

**LAKWOOD PLANNING COMMISSION
PUBLIC MEETING
MINUTES**

December 12, 2007

COMMISSIONERS PRESENT:

Tracy Sheffield
Jerald Golley
John Plotkin
Rich Urbanowski
George Brown III
Ray Schoch
Michael Rohr

STAFF PRESENT:

Rebecca Clark, Director, Community Planning and Development
Tim Cox, City Attorney
Timothy Gelston, Manager, Development Review
Olga Mikhailova, Principal Planner, Development Review
Dieter Magin, Civil Engineer III, Engineering Development Assistance
Ross Williams, Facilities Planner, Community Resources
John Padon, Principal Traffic Engineer, Public Works

Following are the minutes of December 12, 2007 Lakewood Planning Commission Public Meeting. A permanent set of these minutes is retained in the office of the City Clerk.

ROLL CALL

The roll having been called, a quorum was declared and the following business was conducted:

ITEMS 1: AP-07-001, Public Hearing regarding a request from Richard Todd, Alameda Avenue Venture, LLC for approval of a Minor Subdivision Final Plat (Case FI-06-012) to subdivide 3.76 acres of land located at 13850 West Alameda Parkway into nine (9) single-family lots and one (1) tract. This matter comes before the Planning Commission on an appeal from John Danielson, Green Mountain Beech Park Association, to the Planning Director's administrative decision.

COMMISSIONER TRACY SHEFFIELD disclosed that he has worked with CTL Thompson in the past, but in no way would it affect his decision.

COMMISSIONER JOHN PLOTKIN disclosed that he has worked with CTL Thompson in the past, but in no way would it affect his decision.

COMMISSIONER RICH URBANOWSKI disclosed that he has worked with CTL Thompson in the past, but in no way would it affect his decision.

COMMISSIONER MICHAEL ROHR disclosed that he has worked with CTL Thompson in the past, but in no way would it affect his decision.

MS. BECKY CLARK advised the Commissioners regarding additional materials submitted from Applicant and Appellant, including the Geotechnical and Geological Investigation reports. Applicant and Appellant have each received the other's information at the same time as the Planning Commission.

MR. PHIL LARSON, from the law firm of Larson Bushell, LLC, 12600 West Colfax Avenue, Suite A-180, Lakewood, CO, representing Alameda Avenue Ventures, LLC, owner of the property and Applicant, presented information about the case. In the 1970's, land was abundant and development took place on the cheapest and easiest parcels. This has changed. Now, areas not originally developed are being considered. The Applicant knows that, given the high cost of finished lots and the high cost of today's housing, it makes economic sense to develop lots like this project. The Green Mountain Beech Park Association's goal has been to keep this property an undeveloped open space. After an unsuccessful attempt to purchase the property, a petition to downzone the property was submitted. The City Council approved the downzoning and the property owner agreed to the downzoning. The Applicant has worked closely with the neighbors, attending neighborhood meetings, negotiating to appease them, but has been unable to come to an agreement because of the neighborhood's desire to keep the property from being developed. The Final Plat for this Minor Subdivision was administratively approved by Rebecca Clark and was ready to be recorded subject to a fifteen-day appeal period. The neighbors have appealed this decision.

MR. LARSON further stated that, at the time of the filing of appeal, the Applicant was unaware of the specifics about the appeal and whether there were new issues. Upon receipt of the Appellant's packet it was determined that the issues described were the exact same issues addressed in the previous ten months. Furthermore, there have been personal and false attacks directed at the Applicant, which have nothing to do with a Plat application.

MR. LARSON continued with discussion of the Appellant's proposed recommendations and that all of the points raised by the Appellant have been previously addressed, point by point, document by document, by the Applicant's experts and confirmed by the City staff and the Colorado Geological Survey. There are no outstanding issues to keep this property from being developed.

MR. JOHN WILLEY, from Willey RLS, Inc., 11373 West Decatur Court, Westminster, CO, continued presenting information on the behalf of the Applicant. He stated that the drainage issues have been addressed and civil engineering design meets the City standards. He also had a traffic study completed based on nineteen (19) proposed residences and the report showed the existing infrastructure was more than adequate to handle the additional traffic flows and the impact to the area would be minimal.

