

**PLANNING COMMISSION  
MINUTES  
MARCH 9, 2021  
Virtual (Zoom.us) and In-Person  
LOWER LEVEL – LIBRARY COMMUNITY ROOM  
702 E. FRONT AVENUE**

**COMMISSIONERS PRESENT:**

Tom Messina, Chairman  
Jon Ingalls, Vice-Chair  
Lynn Fleming  
Peter Luttrupp  
Lewis Rumpler (Zoom)  
Brinnon Mandel

**STAFF MEMBERS PRESENT:**

Hilary Anderson, Community Planning Director  
Tami Stroud, Associate Planner  
Sean Holm, Senior Plan  
Mike Behary, Associate Planner  
Shana Stuhlmiller, Public Hearing Assistant  
Randy Adams, Deputy City Attorney

**COMMISSIONERS ABSENT:**

Michael Ward

**CALL TO ORDER:**

The meeting was called to order by Chairman Messina at 5:30 p.m.

**APPROVAL OF MINUTES:**

Motion by Luttrupp, seconded by Mandel, to approve the minutes of the Planning Commission meeting on February 9, 2021. Motion approved.

**PUBLIC COMMENTS:**

None.

**STAFF COMMENTS:**

Hilary Anderson, Community Planning Director provided the following comments.

Ms. Anderson announced on the April 13<sup>th</sup> Planning Commission meeting agenda are scheduled six items and if that is to many may look at a second meeting that month.

**ENVISION CDA COMMITTEE UPDATES:**

Ms. Anderson provided the following comments

- We are looking at dates for a joint workshop with Planning Commission/City Council and possible public engagement. The City Council wanted to do this workshop at the end of March which is unrealistic with our workload and now looking at dates in April.

**PRESENTATION:**

## **Parks and Recreation Master Plan - Monte McCully Trails Coordinator**

Monty McCully provided the following update on Parks and Recreation Master Plan

- He commented that two years ago was the last update for the Parks and Recreation Master Plan which was done inhouse.
- He provided a Power Point covering the accomplishments and goals within the Parks and Recreation Master plan.

Mr. McCully finished his presentation and answered questions:

### **Commission Comments:**

Commissioner Ingalls inquired if a new park is planned at the fairgrounds.

Mr. McCully replied that there are no plans for a park at the fairgrounds but there are other areas in that part of town for a future park for example, the interstate pit, the area by the City landfill.

Commissioner Fleming inquired why aren't the public golf courses located on the map.

Mr. McCully explained they are not listed because they are not part of our Parks Department.

Commissioner Fleming commented in the future would be nice to have these golf courses mentioned since people use them for walking and other outside activities not associated with golf.

Commissioner Luttrupp inquired what is the definition for the Proximity Principal.

Mr. McCully explained that this is the idea that homes located near parks are highly valued with homes further away from a park the values decline.

Commissioner Luttrupp inquired about the Parks Foundation and questioned the role they play helping to provide parks.

Mr. McCully explained that the Parks Foundation helps the City when we acquire a new park and explained instead of the City taking ownership it goes into the foundation which allows us to apply for grants such as a Land and Conservation Grant which requires a 50/50 match.

Commissioner Luttrupp inquired if it is beneficial for the developer to give land to the Parks Foundation.

Bill Greenwood, Parks and Rec Director stated that it does by allowing the developer to write off the property.

Commissioner Luttrupp explained if a developer provides open space for a special use permit or Planned Unit Development (PUD) they will not receive a tax benefit.

Mr. Greenwood replied that is correct so it would be better for the developers give the land to the foundation.

Commissioner Luttrupp stated that in the last few years we haven't heard of many developers giving land to the Parks Foundation.

Mr. Greenwood stated that he has discussed with staff to remind developers that this service is available. He explained that the Parks Foundation does have the deed for the property on Fernan and that the developer has promised to give us 7.3 acres and when that happens will ask them to give that land to the foundation, so we can use this property as a match to get the park built in that area.

Commissioner Luttrupp inquired what can we do as a commission to help.

Mr. Greenwood replied to help us acquire land.

Commissioner Luttrupp inquired about available land on Canfield and if that area is still being planned for a park.

Mr. Greenwood explained yes there is and that he recently had a conversation with the new sheriff who is willing to help with law enforcement if needed.

Commissioner Ingalls commented great presentation and thanks for providing some great parks where people who don't live in our area envy us.

Chairman Messina thanked staff for cleaning up after the big storm and inquired if you could provide an update on Atlas.

Mr. Greenwood commented that it is coming along and explained that we have some reseeding to do and the irrigation system needs to be fixed. He added there are a lot of people at this park and is a great park.

