

Planning Commission Minutes
May 28, 1996
SPECIAL MEETING

Present: Acting Chairman Mike Holmes, Vice Chairman Dick Dresher, Ken Cutler, Don Milligan, Mark Green: Tom Hardy, City Manager; Sam Fowler, City Council Representative; Rusty Mahan, City Attorney, Paul Rowland, Asst. City Engineer; Connie Feil, Recording Secretary.

Planning Commission members that were in attendance on May 21, 1996 met at 7:00 P.M. at 450 E Highland Oaks Drive for a field trip for a proposed Planned Unit Development at that location.

The purpose for this special meeting is to continue with the consideration of the conditional use permit application of Douglas Harris for a 10-unit P.U.D. The meeting at City Hall convened at 8:10 P.M.

Conditional Use Permit

1. Met in the Conference Room at City Hall for continued consideration of conceptual and preliminary approval for a Planned Unit Development of 10 units at 450 E. Highland Oaks Drive, Douglas Harris, applicant.

Douglas Harris, Dave Bird and Gary Crane were present. Paul Rowland explained that on the field trip they viewed the proposed PUD site, and the entrance road which had two different options staked out. They looked at the hillside slopes, which showed that they were in excess of 50% in places, looked at the property where the building pads are proposed, and discussed the scope of the size of the cuts.

Rusty Mahan, City Attorney, explained that there are two issues before the Planning Commission tonight, a Conditional Use Permit and the approval of the subdivision. The Planning Commission issues the Conditional Use Permit and the Subdivision Approval will come from the City Council. The Conditional Use Permit will be considered in three parts under Section 14-8-102:

1. Conceptual approval to determine the overall desirability and/or compatibility of the Planned Unit Development.
2. Preliminary approval subject to the conditions of notification of surrounding property owners in the normal conditional use process.
3. Final approval based on detailed drawings and specifications in general accord with the preliminary approval and any attached conditions.

In most cases, under Sections 14-2-210 et seq, a Conditional Use Permit is done, up or down, in

one step. However, in this case it is a two-step approval of a Conditional Use Permit. The Planning Commission could grant Conceptual and Preliminary approval of the Conditional Use Permit and of the Subdivision. Mr. Mahan feels that one thing that the Commission could do would be to give the applicant a chance to come back with specifications on items 1 & 2.

Mike Holmes read the section of the ordinance for the purpose of the Planned Unit Development, Section 14-8-101, which is as follows:

The purpose of planned unit development is to allow diversification in the relationship of residential uses and structures to their sites and to permit a more flexible development of such sites through large-scale site planning. The application of planned unit development concepts is intended to encourage good neighborhood and housing design through the consolidation of open spaces by clustering dwelling units, to use public facilities efficiently, to avoid development of environmentally sensitive areas, and to insure substantial compliance with the intent of zoning regulations and other provisions of this Ordinance related to public health, safety and general welfare.

A planned unit development shall mean an integrated design for residential development in which one or more of the regulations, other than use regulations of the zoning district in which the development is to be situated, is waived or varied to allow flexibility and initiative in site and building design and location in accordance with an approved plan in compliance with the provisions and requirements of this Chapter.

Mr. Holmes feels that there are three issues with this project.

1. The site plan
 - a. Is the site plan meeting the City Ordinances?
 - b. Are the houses being clustered or are they being expanded into the hillside?
 - c. Are the homes being nicely done?
2. Technical issues
 - a. Are the slopes too steep?
 - b. Is the property stable or will it sluff off?
3. Real issues-where do we draw the line?
 - a. What is excessive or not excessive?

Mr. Holmes opened to the Planning Commission for their opinions.

Mark Green has some major concerns about this project. The number one issue is crossing the slope for the roadway. Mr. Green feels that this is not an acceptable place for access to the property and this needs to be dealt with first. A roadway crossing that slope where the trees are, as proposed, will cause major damage to this property. Mr. Green has not been convinced that this can be done without disturbing a piece of 30% + hillside, which the City Ordinance does not allow. Mr. Green is convinced that this should not be done. Mr. Green feels that this is so far

out of bounds from the intent of the Foothill Ordinance. Other issues are the turnaround for fire trucks for the homes on the lower end of the cul-de-sac and positive drainage for of this area. There are alternative uses of the property where cuts would not be as long or as severe.