MR. ED FORD, licensed professional engineer in the state of Colorado, discussed his preliminary geotechnical investigation report regarding the proposed development site. He stated that the applicant's expert, Mr. Irish, looked at the wrong area for slope stability determinations. He indicated that he has personally inspected the project area and found no evidence of instability. If site investigation shows that the current fill is unsuitable, his firm will recommend the fill be removed and replaced to current standards. He sees no reason the site cannot be developed and he does not see any landslide hazards above this site.

MR. JOHN DANIELSON, Appellant, 13431 West Montana Avenue, Lakewood, CO, presented his case demonstrating the concerned conviction of the Green Mountain Beech Park Association regarding hazards that threaten the proposed site. They believe this is the wrong project proposed at the wrong site by the wrong developer. They believe that this project does not meet the criteria of Ordinance 14.13 by failing to insure that the health and safety of the public is maintained and that this site should be red-flagged as unbuildable. If, in spite of the evidence presented, the Commission grants approval for construction of the project, they request the following conditions be included:

- 1) Require any developer on the site secure a completion bond for any site improvements and houses to be built there.
- 2) Require the developer, the City, and Urban Drainage to remove the flood plain hazard above and across Beech Street since the developer will be increasing it's hazard.
- 3) Clearly state on the plat that all dirt be removed and the site properly benched to prevent the landfill from sliding and that the two drainpipes be replaced by two concrete drainpipes placed on properly "bedded" bedrock.
- 4) Require the developer to hire an outside consultant to monitor the development work daily on, above, and below the site.
- 5) Prohibit any road or detention construction on the dedicated park land.
- 6) That Green Mountain be mitigated from landslide dangers as referred to in the Irish report.
- 7) That the developer provide ongoing liability insurance to the City, the future residents of the project, and those homes below it down to Beech Park and along Beech Street to the northeast.

MR. TIMOTHY GELSTON, presenting for City staff, requested to enter case files, ordinances, reports, and subdivision ordinance into record.

COMMISSIONER URBANOWSKI accepted.

MR. GELSTON presented case for city staff. Notation was made that the property is zoned

2-R which allows single-family dwelling units to be built with a minimum lot size of 6,000 square feet (s.f.). The smallest lot size for this proposed development is 9,000 s.f. In review of the plat it was determined that the project meets the zoning standards and requirements. External agency review of the project was performed. Public Notification was properly mailed and published per code requirements.

MR. GELSTON stated that City staff did meet with Appellant about the recommendations to the City. The City could not agree to all of the recommendations. Those items excluded are:

- 1) The submittal of the construction bond, which is beyond the scope of the City's authority.
- 2) Removal of the flood plain below the site.
- 3) Preserving the view plane of Alameda Parkway. The property is zoned 2-R and a 35 foot tall buildings are is allowed.

Those items agreeable to the City are:

- 1) Hiring an engineering Geologist or Geotechnical Engineer to monitor earthwork and to prepare a report, which is part of the normal City process.
- 2) Replacement of drainage pipes with concrete pipes, but those pipes would not be placed on bedrock as requested by the Appellant.
- 3) Stripping and replacement of an appropriate amount of existing fill per city requirements and engineering.

Staff is recommending APPROVAL of the plat subject to the three (3) conditions.

OPEN TO PUBLIC COMMENT at 8:27 P.M.

MR. PATRICK MALONE, current President of the Green Mountain Beech Park Association, 1663 South Beech Street, Lakewood, CO. The Association feels the Director's decision was premature. There are issues and concerns technical in nature that are still unresolved. The Association also takes issue with the design of the drainage pipes from two pipes into one with two ninety-degree bends. Another concern is the views currently enjoyed by the residents. The association feels the view issue is being "side-stepped" by the statement from City staff that zoning allows a unit to be thirty-five feet in height.

With regard to the Staff Recommendations:

- The testing of the fill was preliminary, inadequate, and does not address their concerns.
- The City staff should follow up with Urban Drainage about the flood plain.