**PUBLIC COMMENTS:**

None.

**PUBLIC HEARINGS**

1. Applicant: Alan Measom  
Location: 810 E. Lakeside Avenue  
Request: A proposed 5-lot preliminary plat known as "Measom Addition" in the R-17 zoning district.  
QUASI-JUDICIAL, (S-3-21)

Sean Holm, Senior Planner provided the following statement

- Allan Measom, represented by Frame & Smetana, is requesting approval of a five (5) lot preliminary plat "Measom Addition".
- This request, if approved, would replat lots 1-3, block 3, O'Brian's 1<sup>st</sup> Addition to Coeur d'Alene (amended).
- The subject property used to be associated with the "J.C. White House" that was recently relocated to the south end of City Hall parking lot at the base of Tubbs Hill. This request for subdivision was previously the back yard of that stately home that currently is being renovated for the Museum of North Idaho.
- The layout of the streets is unique in this area, as 8<sup>th</sup> Street and Lakeside Avenue intersection does not allow for through traffic for vehicles. The intersection is separated by a sidewalk to calm traffic in this area, which limits vehicular connectivity, but allows for pedestrians and bicyclists to traverse this limited access.
- The subject property is located at the edge of the Downtown Core (DC) zoning district and is very accessible to downtown amenities and services.
- If approved there are 8 conditions for consideration.

Mr. Holm concluded his presentation.

**Commission Comments:**

Commissioner Mandel asked if staff could define what is the purpose of the Infill Overlay Districts and why we have them.

Mr. Holm read the definitions for all three infill definitions Midtown (MO) Downtown North (DON) and Downtown East (DOE).

Chairman Messina inquired are we planning to update these districts.

Mr. Holm explained a few years ago when the development Trails Edge was approved asked for a 2 foot variance which wasn't needed which amounted to a lot of controversy especially from a neighborhood group who demanded a change with the outline of that Infill District was changed and once that was changed have not received a lot of feedback and seems to be functioning well.

Commissioner Ingalls had questions about the emails included in the packet which referred to this project as a rezone.

Mr. Holm stated that this request is not a rezone.

Commissioner Ingalls explained when we make findings if the one of the findings asks if these 5-lots would meet the zoning requirements and at an R-17 zoning the applicant would be allowed to put on the property 6.4 units.

Mr. Holm stated that's correct based on the Floor Area Ratio (FAR) and want separate ownership of lots the applicant could request a 15-foot frontage on a 1500 sq.ft. lot. This is double the requirement.

Commissioner Ingalls inquired if the zoning of the applicable zoning district has been met.

Mr. Holms stated that it has.

Commissioner Luttrupp inquired if staff could locate on the map the properties to south of the property and questioned at that location are several large buildings and the ones in this area are, if they similar.

Mr. Holm commented that the lot sizes are similar.

Commissioner Luttrupp commented if this project is similar to the properties in the area that have recently been approved.

Mr. Holm referenced the project known as Sherman 5 West which is a similar project and was recently approved.

Commissioner Luttrupp commented that he has heard concerns that this project if approved, could be used for short term rentals and noted a hotel that is close a Bed and Breakfast (B&B) and if the applicant wanted to do the same would there be any restrictions they would have to meet.

Mr. Holm explained that an approval of a hotel would require a Special Use Permit to be allowed in an R-17 or request a zone change and can do one or another. He stated great question he explained that the existing zoning that is underneath the Infill Overlay District determines what uses are allowed and with the addition of the Infill Overlay District changes the development for the setbacks and heights but the use is still determined by what the underline zoning which this is Residential R-17.

Commissioner Luttrupp stated was trying to make a connection between short term vacation rentals and other types of commercial properties that have had conversations about shorter term rental issues.

Mr. Holm explained that the city has never defined or required that somebody use a property in a manner where the city determines ownership. He added that there is nowhere that says "this must be a rental" or

"A short term rental" usually the city will allow through the Homeowners Association (HOA) through Covenants, Conditions and Restrictions (CC&R's) to determine that type of ownership so allows condos that could be private ownership where the land is common ownership, used as your own home or rent it out.

Ms. Anderson explained that we do have a Short-Term Rental Ordinance in place and the state states we can't treat this as a business has to treat is as a Home Occupation not regulating it as a commercial operation and so as long as someone can comply and that there are some short-term properties in that area they have to apply for the permit and comply with the requirements.

