

PLANNING COMMISSION MINUTES
MAY 19, 1992

Present: Chairman Jeff Chretien, Dick Dresher, Kathi Izatt, Don Milligan, Mark Green, Elaine McKay, Mike Holmes, Mick Johnson, Barbara Holt, City Council Representative; Jack Balling City Engineer; Paul Rowland Assistant City Engineer; Layne Forbes City Attorney; Tom Hardy City Manager; Jon Reed Boothe Planning Director; Shirley Chevalier Recording Secretary.

Minutes of May 5, 1992 were unanimously approved as written.

Conditional Use:

5-19-92.5A 92-5C Lakeview Terrace PUD - Tabled from May 5, 1992

Mike Holmes addressed the Planning Commission and the audience, in reference to a request that he remove himself from participating in the process of approving or disapproving this application due to an alleged conflict of interest. Mike has a partnership interest with Lynda Hobson in a piece of property in Centerville and has no other current professional association with her. He submitted a notarized letter to Mayor Linnell and Chairman Chretien previously in which he informed them of his business with Ms. Hobson. He further discussed this with City Attorney Layne Forbes who did not feel there was a conflict of interest. Mike left the Planning Commission because if the Planning Commission decision was challenged in court, it should be challenged on its own merit and not on the supposition that there was a conflict of interest on his part, and he categorically denies that there is any conflict of interest.

Chairman Chretien asked three questions of City Attorney Layne Forbes. 1. - Is the application for the Conditional Use Permit in the proper form necessary for the Planning Commission to consider action on? Mr. Forbes replied yes, in his opinion; 2 - Does the application have sufficient title to the land for the Planning Commission to grant a Conditional Use Permit? Mr. Forbes: the title report indicated that fee simple title is vested in Lynda Hobson, the applicant; 3 - Have you received enough information from the applicant to feel secure in her financial ability and that Section 7-601 regarding the Planning Commission's satisfaction regarding financial ability would be satisfied, and would you sign an affidavit to that effect to be presented at a later time if required? Mr. Forbes: This is the Planning Commission's decision on whether or not there is sufficient information. By ordinance the Planning Commission has authority to require that the proponents of the Planned Unit Development have demonstrated to the "objective" satisfaction of the Planning Commission that they are financially able to carry out the proposed project. The inquiry should be made in view of the traditional financing procedures in the development industry which are, among others, that the financing is generally not committed until approval. The applicant has shown me a letter under the signature of an officer of a financing institution which is authorized to transact business as such in the State of Utah. In the letter they have stated that they are providing the financing for the Bartonwoods PUD project. "The developers have the financial capability to meet our requirements. Upon approval from the City we will be able to move forward to bring to completion our portion of the financing." You may have some inquiry concerning what is meant by "out portion if the financing".

Chairman Chretien asked Mr. Balling, 1. Has sufficient site plan information been supplied with the application to consider at least preliminary approval? Mr. Balling answered yes; 2. Has the recreational vehicle parking been included in the calculation of the 33% common area figure? Mr. Balling: no, it has not.

Kathi Izatt said she is curious about the phrase in the letter which Mr. Forbes read that indicates they are ready to fund this portion if the financing. She asked Ms. Hobson to elaborate on this. Ms. Hobson replied that they are putting several hundred thousand dollars of their own money into this project; the bank is lending the balance. They put the money on deposit at a particular institution in order for them to guarantee the loan, which has been done.

Kathi said for the purpose of sharing information which she requested, because she did not find in the materials received in her packet any indication concerning safety of the children, Ms. Hobson sent a telecopy in which she indicates "If there are any young children in our project, and realistically there may be a few, I believe the safest method of reaching the elementary school, would be to traverse the streets of our PUD rather than Lakeview Drive, until they get to the lower street, and then access Lakeview. They do not have to cross Lakeview at any point, making their path safer than that of the children in surrounding homes. The PUD will likely have less traffic at those times of day when children are traveling to and from school. Kathi asked Jack Balling if this was accurate representation of where the school is and that the children who live in the PUD development do not need to cross Lakeview. Mr. Balling said this is correct.

Kathi said she called all but one of the lending institutions who had written a letter to Mr. Greg Stuart, which came in the packet to Commission members. Only one of them indicated they would still be as adamantly opposed to funding a project such as Ms. Hobson's if it comprised twin homes. Apparently these institutions were not approached on the project as a twin home concept, but as a condominium PUD. They describe the twin home type of project as a step between condo at the bottom of their funding interests and single residential as top priority. The letters in question indicate condo, and on that basis, Kathi said she is hopeful that the financial information which Layne read, and which Ms. Hobson provided to us in a verbal form, is sufficient to show us that she has financial backing in this project.

Barbara Holt addressed Ms. Hobson in reference to the information that the lender will be able to bring to completion their portion of the financing. Ms. Hobson has indicated that they had put in their own money in order to secure the loan, and on that basis they would be willing to go forward once the permits come through. Mrs. Holt wonders if they are looking at just the site improvements. Ms. Hobson said they have funding available for the site improvements. Construction loans have been committed as they are needed. The banks like to see earnest money agreements, and they have waited until they have obtained approval to submit a written earnest money agreement and earnest money. She has 38 names on a waiting list for these units. She stated they have personal funds to begin some of the units, however, they prefer to do it on a period basis since it is more economically feasible; however, they are prepared to not only cover site improvements, but they have enough to cover the first 12 units right now.