MS. RITA BERTOLLI, 13484 West Oregon, Lakewood, CO, representing herself, commented that the Applicant's statement regarding the intent of the downzoning being an attempt to make the land uneconomical to build is false. The downzoning was a result of the changing nature of property and that six-story (6) heights are not appropriate for this area. There is no objection to building on the property, but she wants safe development. She wishes to bring attention to another Applicant statement regarding the ridge area and she believes there is no proof of the ridge cutting by Hutchinson. Hutchinson's relinquishing of the property was

because the City of Lakewood agreed to acquire the three-acre parcel in exchange for construction work that was done on Hutchinson Boulevard and she and her attorney have this historical documentation. The citizens have a right to appeal and a right to be safe.

MR. JAMES JANAK, 1691 South Arbutus Place, Lakewood, CO stated that his house is on the north side of the ravine and that the flow of materials in a landslide, mudflow, water movement, etcetera, would move through his property. This is a big concern to him and strongly urges the Commission and the City require the developer to take care of the flood plain.

PUBLIC COMMENT CLOSED at 8:39 P.M.

COMMISSIONER URBANOWSKI requested information from MR. TIM COX regarding the legal issues of Subdivision review.

MR. TIM COX responded that there are technical criteria set forth in the City regulations. The job of the Commission is to apply those criteria, consider the evidence presented, and make a determination that the required criteria have been satisfied.

COMMISSIONER URBANOWSKI asked about developer competence issues and would it affect completion of the project.

MR. COX responded that there is no authority in the City Subdivision Regulations for the requirement of completion. The subdivision process primarily requires the decision-making body to evaluate the proposed plan and it's impacts. Secondly, the body is to impose requirements for public improvements and it is routine to require collateral for completion of the required public improvements. It is not the purview of the Commission to ensure completion of development. The process does not exist to evaluate an Applicant.

COMMISSIONER URBANOWSKI asked MR. DIETER MAGIN for specific information about the policies and procedures of floodplain, drainage and detention as they pertain to this case.

MR. DIETER MAGIN responded that the requirement is that the project not create a negative impact to an area. If there is a negative impact, mitigation is required.

COMMISSIONER URBANOWSKI asked if a drainage report was filed with this case and would it have a negative impact to the area.

MR. MAGIN answered that a report was filed and did not show any negative impact.

COMMISSIONER URBANOWSKI asked how wide an area is normally reviewed.

MR. MAGIN replied that this review was completed down to Beech Street and it was determined there is some shallow and indeterminate flooding that occurs over Beech Street with a 100-year storm.

COMMISSIONER URBANOWSKI asked what the anticipated affect of this subdivision will be to the area.

MR. MAGIN answered that the affect will be positive because the flow coming from the developed property will be less than the current undeveloped land.

COMMISSIONER URBANOWSKI wished to state that he is a civil engineer that frequently works with drainage issues. This is the reason he has asked these questions that indicate the City practices which typically require detention/retention facilities to limit flows at or below historic levels. He asked if this was done in this case.

MR. MAGIN answered affirmatively.

COMMISSIONER MICHAEL ROHR asked the Applicant's engineer how much fill is required for this project.

MR. WILLEY responded that the typical amount of fill near Florida Avenue will be around fifteen (15) to twenty (20) feet and will vary on each side of the street. The grade will be about 8% and by the time the cul-de-sac area is reached, it is lower. In contrast to the Appellant's presentation materials, the project will not be filling the entire site to the elevation of Alameda Parkway and Florida Avenue.

COMMISSIONER ROHR asked if the 8% grade is acceptable.

MR. JOHN PADON responded affirmatively.

MR. WILLEY clarified that the view corridor was taken into consideration and, with the original nineteen-unit proposal, the buildings were to be placed down the hill and profiles were kept lower. But, as the downzoning was instigated, they were forced to plan for more fill to accommodate the request for a 2-R zone district.

COMMISSIONER ROHR asked what kind of foundations and basements will be recommended for this project.

MR. WILLEY answered there will be a combination of walk-outs and structurally designed foundations to viably maintain the structures.