**Public testimony open.**

Russ Helgeson, applicant representative provided the following statements:

- He stated that staff has covered most of the information he was going to cover.
- He stated, if approved, this development will be similar to the Sherman 5 East/West with the same size lots, with a townhouse look.
- He commented that we aren't requesting a zone change; this project can be constructed under the existing zoning.
- He stated that we have worked with staff, submitted the improvements and that the alley has been vacated and deeded recently back to the city, so the city owns the alley.
- He stated we will be replacing the old sewer line.
- He stated in the alley are overhead utilities and will be coordinating with the providers to bury those lines in the alley which will eliminate the overhead utilities and the alley will be paved.
- He added approach will be replaced on 8<sup>th</sup> street.
- He stated on the northeast corner of Lakeside there are two old existing driveway approaches going into the property and will be removed and replaced with new curbing and sidewalk. No driveway accesses will be off of Lakeside.
- Off street parking will be off the alley.
- He added that we will remove the existing fence.
- The conditions proposed we agree with and feels that this project has met all Comprehensive Plan Policies and asked for approval.

The applicant concluded his presentation.

**Commission Comments:**

Commissioner Fleming inquired if there are any plans to preserve the large growth trees.

Mr. Helgeson stated that there are several trees to the west and some trees close to Lakeside and with the addition of the buildings there is not a lot of area to preserve trees.

Chairman Messina asked why are we reading letters out load and in the past, people have sent comments that we have read but not out loud at a meeting.

Mr. Adams explained this is an unusual circumstance and the reason for reading out load because that language was placed on the public notices that people could send in comments in to be read out load at the hearing. He explained that this not a usual circumstance and doesn't have to be followed but since it was mentioned in the public notice why we are doing it tonight.

Ms. Anderson added that the language was added last year because of Covid since people where not allowed to attend a meeting in person and that this process may change for future hearings if it becomes a little excessive.

Commissioner Luttrupp he concurs and encourages people to either come to the meeting in person or attend on Zoom.

Mr. Holm read the public comments into the record.

Chairman Messina inquired if the applicant wanted to respond to the comments addressed in the letters read by staff.

Mr. Helgeson provided the following comments.

- He stated that the streets have available capacity for additional traffic.
- He added that a few of those letters talked about a zone change and this is not a zone change. He added that the area between Lot 1 and the yellow line noted on the map where the fence is that is public right of way and not asking to vacate or sneak into the property and realize is city right of way and not part of this project and feels will become more useable to the city once the fence is removed.
- He stated a lot of the comments that the lots where not owner occupied and was discussed if someone buys and develops a lot has no ability to tell the buyer what they can do on their property.
- He commented that many of these letters read didn't have a lot of positive comments and is aware of other comments not read that were positive and feels this opinion might be "a skewed" takes away the fairness.
- He added not asking for something that hasn't been approved near this property that are located on Sherman that was approved by the city in the same neighborhood.
- Please approve this development.

### **Public testimony closed.**

### **Discussion:**

Commissioner Fleming stated that this project doesn't belong on a residential street and commented Sherman is a very busy street. She added that she is a big advocate for townhomes and condominiums and like alternative ways of living, but doesn't like it when you upturn the neighborhood by hearing many written responses from the neighborhood that they don't want this project. She explained that the developer could easily develop these three big lots with three beautiful homes and complete the street that is all single-family residences. She feels that this is a place that is not deserving of five units that will encourage day/night "flip overs" She questioned how far do we stop developing in Historic neighborhoods.

Commissioner Ingalls commented that he appreciates Commissioner Flemings comments and as he was reading through the staff report that the four findings for a subdivision are typically "check the box" very objective in nature as opposed to a special use permit, annexation, zone change where we are evaluating neighborhood character, density, comp plan objectives that get fairly subjective. He added with a subdivision its more objective "check the boxes" and in this case the City Engineer has attested that the preliminary plat requirements have been met. He commented that his analysis is we go down a "check list" and not about the noise or patios associated with a subdivision approval that's based on those four findings not a basis to deny this project.

Commissioner Fleming referenced in the staff report on page seven it states the infill overlay district purpose and feels we have to refer back to what it states "We have to protect the surrounding neighborhood and the intent of these development standards to encourage a sensitive form of development and to allow the reasonable use that complements it". She commented should we just "blow off" these recommendations and ignore our own guidelines and always saying "yes" to every developer then we should look at the statement "to protect the surrounding neighborhoods" since all the neighbors have said they don't want this project.

Commissioner Ingalls stated he doesn't disagree to not be sensitive to those issues but feels these subdivision findings are more narrowed if this project meets those or not.

