, is requested:
 - a. The Development Plan must obtain full construction and site plan approval from Oldham County Planning Commission and the City of Pewee Valley.
 - b. The Applicant must obtain approval of a soil and erosion control permit from Oldham County Planning Commission and the City of Pewee Valley.
 - c. The Applicant must obtain approval from the Oldham County Planning Commission and the City of Pewee Valley of a tree preservation plan.
 - d. The Applicant must obtain approval from the Oldham County Planning Commission and City of Pewee Valley of a detailed plan for screening (buffering/landscaping). Such plan shall be implemented prior to issuance of Certificate of Completion and any bond release on the project and shall be maintained thereafter. There shall be no removal of the existing landscaping or required landscaping without City of Pewee Valley approval. In the event any tree or other landscaping is removed without written consent of the City, the City

- may require the owner/applicant to replace with a replacement suitable to the City.
- e. Final elevations of all structures must be substantially similar to the concept drawings presented at the public hearing or those included as part of the planned unit development master plan report and shall be approved by the City of Pewee Valley.
 - f. Applicant shall submit to the City of Pewee Valley written proof that it has sanitary sewer capacity and in addition that the sanitary sewer connection will be available to take the flow from any proposed structure prior to Applicant requesting a Certificate of Occupancy.
 - g. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to site disturbance approvals. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required.
 - h. The Mayor is hereby authorized, in consultation with the City Engineer, to issue the City approvals contained in Binding Elements 5(a) through (h) and such approval will not be unreasonably withheld.
6. All street signs to be installed shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. All lighting to comply with City of Pewee ordinances.
 7. The Applicant, its successors and assigns, agrees that during the construction phase, the site shall be kept mowed and picked up, to the greatest reasonable extent possible, given the necessities of the construction operations. The construction entrance shall be through the Reamers Lane entrance. Construction shall be limited to 7 a.m. to 9 p.m.
 8. If no building permits are issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised Development Plan is approved, or an extension is granted by the Planning Commission and the City of Pewee Valley.
 9. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission and the City of Pewee Valley.
 10. The Applicant, its successors, and assigns, shall maintain the buildings, apartments, and site in a high state of repair, including, but not limited to;
 - (a) Maintenance of exterior finishes, no peeling paint, broken or non-functioning light fixtures, holes in exterior, windows, and stairways in good condition.
 - (b) Maintenance of grounds, including regular mowing, landscape upkeep and replacement of any plant material which might die, sidewalks repaired, exterior lighting kept functioning, common areas picked up and kept clean.

- (c) Detention and stormwater facilities must be kept clean, operational, attractive, and safe.
 - (d) Maintenance of parking, no significant pavement degradation allowed, no abandoned cars allowed to remain in parking area and keep any signage painted and well kept.
11. The Applicant shall comply with all other application requirements and standards contained in the Oldham County Comprehensive Zoning Ordinance, Division 230 PUD Planned Unit Development and with the Oldham County Planning Commission's standard Binding Elements recommended by staff in this case, all of which are fully herein as if set out in full and approved.
12. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors, and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements. Applicant, its successors and assigns, acknowledges, and agrees that the City of Pewee Valley has additional authority (along with Oldham County) to enforce these binding elements, including the duty to maintain the property.

Section 3. This Ordinance shall take effect upon its passage and approval as required by law.

First Reading: March 1, 2021

Second Reading: April 5, 2021

Adopted this 5th day of April, 2021.