COMMISSIONER JERALD GOLLEY asked if the cul-de-sac is on parkland.

MR. WILLEY answered negatively as it is private land. The Applicant owns this property and it is still zoned as Planned Development.

COMMISSIONER GEORGE BROWN asked about the location of the detention pond.

MR. WILLEY explained that from the cul-de-sac to the southeast corner of the project is where the designed detention is to be located. The designed runoff rate is less than the historic rate as it enters the Beech Park property.

COMMISSIONER BROWN asked why this area was selected for the detention pond.

MR. WILLEY answered that the flow runs downhill and this is the lowest spot.

COMMISSIONER TRACY SHEFFIELD asked how the culvert pipe is designed.

MR. WILLEY answered that the plan is to carry runoff from the northwest corner, down the street, and tie into a pipe in the cul-de-sac and release in the southeast area.

MR. FORD elaborated on the point about the basements. He stated that, at this point, it is unknown what types of foundations will be recommended or specified. It will depend on fill materials, the results of the subsurface investigation and testing to occur after the site is ready for fill. Construction of basements will be up to the developer and home buyers. Test results have not indicated that basements should not be built.

COMMISSIONER ROHR asked if an underdrain system is part of this project.

MR. FORD responded that this type of system is not necessary or appropriate. Even though the test was completed in a dry season and the water table may rise, he believed it would not be enough to affect basement construction in the area.

COMMISSIONER BROWN asked if doing these tests during times of drought might affect results.

MR. FORD answered that surface infiltration will affect the level of the water table. Over time, the water table will fluctuate as much as twenty-five(25) feet. Precipitation over a short period of time, five to ten years, does not rapidly change the water table. He does not anticipate much change to the water table in this area.

COMMISSIONER BROWN queried how much actual fluctuation would take place.

MR. FORD responded that, at the most, the fluctuation would be about five feet, or a 20% fluctuation.

COMMISSIONER URBANOWSKI asked for clarification regarding the normal order of soil investigation for a subdivision of this type.

MR. FORD responded that a developer looking to develop a subdivision would request a preliminary soil investigation from an engineer to determine the types of soil in the area, the viability of the project and to satisfy jurisdiction's requirements for the geologic data. Following the platting of the site, additional test holes may be drilled in every lot if there is a concern about expansive soils or the like and this becomes the final report. Based on these final

findings, foundation design and drainage recommendations and evaluations of slab heave risk are provided.

COMMISSIONER URBANOWSKI asked if the City staff agrees with this response.

MR. MAGIN answered affirmatively.

COMMISSIONER BROWN asked if a test will be done on each part of this project site.

MR. FORD responded affirmatively and this is his recommendation to the Applicant.

COMMISSIONER PLOTKIN asked when overexcavation is appropriate and what factors are considered in this determination.

MR. FORD responded that determinations can be made when test borings indicate inconsistencies in the fill. With this specific project, dry samples indicated the fill was consistent but Mr. Ford wished to do additional trenches to visually inspect the fill for voids, consistency, and compaction.

COMMISSIONER PLOTKIN asked when this would be done.

MR. FORD responded that this would be done before any additional fill is added to the site.

COMMISSIONER PLOTKIN asked if this is consistent with staff's expectations.

MR. MAGIN answered affirmatively.

COMMISSIONER URBANOWSKI asked if it is unusual to find historic fill in a new development.

MR. FORD responded negatively.

COMMISSIONER URBANOWSKI asked if they tried to determine if there was thirty to forty feet of ravine before the historic fill was added.

MR. FORD responded that his interpretation of the maps indicated a ridge through the site and tests supported this assertion.

COMMISSIONER BROWN asked if there are certain combinations of fill that would be better suited for this site.

MR. FORD responded that certain soils would produce better support properties than others would. They are attempting to prepare a fill with consistent moisture content and a consistent density. Building houses on fill has become quite common on steeply dipping bedrock in the Jefferson County area. Mitigating measures include overexcavation of an area a full ten feet

or more below the lowest portion of any foundation and replacing this with moisture-treated and re-mixed soil which removes the potential for swelling.