Commissioner Mandel stated we have findings and looks at the project down the street that is a transition between downtown core and residential areas that does allow to facilitate infill while protecting the surrounding neighborhoods and looks at the map which is a “bowl of fruit loops” there is commercial, higher density surrounding this property and qualifies as a transition area that is covered under the downtown overlay zone and is sensitive to the neighbors but feels we have to do something about the current growth and thinks the downtown overlay district as it is written transition between the downtown core and residential areas infill development is encouraged including urban housing, townhouses, court yard houses cottages etc. with a height limit we know that will be compatible so our objective findings have been met for this project.

Commissioner Luttrupp commented it looks like the Sherman Five on the south east corner are all facing Sherman and questioned if this development will be facing Lakeside with the houses next to it have bigger lots and not sure people who are speaking against this are the neighbors to the east on the same side of the street or the other side of the street. He commented that we can't tell a person what to do with their house but we do need housing for residential and if these end up being rentals not an ideal situation. He stated that he will not support this request and is a change from the units that are facing Sherman.

Commissioner Rumpler stated he understands the comments and doesn't know how we can deny this project when there is a similar project across the street.

**Motion by Ingalls, seconded by Mandel, to approve Item S-3-21. Motion approved.**

ROLL CALL:

Commissioner Fleming	Voted	No
Commissioner Ingalls	Voted	Aye
Commissioner Mandel	Voted	Aye
Commissioner Luttrupp	Voted	No
Commissioner Rumpler	Votes	Aye

Motion to approve carried by a 3 to 2 vote.

2. Applicant: Government Way Coeur d'Alene Hotel, LLC  
 Location: 2119 N. Government Way  
 Request: A proposed R-34 Density Increase Special Use Permit in the C-17 zoning district. QUASI-JUDICIAL, (SP-1-21)

Tami Stroud, Associate Planner provided the following statements.

- Government Way Coeur d'Alene Hotel, LLC is requesting approval of a special use permit to allow a density increase to R-34 density that will allow a proposed 232-unit multi-family apartment building in the C-17 Commercial Zoning District.
- The applicant is proposing to allow a total of 232 residential units on the subject site. The current zoning allows for a total of 119 residential units on this size of a parcel. The C-17 zoning allows for the proposed commercial activity as a permitted use.
- The proposed structure is five stories tall and will be allowed a maximum height of 63 feet in accordance with the proposed R-34 special use permit height restrictions for multi-family structures. The applicant has submitted building elevations of the proposed buildings indicating how they will look from several different vantage points.
- The subject property is currently vacant.
- It was the former site of the “Wild Waters” water park, built in 2001. It closed its doors in 2010. In 2018, a demolition permit was taken out to clean up the site and remove the existing structures, footings, slab, and remove the remaining water slides.

- The site has been graded and cleaned up. The property owner has submitted a site plan that shows two (2) proposed multi-family buildings, a club house which includes a rental office and indoor amenities and proposed parking on the subject site.
- The City's Comprehensive Plan Map designates this area as Appleway- North 4<sup>th</sup> Street-Transition:
- The proposed buildings will have to meet all the required building setbacks and maximum building height requirements that are required for multi-family structures. The property directly to the south of the subject site has a hotel (La Quinta Inn) and restaurant use located on it. To the west of US 95, consists of many health-care and professional offices including Kootenai Health. To the south is a shopping center including a grocery market, service uses and numerous restaurant opportunities. To the north is I-90.
- The property to the south is zone Commercial (C-17), west of the subject site is Limited Commercial (C-17L). East of the subject property is zoned Commercial (C-17).
- There are five special use permits in the vicinity of the subject property. The Planning Commission approved a special use request for a R-34 Density Increase (SP-12-92) south of the subject property in 1992. In 1988 the Planning Commission approved a special use request for a Religious Assembly (SP-5-88) further south of the subject property.
- The subject site is adjacent to Highway 95 to the west, I-90 to the north, and Government way which is an Arterial Road. The primary access to the site will be via N. Government Way.
- Both Borah and Winton Elementary are less than two miles from the subject property. The Centennial Trail is located adjacent to the property along Highway 95.
- She provided an update to the staff report on page 18 that Chris Bosley, City Engineer commented that "Government Way has the capacity needed to accommodate the proposed development, however the use of Homestead Avenue must be discouraged from residents of the proposed project by allowing on left/right turns out of the development no through movements across Government Way streets and engineering have no objections to the proposed special use permit but request that signage and pavement markings be installed to prohibit the use of Homestead Avenue" that condition has been added.
- If approved there are 7 conditions for consideration.

Ms. Stroud concluded her presentation.

