



MINUTES
PLANNING & ZONING COMMISSION
Regular Meeting/Public Hearing
Thursday, October 11, 2007 - 9:00 AM
City Council Chambers, Prescott, Arizona

I. CALL TO ORDER

Chairman Michelman called the meeting to order at 9:00 AM.

II. ATTENDANCE

MEMBERS PRESENT

Don Michelman, Chairman
Joe Gardner, Vice Chairman
Seymour Petrovsky
Richard Rosa
Len Scamardo
George Wiant

OTHERS PRESENT

George Worley, Assistant Community
Development Director
Gary Kidd, City Attorney
Dick Mastin, Development Services Manager
Steve Gaber, Community Planner
Jim Lamerson, Council Liaison
Bob Luzius, Councilman
Kathy Dudek, Commission Recording Secretary

MEMBERS ABSENT

Tom Menser

III. REGULAR ACTION ITEMS

(May be voted on contingent upon any related public hearing item below also being acted on unless otherwise noted).

1. **Approve the minutes** of the 9-27-07 meeting.

Mr. Petrovsky, **MOTION:** to approve the minutes of the September 27, 2007 meeting.
Mr. Rosa, 2nd. **Vote: 6-0.**

IV. PUBLIC HEARING ITEMS

(May be voted on October 11, 2007 unless otherwise noted).

2. **RZ07-001, 2632 and 2646 Trail Walk.** Located west of Rosye View Lane. APNs: 106-20-019A and 106-20-019B and totaling ± 3.01 acres. Request rezoning from Single-Family 35 (SF-35) zoning district to Single-Family 18 (SF-18) zoning district. Owners are James M. and Mary C. Carr. Applicant/agent is Ben Huza, Granite Basin Engineering. Community Planner is Steve Gaber. (*Continued from 09-13-07*). (*This item may be voted on today*).

Mr. Gaber reviewed the staff report and indicated:

- the request is to divide three acres into a four-lot subdivision;
- the item was previously discussed at the August 30 meeting and may be voted on today;
- during the earlier discussions, the neighborhood voiced their opposition;
- concern about street grade for the cul-de-sac driveway of lot #3 occurred at the last

- meeting;
- Commission expressed a desire to see the building footprints and lot elevations at today's meeting;
 - all proposed lots are one-half acre;
 - the cul-de-sac grade is 11% as it climbs up the hill and 8% at the turning radius;
 - the driveway on lot #3 grades range from 8% to 16%, with an 8% grade at the top;
 - under the *Land Development Code (LDC)* a 20% grade would be allowable on lot #3 driveway;
 - the sewer main needs to be brought up approximately 250 feet;
 - the property was subdivided in 1997 when the four lot Sholten subdivision was formed;
 - at the time of the Sholten lot division, CC&Rs were drafted, but not recorded, those CC&Rs indicated no further splitting of the lots would occur; and,
 - the CC&R draft has ramifications as to "intent".

Commissioners queried:

- what areas are covered in the CC&Rs [Mr. Gaber: the four Sholten lots];
- have legal opinions been received as to the CC&Rs [Mr. Gaber: no. They are part of that subdivision's file];
- does the Fire Department have any problem with the drive to lot #3 [Mr. Gaber: at a 20% grade, it meets the requirements of the *LDC*; however, the Fire Department may require sprinkling]; and,
- were the people that created the CC&Rs the sellers of the parcels.

Mr. Jim Carr, owner of the parcels, 320 Champions View Drive, Alpharetta, Georgia, indicated that the lots were purchased from Jim Sholten in 1999. Mr. Carr also added that he talked to two lawyers about the CC&Rs. The CC&Rs were not signed or recorded. Mr. Carr noted that this project has been designed with sensitivity to the aesthetics. Some blasting will be necessary.

Ms. Jane Shanahorn, 951 Rosye View Lane, stated she has written comments from the objectors at the last meeting. The focus should be on the neighborhood; consequently, if the lots are rezoned, other owners of lots in the vicinity could then ask for rezoning of their lots to SF-18. The views of Mr. Carr and the neighbors differ. She requested that the official protest calls for a "super majority" vote by the mayor and City Council.