Mrs. Holt said she has tried to be fair and consistent in accordance with the ordinance as she has gone through this. Regarding the concerns of the neighborhood, she addressed City Attorney Layne Forbes, regarding the ownership; per the legal staff the ownership and title is in order (Mt. Forbes confirmed); financing - that the proponents of the Planned Unit Development have demonstrated to the satisfaction of the Planning Commission that they are financially able to carry out the project. Mrs. Holt asked Layne if that indicated the ability to carry the project through to a conclusion, to which he replied that it was the completion of the improvements to make the project saleable. He believes there is enough information that has been given the Commission that Ms. Hobson has demonstrated she is financially able to carry out the project. Mrs. Holt asked if this is consistent with what has been required of developers of similar projects? Mr. Forbes replied yes. The next issue is with safety. The Engineering Dept. has reports that indicate Lakeview Drive can handle additional traffic, and the project does not represent an unacceptable increase in traffic volume. If the project were changed from multi-unit to single family, would there be a significant change in this report in terms of traffic volume? Paul Rowland answered there would not be a substantial savings as far as the increase in traffic between 63 units and 35-37 family units. Mrs. Holt asked if this were changed from multi-unit to single family, in terms of reducing the risk on the safety issues that were brought out in the public hearing, would this reduce those risks significantly? Mr. Rowland replied, no, he did not believe so.

Mrs. Holt asked Ms. Hobson if this Commission required her to put sidewalks on at least one side of the development in order to help mitigate the problem of the children in that area walking through the development, would she be willing to do that? Ms. Hobson said her only concern would be more oak would be lost, however she would talk to her engineer to get his recommendation.

Mrs. Holt said one other issue she is concerned with is the harmony with the character of the neighborhood district. The ordinance states 4 units per acre, and even though the price, size, and construction is in character and harmony, she questions the density. The Planning Director said that notwithstanding the size of the units, at 3.79 units per acre, he would still consider this low density and in harmony with the neighborhood district. Mr. Forbes said the Planning Commission and City Council in 1982 and henceforth, have gone on record by utilizing the ordinance that permits PUDs in the Foothill Overlay Zone, and have indicated by virtue of the Foothill Overlay Zone, that maximum units in the area where the average slope is between 20 to 30% is four. If it meets the requirements of the ordinance, it is companionable with the surrounding residential areas. His personal opinion is that it is in harmony.

Elaine McKay said she was out of town for the other two meetings, and she would feel comfortable in not having the Planning Commission make this decision. She would like to have it in the hands of those people who are elected and directly responsible to the people of Bountiful. She has great concerns about the appropriateness of this particular use and the safety. Government is not in documents, surveys or letters, government is in the people. She is part of the process, and from where she sits and from what she has seen, she is encouraged to vote nay.

Kathi Izatt made a motion to approve the Conditional Use Permit application by Ms. Hobson for Lakeview Terrace PUD (Bartonwoods), also that a preliminary site plan be approved based upon our findings that we have received information regarding 13-301, that the location is proper; that it provides a service to the city and the community; that we find according to Section 13-302, this project, based on information given us by the applicant, by staff, and by City Council, will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity; that we find, according to 13-303, the proposed use, at this point in our review process, will comply with regulations and conditions specified in the Conditional Use ordinance; that we find in reference to 13-304, the proposed use does conform to our Master Plan; that according to 13-305, the proposal generally meets the requirements of other ordinances in the city as far as our review goes at this point; and that there be a condition upon the Conditional Use that sidewalks be required on one side of the street; that the application is properly before us and that approval is also conditioned upon all of staff's recommendations given to the Planning Commission on May 5, 1992 as follows:

1. Completion and submittal of a landscape plan to be approved by the City Planner.
2. Completion of the engineering drawings showing the street, sewer, drainage, curb/gutter, and water.
3. Payment of all required fees.
4. Posting of the site improvement bond.
5. The entire site to be completed in one phase.
6. Compliance with all provisions of the Foothill Zone and PUD ordinance.
7. All building plans to comply with the building codes and city ordinance. The roof to be designed for a 40 lb/sq. ft. live load and the frame to be designed for a 100 mph wind load.
8. Presentation of the common area maintenance agreement for final review.

Mick Johnson seconded the motion. Barbara Holt stated that she is charged with representing the people, and upholding the law. The decision has to be made not only on fact, but per the ordinance. She has tried to approach this with objectivity and to address the concerns of the neighborhood as well as the rights of Ms. Hobson. Though each project must be looked at on its own merits on a specific location, with respect to the ordinances, the developer should be treated with fairness and consistency. Her preference would be for single family homes, but she can't vote her preference. Her vote needs to be based on what has been applied for. It also must be based on the applicable ordinances and their legal interpretations. As long as Ms. Hobson fully complies with the ordinances, she sees no legal grounds that we can deny her the right to develop the ground.

Mr. Balling said in the past the Planning Commission has required a fence around those portions of a PUD which has an impact on adjacent lots. Along the east border, where it fronts onto the Eggett Subdivision, most of it is bounded by tall oak where obviously a fence would not be desirable. There are some spaces that probable ought to be protected, and that may be a consideration. This can be addressed in the preliminary and final approvals.

Kathi Izatt amended her motion to include closing the public hearing of Ma75, 1992. It was

eluded to be no action was taken. Mick Johnson seconded the amendment to the motion. Chairman Chretien asked for a hand vote on the motion as stated and amended; majority voted approval 7-1; Elaine McKay voted nay.