**Commission Comments:**

Commissioner Fleming questioned if work will be done on the overpass on Highway 95 that doesn't have any pedestrian walkways.

Ms. Stroud stated that is a question for the applicant.

Commissioner Luttrupp questioned if the R-34 is for what specific purpose.

Ms. Stroud an R-34 increase is for a density increase.

Commissioner Luttrupp questioned the height allowed within this zone is 63' feet and questioned if we can approve this without going to council.

Ms. Stroud answered that this can be approved by the Planning Commission with the maximum height allowed is 63 feet with the approval of a density increase special use permit. She noted on pages 7-8 in the staff report speaks to the criteria that has to meet.

Commissioner Fleming inquired about the light at the corner of Appleway and Government Way which is always backed up with traffic which causes a long delay trying to go north.



Mr. Bosley answered at that corner there would be some delay, but most traffic we have in that area is on Appleway which is very busy street and those intersections along Appleway near U.S. 95 are very congested. He added that we have done some signal work there with ongoing improvements to be made in that area. He addressed the sidewalks on Government Way going over I-90 and that we don't have any plans to replace anything on that bridge.

Commissioner Ingalls commented that we received some comments from the people who live on Homestead who are a little "leery" that people living on this property will use Homestead instead of trying to get on Government Way and questioned if a right turn only sign could be placed that states "right turn" only no through intersection movement. He added a few months back a hotel was approved at that sight and by right which comes with many uses allowed within the C-17 zoning district and if one of those uses would be better/worse than what is being proposed.

Mr. Bosley explained that the hotel would have fewer impacts because you are not always going to be at full capacity versus the people living there will learn their way around town and could find another route instead of using Homestead. He commented signs are "just" signs that may be ignored and doubts a sign will be at this site because of the amount of traffic. He added that recently he has had a conversation with one of the homeowners on Homestead and agrees with the concerns and is supportive of placing a sign to mitigate any problems.

Chairman Messina inquired if we are going to require in/out signs at the entrance.

Mr. Bosley commented he discussed this with the engineer who is designing this project who would agree to put pavement markings for arrows showing left/right and putting signs up that say left/right turn only. He added that we don't want to put anything across the street on Homestead unless we have too or place any median barriers in Government Way because it would interfere with street sweeping and snow plowing.

Commissioner Fleming commented that she noticed on the site plan parking spaces placed next to the right turn lane next to the driveway.

Commissioner Mandel inquired about safe routes to school for this development that will likely have a lot of school children going to Winton or Borah having to cross Government Way and I 90. She questioned on how to address Safe Route to Schools.

Mr. Bosley stated that we had started mapping a safe route to school route for this area a while ago, and will have to look at this area again since the schools were rezoned.

### **Public testimony open.**

Rick Stilovich, applicant, provided the following statements.

- He introduced himself as an Idaho company located in Boise.
- He stated we are an "owner developer" and only develop for ourselves that manage hotels and multifamily projects.
- He stated we were here a year ago with a proposal for a hotel at this site and hit by Covid that turned the hotel industry upside down.
- He explained we purchased this property for the hotel and since that approval has been vacant along time so we did some evaluations on what we could do on this property that would make sense for us and contribute to the city and determined that a multifamily project would be a good fit. He added when built these units would be a great addition to the medical center and the commercial area by providing a great place for employees to live.
- He added this project when done will be a first class multi family project that will offer a lifestyle plus other amenities for residents.
- He added we have done a lot of projects and worked with a lot of neighborhoods and our desire to contribute to the neighborhood by being sensitive to the needs of the people who live in these units

- He commented that they will work with staff to mitigate traffic, so that Homestead will not be used and are sensitive to this issue and want to be a good neighbor.
- He added by approving this project will help the city with their growth problems.
- He explained that we are trying to provide enough parking spaces to meet code plus provide covered parking.

Jacob Rivard architect for the applicant provided the following comments

- He stated the height of the building is 63 feet and we won't go above that height.
- He stated the parking will be in the main portion located with no parking allowed on the "leg" of the property coming out to Government Way. He explained that driveway going to Government Way is 400 feet long with no parking allowed.
- He commented we will provide 426 parking spaces to provide more area for water to seep into the ground and will be working with staff to provide an indoor bike parking facility.

The applicant concluded his presentation.

Lori Bourson, she inquired what will be the average size for the units and questioned if connecting into the bike trails will everyone use the entrance onto Government Way and then onto the overpass which is dangerous.

Chairman Messina stated that the applicant will have time to come up and address additional questions.

Corie Karns questioned if the traffic on Ironwood Drive going towards the hospital which is already congested and inquired if a traffic study has been done in that area.