COMMISSIONER BROWN asked if this is a common practice.

MR. FORD answered that it is not uncommon to build houses on fill.

COMMISSIONER ROHR asked if there will be structural warranties for the homebuyers and details about length and management.

MR. LARSON responded that third party warranties have not yet been discussed. The norm is a one-year warranty for construction defects, five years for structural components and third party warranties for five and ten years.

COMMISSIONER RAY SCHOCH asked staff what the maximum density under 2-R zoning district.

MS. OLGA MIKHAILOVA answered that this type of zoning allows subdivisions with a minimum lot size of 6,000 s.f. and, with this development, the nine (9) lots for which the Applicant has applied is fewer than the zoning allows.

COMMISSIONER SCHOCH asked if the masonry wainscoting is necessary.

MS. MIKHAILOVA responded that this subject is covered in the Preliminary Map and the Site Plan.

COMMISSIONER SCHOCH asked if the developer's character is within the Commission's purview.

MR. COX responded that character could not be considered when reviewing subdivision plats.

COMMISSIONER PLOTKIN asked to what extent does off-site landslides affect the Commission's review of a subdivision plan approval.

MR. COX answered that known off-site hazards can be health and safety factors considered by the Commission but ultimately the engineers determine if the risks are material.

COMMISSIONER PLOTKIN queried if the area on Green Mountain above the site has been reviewed.

MS. KAREN BERRY, Senior Geological Engineer, Colorado Geological Survey (CGS), answered that she has reviewed existing hazard and landslide maps for the area above the site.

COMMISSIONER PLOTKIN queried if this is the typical review process to determine hazards.

MS. BERRY responded that review of the existing data and then a visit of the site is usually performed.

COMMISSIONER PLOTKIN asked if this was done in this particular case.

MS. BERRY responded affirmatively.

COMMISSIONER PLOTKIN asked if there was consideration given to an increased risk of landslide due to the construction in the area of the project.

MS. BERRY answered that, in her opinion, there is little risk of a mudslide above the site if the proper fill and construction is completed.

COMMISSIONER PLOTKIN asked if there is anything unusual about this property that would change the risk below the project site.

MS. BERRY answered that only with regard to fill being placed in the drainage way. In fact, leveling the site would act to slow down mudflow. Flatter areas mitigate mudflow hazards.

COMMISSIONER PLOTKIN asked if she was familiar with, and considered, the Fox report in her evaluations.

MS. BERRY responded that she works extensively with development around the Green Mountain area and looked at this report in detail. This report is a general planning document that outlines general risk, but is not meant to be used for site-specific planning.

COMMISSIONER PLOTKIN asked for MR. R.J. IRISH to respond to the same questions.

MR. ROBERT J. IRISH, Consulting Engineering Geologist, 7101 West Yale Avenue, Unit 601, Denver, CO 80227, stated that his report is based on his review of the CGS report on the landslide and mudflow risk for the planned project area. He found no single answer provided by the CGS to be factual. The entire Green Mountain area is subject to development of landslide and debris flows because the mountains in the area are principally formed of slick clay sandstones that are highly plastic when moisture is added. The Fox report pointed out where all of these landslides had initiated, but did not indicate where landslides would end.

COMMISSIONER PLOTKIN asked if Mr. Irish would have recommended that no homes be built on either side of the Alameda corridor.

MR. IRISH answered affirmatively.

COMMISSIONER PLOTKIN asked if this explains why, when Mr. Irish first studied the wrong area of this project, he drew the same conclusion that construction anywhere along the Alameda corridor is inappropriate.

MR. IRISH responded affirmatively with the reason that there is no appreciable change in the landslide risk to those areas and the whole area above Alameda Parkway is a high-risk, landslide debris flow area. Only a minor change in the beds is required to begin major landslides across Alameda Parkway and areas beyond. He further stated that it is foolish to build where slides initiate and where they end.

COMMISSIONER PLOTKIN asked if the risk associated with the land located above this parcel is no greater than the other areas around this parcel.

