

**PLANNING COMMISSION STUDY SESSION**  
**MAY 12, 1992**

Present: Chairman Jeff Chretien, Mark Green, Mike Holmes, Kathi Izatt, Don Milligan, Mick Johnson; Barbara Holt, City Council Rep.; Jon Reed Boothe, Planning Director; Paul Rowland, Assistant City Engineer; Layne Forbes, City Attorney; Tom Hardy, City Manager

Excused: Dick Dresher, Elaine McKay, Jack Balling - City Engineer

On May 5, 1992, a public hearing was held, 92-5C Lakeview Terrace PUD, where a large number of people were present who lived in the area and opposed it. They had many concerns and the Planning Commission felt that before a decision could be reached, these items needed to be reviewed, and this study session was scheduled.

Before this session got underway, two letters were handed to Planning Commission members, one from Kirk Heaton, 2233 Ridgewood Way, and one from Syd Shurtliff, 1046 S. Garden Way. There was an implication that Commission member Mike Holmes had a conflict of interest, and therefore should excuse himself from voting on this project. Mike stated he has a partnership interest with Lynda Hobson in a piece of property in Centerville and has no other current professional association with Ms. Hobson in any manner whatsoever. He submitted a notarized letter to Mayor Linnell and Chairman Chretien attesting to this. He has discussed it with the City Attorney who does not believe there is any conflict of interest.

In addressing some of the points addressed by Mr. Heaton, Layne Forbes said the application has been amended on some minor points through interlineation, meaning by handwriting and initialing they have amended the existing application. One of the points made by Mr. Heaton, was the fact that Mr. Paxman was the applicant and Ms. Hobson is the owner. This has been amended to provide that both of them are the applicants and the owners.

Mr. Heaton feels the application presupposes that the application will include the entire lot 62 and that would include the existing condominiums that are there now. Mr. Forbes is informed by Ms. Hobson and her attorney Mr. Faust, that there will be no new construction within the existing development, that all of the project relates to that outside of the existing development. There will be a contractual arrangement with those people concerning services and common areas, amenities, etc. Mr. Forbes thinks this is proper and is not a legal flaw.

A question was asked as to how long will they be allowed to continue to amend the application after a hearing has already been held. Mr. Forbes said the ordinance does not address that. The Utah Rules of Civil Procedure do not apply here, but it gives an indication. That is, the courts quite readily permit amendments either after the summons has been served, even during or after trial, and they do permit amendments by interlineation. The courts have interlineated themselves to amend to conform to the evidence, and the amendment relates back to the original time of the filing. They have substantially met the requirements of the ordinance. The notice was proper. Mr. Forbes said it was his opinion, categorically, that you do not have to renotice and rehear.

Mr. Heaton said that the original lot 62 used to include the condo Homeowners' Association. In 1979, his law firm foreclosed it out on behalf of the parties in Denver, and a portion of it was deeded to the Homeowners' Association. In 1987 there was a lawsuit involving the prior builder and the current Homeowners' Association, and another portion of lot 62 was deeded over to the association which was the tennis court, clubhouse, and swimming pool. When Ms. Hobson took the deed in February 1991, there is a separate legal description attached to the back. It is a metes and bounds description and is not lot 62. It is everything left over out of lot 62 because a substantial portion has been carved out over the years. If the application says lot 62 without attaching the metes and bounds description, which excludes that which is owned by the Association, then, according to the plat filed in the Davis County Recorder's office, Ms. Hobson has got lot 62 which is the Homeowners' Association. He said the purpose of his letter was to say to this committee, what was submitted in the notice is not what was talked about at the hearing. He feels these are substantial amendments which need to be addressed and another public hearing held.

Scott Balling, Balling Engineering, prepared the plans, and said when he put the legal description on the plat, they show lot 62 less the metes and bounds description which includes the original 10 condominium units. The plans do not include the existing condominiums.

This application is before the Planning Commission as a Conditional Use only, but it raises other issues which includes development of a Planned Unit Development in the foot hill area. If the Conditional Use is approved, it will come back for PUD approval. Chapter 7 Planned Unit Development, states "Planned Unit Developments may be allowed by Conditional Use permit. No such Conditional Use permit shall be granted unless the Planned Unit Development will conform with regulations of this ordinance."

The Planning Commission went through the items in both the Conditional Use and PUD ordinances, requesting that Ms. Hobson respond in writing to specific items for review prior to the May 19th Planning Commission meeting. Some items will be covered in the site plan review when the PUD comes in for approval, provided the Conditional Use is granted. Section 13-302 also to include a traffic report prepared by staff, and 13-304, that the proposed use will conform to the intent of the Bountiful Comprehensive Plan, is to be prepared by staff.

In the discussion period, most of the concerns related to - safety of the children in getting out of this development, crossing the streets to get to school (Kathi Izatt asked Ms. Hobson to address this); density of the PUD vs single family lots as it relates to traffic flow, property values, etc., and whether the Commission wants this type of density in the foothills; financial ability of the applicants. Barbara Holt said we need to have more than just knowing they are going to be able to put in the site improvements, when we have a time completion requirement. She asked if posting the site improvement bond is done prior to the issuing of the Conditional Use. Mr. Hardy replied no, because no bank will give a bond for a project that is not approved. When you grant approval, it is subject to posting the bond. If the bond is not posted, they do not meet one of the conditions for approval, therefore it is not approved. If a condition is required that they do all of the site improvements at one time, the bond is set high enough to cover those improvements.

Discussion included the possibility of relocating the primary ingress/egress driveway. Scott Balling, engineer for the project, said they could study the situation using traffic counts, etc.

The RV storage area has been moved where it backed lots 1 and 34 in the adjacent subdivision, to a new location on the site where it will be screened by fencing and shrubs. A home will be located in this area.

Ms. Hobson was asked what was going to be done with the open space on the steep hillside. She said they would keep it as natural as possible without destroying or disturbing the natural landscaping. They do intend to put some paths along the creek and an occasional picnic area. This is part of the common area which is under the Homeowners' Association. The Commission wants the CC & R's to reflect this to assure this area remain pristine forever, and should be a condition of approval. It was suggested the fencing be carefully planned and that the surrounding homeowners might give their input. Some have expressed that they prefer no fencing. Ms. Hobson said their intent is not to fence along the creek.

Chapter 6, Foothill Development Regulations, Section 6-603 Application for Conceptual Approval, item 6-6031 PUD Project, states: "All applications for approval of a PUD project shall comply with the provisions of Chapter 7 of this ordinance, except that such application shall also include topographic contours and an estimate of average slope of the PUD development site." Kathi Izatt asked if it was our intent to consider the Conditional Use along with the preliminary site plan approval. It was the Commission's consensus that it was the intent.