Mr. Bosley commented currently we do have a traffic study being done in that area and will be looking at traffic mitigation to free up traffic in that area and agree that Ironwood is very congested between U.S. 95 and Northwest Boulevard and looking at ways to be mitigated including funding.

Ms. Karns inquired if they inquired the impact of this apartment complex and commented that people will use other ways to get out of the development.

Ms. Anderson explained that we have done a Master Plan for the Health Corridor and in that study, areas were indicated by heavy use and when doing the study looking at the site as vacant plus zoning improvements on site which we have looked at different uses on that property addressed within the traffic study.

Mr. Bosley concurred and that we looked at the vacant land and the zoning and, on this site, looked at traffic from a R-17 or C-17 and not R-34 and explained in reality if we are looking at 100-hour peak trips would be only having 50 peak hours during that time but in reality, roads can carry close to 1000 cars per hour/per lane stated did look at vacant land looked at reality roads can carry 1000 cars per hour and minor. He stated this development will add more congestion to the streets but we are congested everywhere in the city and managing as we go along.

Brian Meyer commented that traffic is a concern and recommended when going west and had a "right turn" only going north would work.

Mr. Bosley inquired if Mr. Meyer was referencing a "slip lane" onto 95 and that ITD will not allow that and the reason close to I-90 that FHWA controls the access in that area and in the past many businesses asking access onto 95 which has been denied. He added the best route to 95 north would be to take a right on Government way, then onto Ironwood to get to I-95 it would be going out of the way but would be better than trying to make a left on Government Way.

Commissioner Fleming explained that the LaQuinta and Shopko which is empty is seeing on a Google map a "green line" indicating a property line change questioned if there would be anyway to create an access point in front of Shopko in order to alleviate the main access point from this development.

Mr. Bosley that we would have to get an easement agreement with the other property owners stated other property owners and would need an easement between property owners and would help as an emergency access to allow another point of entrance and explained if those parking lots were left as "parking lots" it wouldn't be a safe way for people to coming in/out because a lot of accidents do happen in parking lots.

**Rebuttal:**

Mr. Rivard answered a question asked earlier regarding connectivity of the trail and explained when meeting with staff they suggested a connector along Highway 95 because a future trail is planned there and will be working with staff to tie into that trail.

Commissioner Fleming noted B8 B in our findings states "If the design appearance of the project is compatible with the surrounding neighborhood" and indicated that there is no style after looking at the massing that is showing a "honeycomb" design to the buildings which is busy.

Mr. Rivard apologized that this was a "fast" design given to staff at the last minute to give them an idea of what this project will look like and explained if you look at the overall massing notice the detail of a "step up" that increases from levels 3,4 and 5 to help provide more sunlight into the court yard.

Matt Roger stated he appreciates Commissioner Flemings comments and explained that the massing and rendering drawings we want them to be inviting to the community.

**Public testimony closed.**

**Discussion:**

Commissioner Luttrupp congratulated the health corridor work well done.

**Motion by Fleming, seconded by Mandel, to approve Item SP-1-21. Motion approved.**

ROLL CALL:

Commissioner Fleming	Voted	Aye
Commissioner Ingalls	Voted	Aye
Commissioner Mandel	Voted	Aye
Commissioner Luttrupp	Voted	Aye
Commissioner Rumpler	Votes	Aye

Motion to approve carried by a 5 to 0 vote.

3. Applicant: Eugene and Nancy Haag Living Trust  
Location: 2248 E. Stanley Hill Road  
Request:
  - A. A proposed 3.194-acre annexation from County Agricultural Suburban to City R-3.  
LEGISLATIVE, (A-2-21)
  - B. A proposed 3.19 acre Planned Unit Development known as "Haag Estates PUD"  
QUASI-JUDICIAL, (PUD-2-21)

C. A proposed 5-lot preliminary plat known as "Haag Estates"  
QUASI-JUDICIAL, (S-2-21)

Mike Behary, Associate Planner presented the staff report and stated,

The applicant is requesting approval of the following three decision points that will require separate findings to be made for each item. The applicant is requesting approval of the following:

1. The annexation of 3.19 acres in conjunction with zoning approval from County Agricultural-Suburban to the City R-3 zoning district in the Hillside Overlay.
  2. A residential planned unit development that will allow for four new house sites to be developed in the Hillside Overlay with the following modifications.
    - a. Lots fronting on a public street requirement
    - b. Minimum lot width frontage requirement
  3. A five-lot, two tract preliminary plat to be known as Haag Subdivision.
- This is the second time that the subject property is requested to be annexed into the city. In 2005, the applicant requested annexation into the city in conjunction with zoning to R-3 zoning in item A-7-05.
  - The Planning commission held a public hearing on this matter on August 9, 2005 and subsequently made a recommendation to City Council to deny the annexation request. City Council held a public hearing on October 4, 2005 and denied the request for annexation into the City.