MR. IRISH responded that, in general, yes because he does not have any greater specific information that the geologic conditions for this parcel are any different and that the geologic conditions are all bad.

COMMISSIONER URBANOWSKI asked if building on this site would increase the geologic risk to the north and south areas of the parcel.

MR. IRISH responded that he did not see how this would happen. Regardless of the homes being built or not, this does not change the reality that the ground upslope is highly prone to breaking away into landslides and debris flows.

COMMISSIONER GOLLEY asked when and why was land determined to be unbuildable.

MS. BERRY answered that she worked in the Jefferson County Planning Department for eleven years and cannot recall anything in any plans being designated as unbuildable but they would be designated with certain specific hazards. They might have designated constraints on sites for slopes or hazards.

COMMISSIONER GOLLEY asked the Appellant where they had gotten this information.

MR. DANIELSON answered that it came from auditor information in the Jefferson County Assessor's office and they do not know when this designation was placed.

COMMISSIONER PLOTKIN stated that the Assessor's office is a tax body.

MR. DANIELSON responded that he knew this but that is the information they relied upon.

COMMISSIONER GOLLEY asked if the signs spoken of by the Appellant were City park signs and if they were removed by the City.

MR. DANIELSON responded that they were City park signs stating that the area was an off-leash dog training area. The signs were removed after neighbors made an informational request regarding the signs.

MR. ROSS WILLIAMS further clarified that at the top of the hill there was an off-leash dog area. The City crews installing signage did not realize that the park does not extend to Alameda Parkway. The signage was placed in the late 1990's.

COMMISSIONER GOLLEY asked if there were any legal implications regarding the signs being placed.

MR. COX responded that, based on what he has specifically heard, he does not see any legal significance.

COMMISSIONER SHEFFIELD asked if the turnaround is located on park land and if Tract A is to be dedicated to the Homeowner's Association and the park land has been previously dedicated.

MR. GELSTON answered affirmatively.

COMMISSIONER SHEFFIELD asked about the drainage from the Applicant's engineer.

MR. ANDREW MARNER, Alliance Development Services, 5440 Ward Road, Suite 240, Arvada, CO 80002, did the realignment plan for the existing storm sewer as it crosses the site.

COMMISSIONER SHEFFIELD asked if the design meets all the city requirements for moving the amount of water for the area and if there are negative impacts on the flow due to the elbows.

MR. MARNER answered that the intent was to design a storm sewer system to convey the existing runoff from the west of the property as it currently goes through two existing drainpipes.

COMMISSIONER SHEFFIELD asked if staff concurs with the design.

MR. MAGIN answered that the design exceeds City requirements.

COMMISSIONER GOLLEY asked if the elbows would have an impact.

MR. MAGIN stated that this is why the flows are kept to twenty feet per second so the flow does not degrade the concrete.

COMMISSIONER ROHR asked if there is liability to the City if plans are approved and a slide occurs.

MR. COX answered that a case for liability can always be made, but an approval of a plat based on engineering reports does not generally trigger liability of a government entity.

COMMISSIONER BROWN asked if there is to be one(1) or two(2) stormwater pipes.

MR. MAGIN answered that there will be two (2) pipes combining at the end of the cul-de-sac and then draining out at the end of the property with one (1) pipe.

COMMISSIONER URBANOWSKI asked if, in the area of the proposed site, the potentially unstable geologic zone actually moves further away than it would be above the homes near Florida Avenue and if this changes the geologic hazard to this particular site.

MR. IRISH responded that he cannot give a quantitative answer, but the reality is we do not know how far a landslide or mudflow might move from any one of these area. It is up to the size of the landslide and how fluid it is.

COMMISSIONER URBANOWSKI asked if a massive slide might overtop the entirety of Alameda Parkway, engulf the homes all the way along the eastern and lower flank of Alameda Parkway, and potentially take out the whole area and a large number of homes and not just the ravine.

MR. IRISH responded that it very definitely would. He expects the risk of a hugely large slide risk is probably much less than a moderate slide but there is enough uncertainty about what can happen.