Ken Cutler has driven around different parts of the valley to see what other cities have done with the cutting of slopes. Mr. Cutler feels that aesthetically there aren't any good looking cuts in the valley and he has a problem with the road. In the PUD Ordinance the purpose is the consolidation of open spaces by clustering dwelling units, to use public facilities efficiently, to avoid development of environmentally sensitive areas, and to insure substantial compliance with the intent of zoning regulations and other provisions of this Ordinance related to public health, safety and general welfare. This project does not meet substantial compliance with the intent of the ordinance. Granting variance after variance in order for this to take place is not meeting the intent of the Ordinance. This seems to be a great and beautiful project if you could get an access into it. Mr. Cutler feels the cost of granting this will not be worth it to the owners or the City. Whatever is done will create problems.

Don Milligan enjoys the design of the homes and the view. Mr. Milligan agrees with Mr. Green and Mr. Cutler that the bottom line is the cut for the road is unacceptable.

Sam Fowler mentioned that it is really to bad that the approach to this project has to be such a killer. Mr. Fowler feels that the project is great but the approach is bad.

Gary Crane, with Douglas Harris and Dave Bird, mentioned that they have to find a way to get onto the property. The only way that can be done is to build some type of road through this section of the property. The cuts for the road have created a big problem for the developer as well as the City. Mr. Craine knows that the wall has to be safe and it can't be one that will crumble and fall. The grade has to be safe and it has to look good. The main problem is the cut for the access not the remaining project. Mr. Craine asked the Commission to grant conceptual approval and not turn it down to and give them some time to make other alternatives.

Mr. Green explained that the reason for not building on a 30% or greater slopes is for safety and building on a 30% is far beyond safe. Cutting and retaining on these slopes is contrary to aesthetic values. The engineering can be done but the concerns are also with what the City wants with the hillside. The City wants the hillside left natural not filled with concrete.

Mr. Craine asked how do they get an access to the property if not cutting into the slope? What Mr. Harris is proposing fits with the concept of what a PUD should be across the country. This project has more than 80% in natural open space around the homes. The units are clustered together and that is the intention of the ordinance. Any access to this property has to come somewhere through the slope area. The question is how to deal with this? If there is a way to do this we need the time to find it. Mr. Craine has asked that the Commission not turn down the approval and give them some time to make other alternatives

Mike Holmes mentioned that the applicants keep saying, "This is the only access through the property." The developers are the only ones saying this. The Commission members are saying, "Why is this the only way?"

Tom Hardy pointed out that some are saying they like the project but not the access. The project is not a project without the access. In order to consider if this is desirable or compatible you have to have a road or you have no project. Unless there is a way to get a road to it this it is not desirable or compatible. Without an access this is not acceptable.

Mr. Green feels that to assume that there are not any problems is wrong. There are homes that are 40 feet in difference of elevation. There are some big issues to overcome up in the meadow.

Until the access issue has been solved were wasting time in talking about the other problems until this one is solved. Without an access there is no project.

Todd Claffin, landscape architect working with Mr. Harris, agrees with Mr. Hardy that there is no project without an access. Mr. Claffin asked if the question is resolving the access problem or is it with leaving the property the way it is? At this level, Mr. Claffin feels, the Commission Members should not be here to say no to conceptual approval. This is a complicated project and things need to be worked out. Good cuts into the slope can look good. Good cuts you don't see, just the ugly ones. The real question should be "It can be done but should it?"

Mr. Green mentioned the comment which was made about the Commission Members. They should not be here to make a determination of a conceptual or nonconceptual is incorrect. The members have been given an application which asked for a yes or no answers based on the information given. That is what we are here for.

Mr. Harris, as a property owner, asked if he can come to terms on the project compiling with the intent of the PUD Ordinance, can he make the access one that would be accepted by the City? It seems a little premature to have this project closed without the time to design a new road. There can be a good road and a good access that will work. If the road is 20 or 30 feet wide it has to cross this piece of ground. This will either have to be permitted or this piece of land will have to be permanently landlocked.