The three findings that the City Council made in denying the A-7-05 annexation request without prejudice in October 2005 were as follows:

1. That the proposal is not in conformance with the Comprehensive Plan policies.
  - a. "Promote orderly development of land use at locations that are compatible with public facilities and adjacent lands" -- Neighborhood development, topography, and the development pattern are not compatible with adjacent land uses;
  - b. "Examine all new developments for appropriateness in regard to the character of the proposed area. Inform developers of City requirements and encourage environmentally harmonious projects." – The request is not in compliance with this policy for the previously stated reasons.
2. That the physical characteristics of the site do not make it suitable for the request at this time because the steep topography, stormwater, drainage, and existing spring on the property make the subject property unsuitable for R-3 zoning.
3. That the proposal would adversely affect the surrounding neighborhood with regard to traffic, neighborhood character, and existing land uses because if the property were developed to its full potential, R-3 zoning would be detrimental to the neighborhood character and the surrounding land uses.

- Currently the subject property has a single-family residence on 3.19 acres. The applicant is requesting to split the lot up and create four additional residential buildable lots.
- The subject site is adjacent to the city limits along its west property line. The property is currently zoned Agricultural-Suburban in the county. The subject site is located within the City's Area of City Impact (ACI).
- The property has significant slope and will be located in the Hillside Overlay if the annexation of this site is approved. The applicant's Engineer had indicated that the slopes on the south portion of the property range from 20 to 25 percent. The applicant is aware that all development must adhere to the Hillside Overlay requirements.
- The applicant is proposing two additional access points to the subject site, both from Lilly Drive, one on the west, and the other on the east side of the subject property. The existing house is served from Stanley Hill Road. The four proposed buildable lots will have access off of the existing streets in addition to access from within the property from a proposed common driveway placed in a common tract.
- The Comprehensive Plan designates this area at Cherry Hill-Stable Established
- If approved there are 13 conditions for the PUD, Annexation and Subdivision.

Mr. Behary concluded his presentation

**Commission Comments:**

Commissioner Ingalls referenced in the staff report finding B8E Open space is unclear and is not sure if the access or usability for these 5 homes and referenced finding B8C that states "if this project is compatible with the natural features of the site" which unclear. He explained after reading the staff report in the report it suggested in order to make the finding B8C should we have had a copy of a Geotech Study available to us.

Mr. Behary explained that staff had concerns regarding the amount of lot coverage retained in the natural state and as an example, if the lot has to be the natural state of 54% and when you add driveways and other infrastructure questioned how much land is available to build a house. He added if we approve a project and a lot is sold, the applicant could come back to us saying they can only build a 100 sq. foot house since the Hillside Ordinance states that is how much you can build onsite and our job is to make sure those lots created will meet the Hillside Ordinance.

Commissioner Ingalls stated he understands that it costs a lot of money to have these studies done, but questioned if this was a normal submittal for a PUD on a significant slope.

Mr. Behary stated he is unclear about a Geotech report, but staff has concerns on how much area is retained in a natural state.

Chairman Messina concurs what Commissioner Ingalls stated and commented that it's been a long time since we have seen a project proposed in the Hillside.

Commissioner Mandel referenced finding B10 which states, "The subject property would be annexed into the City under the Hillside regulations requiring average lots slope to determination of validity" and questioned if that finding could be related to finding B8C for the PUD and is unclear how this project would meet that finding. She explained when the city denied this project in 2005 it was prior to the

Comprehensive Plan and Hillside Ordinance, so now with the adoption of both of those things we have more specifications for meeting the criteria for those findings, but we lack information from the applicant. She added if we approved the annexation for an R-3 and denied the PUD and Subdivision questioned if we would be stuck with a property that doesn't have a plan and questioned if we would be setting a precedence.

Ms. Anderson explained that they can annex in with an R-3 for a single lot without a subdivision and PUD but doesn't know if the owner would want to do that so that is not an option.

Mr. Adams explained that on an annexation a recommendation is made by the Planning Commission to Council for the annexation. Council will make the decision and then pass an ordinance to annex and if the applicant chooses not to go forward to the City Council that would end the annexation.

Commissioner Luttrupp commented that this project could be an example of staff and the applicant not coming to an agreement.