MS. BERRY also responded that she concurred with Mr. Irish that it depends upon having a large regional landslide or smaller landslide. Green Mountain tends to have a combination of both types. The larger slides mostly occur in and along drainages where erosion undercuts the slope and the clay stone fails or on the northeast side of Green Mountain where there are prevalent moisture conditions throughout the year. She believes that if there were to be a slide in the area it would be of a shallower, smaller type rather than a large, deep-seated failure and the existing parking lot above the subject property is a bench that will mitigate this situation.

COMMISSIONER URBANOWSKI asked if frequency estimates of landslides are performed, similar to flood risk mapping.

MS. BERRY answered that you can evaluate slope stability analysis and some risk can be assessed.

COMMISSIONER PLOTKIN asked if the risk of landslide for this project is enough that the developer should disclose that risk to potential purchasers.

MS. BERRY answered it would be prudent to disclose risks associated to this site. The risk is not any greater because of the development. Areas in the potentially unstable category are most impacted by improper development rather than by historic conditions. Improper development being; cutting the toe of the slope, loading the slope, or adding water to it.

COMMISSIONER ROHR asked if there has been any movement of the water tanks in the area.

MR. DAVE HARTKOPF, Manager, Green Mountain Water and Sanitation District, answered negatively. He has worked with the water district for thirty-six years and has not seen any problems with the tanks.

COMMISSIONER PLOTKIN made a MOTION for APPROVAL.

Motion was SECONDED by COMMISSIONER SCHOCH.

COMMISSIONER PLOTKIN commented that the history of the project troubles him. He stated that the Appellant has stated it is not a "Not In My Backyard" (NIMBY) issue, but strikes him to really be so with the concerns raised about the preservation of the open space and the unpaid park space. It further troubles him that there were some representations or assertions made about the Applicant and his character, which do not deal with the issue before the Commission. The Commission looks at land use and the City will ensure buildings are constructed to meet health and safety codes. It strikes him that changing from the original high-density project to the current 2-R development is compatible with the neighboring land use and the owner has a right to build compatible buildings on the property.

COMMISSIONER GOLLEY commented that he was touched by the Applicant's realization that this is a difficult project and he is being responsible in dealing with the issues.

COMMISSIONER SHEFFIELD commented that he appreciates the Appellant's rights to appeal the issue. He feels that the questions brought forth were properly answered. He has full confidence in the City staff to monitor and ensure permits are pulled properly and things are done properly.

COMMISSIONER SCHOCH commented that much of what has been raised in opposition to the project seems to be irrelevant to him. The project meets the City standards and he cannot see a reason to oppose the project. The kinds of hazards discussed would affect the nine homes and hundreds of homes in the area and does not feel a desire from the current residents to abandon their houses and flee to avoid landslides and floods. He does not see any reason to discourage any further developer.

COMMISSIONER ROHR commented that this project meets all of the subdivision requirements, however from a development standpoint, there are too many unanswered things and unknowns that bother him. He recommends the City follow through and monitor this project more than other projects because of the issues.

COMMISSIONER URBANOWSKI commented that the project has met the subdivision regulations. He sympathizes with the landowners in the area and understands why they do not want development there, but he does not believe they have made a case as to why there should not be development. The safety issues raised by the Appellant and the resultant focus will result in more careful construction and increased scrutiny of the project than is typical. No issues raised were sufficient to warrant denying use of the land by this landowner.

VOTE taken -

Seven Ayes – Commissioners Sheffield, Golley, Plotkin, Urbanowski, Brown, Schoch, and Rohr

Zero Nays

MOTION PASSED.

APPROVAL OF MINUTES

CHAIRMAN URBANOWSKI stated the Commission would act on the minutes at the Regular Meeting January 16, 2008.

GENERAL BUSINESS:

MS. CLARK stated the next meeting would be January 7, 2008 as a joint study session with City Council. Next, a Study Session on January 9, 2008 followed by a tentative Regular Meeting on January 16, 2008.

ADJOURNMENT

Meeting adjourned at 10:07 P.M.

February 6, 2008
Date Approved


Walter M. Jauch, Secretary
to the Planning Commission