Mr. Mahan mentioned that there are less burdensome or less intrusive alternatives. The 20-foot driveway going would reduce the cuts in half. The slope of the driveway at 15% would not require an exception. Mr. Mahan addressed Mr. Harris that he had made an opposite argument earlier in the day. Mr. Harris's argument earlier was "why didn't you tell sooner, no! , on this project?" Now he has turned around and going in the opposite direction, "don't tell me no now let me go on."

Mr. Harris wanted to address the Commission about this comment. Six months ago Mr. Harris came to the City with plans for a PUD. Over this time there has been a dialog about what this

PUD would be. The answers received during this time were the items in question are permissible with a variance. Plans with roads, cuts and fills were submitted. If this project cannot be done, it would have been better to know six months ago. Mr. Harris believes that he should be entitled to make alternatives. For the last six months Mr. Harris has been having conversations with Mr. Vaughn who owns lot #8. Mr. Vaughn would like to build on his property but the road for Highland Oaks Dr. has left a large cut that in front of his property. It would be beneficial for Mr. Vaughn to have 50 feet of frontage from Mr. Harris in exchange for 50 feet of Mr. Vaughn's property. If this was done, it would create a new corridor for the access road. There has been some discussion about coming to some terms on this. The road could be dropped 10 to 15 feet.

This needs to be looked into for more possibilities.

Mr. Green addressed Mr. Harris on making an opposite statement just five minutes previous. Five minutes before Mr. Harris stated that if he couldn't build a road across this property that the Commission was land locking this property forever. Now Mr. Harris has come up with an answer. Mr. Harris has previously talked with another property owner on some possibilities. At the last meeting Mr. Green recommended to Mr. Harris to approach the property owner of lot #8 to see about getting the road through his property. Mr. Harris said that this was not a possibility. At this time Mr. Harris had already talked with Mr. Vaughn but nothing was mentioned.

Mr. Harris explained that he did send a letter to Mr. Vaughn with four possible proposals with his property. At that time Mr. Vaughn was not in a position to address these. There is a possibility that something can be worked out. Mr. Harris needs some time to negotiate with Mr. Vaughn to work out something.

Paul Rowland mentioned that if there is a possibility of a land swap with Mr. Vaughn it significantly will change this project. This project would be changed to the point that the application should be withdrawn and then reapply with new a one. Mr. Rowland feels that it would be an advantage to Mr. Harris if he would withdraw his application and reapply rather than face the possibility of being turned down.

Mr. Mahan mentioned that there is an alternative of neither giving conceptual approval nor turning it down. It can be adjourned and continued at a further date.

Mr. Harris pointed out that he has reviewed the Planning Commission Minutes over the last four years. There have been some exceptions given on cuts and fills over 10 feet. View Pointe, which now is Highland Oaks, had 850 feet with a cut and there are others.

A discussion was made about all the exceptions Mr. Harris mentioned. These exceptions were not real extreme. Mr. Mahan explained that with Mr. Harris showing the exceptions that have been granted in other developments, this is why he is against approving the project. Mr. Harris requires waivers of everything and they are extreme. If this is granted the Commission will have

others saying that it was granted for the Domaine at Highland Oaks. It will go on and on with everyone wanting more.

Lanis Eyre made the comment that the Commission Members are the guardians or parents of the City. If something is too steep or it doesn't work then you have to say no!

Mark Green made a motion to continue this item to a future date when the developers submit new information. Don Milligan seconded the motion.

Rusty Mahan made a suggestion to put a 60-day time limit for the developers to submit new information. Mark Green amended his motion. The question was asked, "Why a time limit?" Mr. Mahan explained that Mr. Harris should agree with this so there will not be grounds or complaint on the basis of a delay.

The 60-day time limit was waived but the Planning Commission has the right, with notification, to schedule this on an agenda if too much time has lapsed. Voting passed by majority vote. Dick Drescher abstained from voting.

Meeting adjourned at 9:10 P.M.