**Public testimony open:**

Gordon Dobler, applicant representative provided the following statements:

- He stated that this property is surrounded by R-3 properties which would allow for nine units and we are proposing 5 units.
- He stated we are proposing 4 new lots with the remaining lot on the existing house will be an acre and a half.
- He described the three lots will have access through a common driveway which is why a request for a PUD with the common driveway tract located at the end of Lily Drive with three short drive ways to access the lots.
- He stated that their will be a common open space that is a 1/3 of an acre which counts as the 10% requirement for the PUD.
- He stated that he has heard concerns about additional traffic coming from 3 homes that would access Lily from the east and the traffic generated from 3 homes would be in peak hour 1 car every 20 minutes which is not excessive.
- The existing house will be hooked up to sewer.
- He addressed concerns about opening Lily Drive up to through traffic and stated that this is not what we are proposing.
- He explained that sewer will come from W. Lily Drive on the southern side.
- He commented the choice of a PUD was proposed for two reasons first that all lots don't have frontage on public streets and second the other three lots are substandard for the R-3 zone and why we need a PUD.
- He noted on the map where the open space tract is located, and said this is the first he has heard that all 5 lots are required to have access to the open space lot where three of the lots already meet that requirement and is not clear why all five lots need access. Ms. Anderson stated that is a requirement of the PUD.
- He explained that in order to meet that requirement and that the Planning Commission could make a condition that we will work with staff to get dedicated easements in order to refigure the open space tract so all 5-lots have access to the open space tract.
- He explained that a Geotech report is required with a building permit.
- He commented that the surrounding neighbors would prefer this parcel remain as a nature preserve but this is private property. He added there was also a concern about surface water that will be addressed at the time for a building permit and that there is a two-inch pipe that comes offsite and will be capped off by the owner.

Mr. Dobler concluded his presentation.

**Commission Comments:**

Commissioner Ingalls commented that he is more comfortable with the explanation for coverage of the

lots and explained that we recently have seen a lot of smaller pocket PUDs. He commented that we recently approved a small PUD at the corner of Honeysuckle and Kathleen which was a “quirky” parcel that had a pipeline easement through it and because this was a PUD deviated from the standards which for this project worked. He added when the applicant presented the rendering of the homes had a sufficient amount of detail versus this plan that looks like a representative view without a lot of design.

Mr. Dobler said a PUD doesn't have anything to do with the layout of the houses, driveways etc. He stated that these are two separate issues. He explained that the request for a PUD is allow a common driveway to serve two lots.

Commissioner Ingalls stated we have approved many PUD's and when approved locked in the details such as where trails are going and various amenities.

Mr. Dobler stated that the open space tract is part of the PUD and was surprised to hear that all lots are required to have access which is not unsolvable and that we would have to completely reconfigure and would agree to a condition stating that “we would have to provide through access easements access from these two lots to that open space tract” that would solve that issue.

Commissioner Mandel questioned because of the Hillside Ordinance and finding B8C we have to meet the code sections about retention in the natural state, so it's the lack of detail that was not submitted and questioned if we don't have the data how can we make the finding.

Ms. Anderson explained that staff had the same challenge when putting together the staff report and normally we get a lot more details of renderings of what the homes will look like and that this was an unusual application that didn't have those details.

Chairman Messina inquired what is the definition for access is it a gravel road, walkable trail and that Mr. Dobler was surprised that these lots are required to have access to the open space tract.

Ms. Anderson stated this is tricky because the parcel is a sloped site and it is up to the applicant to show how people can get to the open space lot which is a requirement. It doesn't have to be paved or ADA compliant, but it has to be accessible and can't be fenced off. Ms. Anderson added that the applicant asked that the renderings not be included because the design of the homes would be up to the new owners and that with previous PUDs, we have had that level of detail that can be locked in for approval.

Commissioner Fleming explained that the applicant is trying to get a vision to sell this property and that they aren't going to build this or do the other required infrastructure and sell to a developer who can decide what this property will become. She added that it will be hard to approve something that we don't have a grasp of what it will turn out to be.

Mr. Dobler understands the struggle and suggested to table this request, so he can have a chance to talk with the applicant to bring back something that will meet the requirements stated tonight.

**Motion by Fleming, seconded by Mandel, to table Items A-2-21, S-2-21 and PUD-2-21 to a date certain or to the next Planning Commission Meeting on May 11<sup>th</sup>. Motion approved.**

**ADJOURNMENT:**

Motion by Fleming, seconded by Ingalls, to adjourn the meeting. Motion approved.

The meeting was adjourned at 9:30 p.m.

Prepared by Shana Stuhlmiller, Public Hearing Assistant