Commissioners further queried and remarked on:

- if Ms. Shanahorn saw a copy of the CC&Rs [Ms. Shanahorn: yes];
- cities and towns do not control CC&Rs;
- developers provide CC&Rs to protect the owners; and,
- the City is not responsible for enforcing the CC&Rs.

City Attorney Kidd stated that the CC&Rs are private covenants between the developer and buyer(s) of the property. The CC&Rs are private contracts; subsequently, the City is not part of the private contract. The City is limited to government regulations.

Further queries by the Commissioners included:

- who records the plat and CC&Rs [Mr. Gaber: the City Clerk. The *LDC* now requires that the CC&Rs go hand-in-hand with the plat. This was not a requirement in 1997]; and,
- the four lots, including topography and grades, are still excessive.

Ms. Shanahorn noted that blasting is a concern. In the past, when SunCor blasted, properties were damaged.

Mr. Conrad Ouellette, 898 Flaming Arrow, noted that he is concerned with the elevation of lot #3 below his house. He also is concerned that he was given a definite impression that the lots below would be developed as larger parcels. Blasting is another concern that Mr. Ouellette has along with water drainage if the lots develop and others ask for rezoning. The old CC&Rs by Mr. Sholten should be considered.

Mr. Denny Hammond, 2623 Trail Walk, purchased his one-acre lot 15 years ago. He is concerned that rezoning the proposed project will open a "can of worms" for others to follow. He purchased the property for both the "ruralness" and acreage. If Mr. Carr gets the property rezoned, will he then ask for six lots instead of four lots? Water pressure is insufficient.

Ms. Myrna Benson, [no signature appears on attendance roster], 748 S. Lakeview Drive, has lived in the area 14 years and in Prescott for 35 years. She feels that people coming into the area want to build quality homes and should be permitted to do so. Blasting is not an issue if a quality blasting company is used.

Mr. Mike Haywood, 115 E. Goodwin, noted that he has been asked to present the other side of the equation. The rural area was just that at one time; however, now the property is a SF-35 area surrounded by SF-9, SF-12 and SF-18. A considerable amount of time has been spent on the topography. If the City had a transitional zoning district, it would be SF-26.5, which is ideal between SF-9 and SF-35. Granite Basin Engineering has spent time in ensuring that the view sheds are preserved. Traffic, water, etc., will be examined at plat submittal; consequently, if there are any problems, the City will not approve them until the problems are resolved. No CC&Rs were recorded on the property and, therefore, mean nothing.

Commissioners noted:

- the Development Agreements (DA) are formed by the developer, not the City;
- there is still a problem with lot #3;
- reducing the proposal to three lots would be a better project and would relieve the developer from installing expensive infrastructure; and,
- something needs to be done to win neighborhood support.

Mr. Gaber reviewed the protest procedure established by Arizona statute. A property within 150 feet may submit a protest. The protest of 20% of adjoining owners on any property line is enough to trigger a "super majority" vote by City Council, i.e., 6 out of 7 votes are required to approve the rezoning. Should a super majority be required, it will be advertised as such.

Mr. Haywood proffered that his client would gladly enter into a development agreement.

Ms. Pat Oliver, 952 Rosye View Lane, objects to the blasting because it will destroy the natural outcropping of rocks. She is also concerned with the posted traffic of 15 mph not being followed. If given a choice, she would prefer to see the property divided into three lots instead of four.

Ms. Shanahorn also agreed that a division into three lots is preferable to four lots.

Mr. Scamardo noted that the property totals 3.1 acres. The square footage amount of lots 1, 2 & 4 could be expanded so that the property meets the Single-Family 35 (SF-35) requirements of the *LDC*.

Mrs. Cathy Ouellette, 898 Flaming Arrow, cited the traffic issue of the blind corner at Trail Walk and S. Lakeview.

Mr. Jerry Fowler, 2660 Trail Walk, gave statistics on the intersection and street widths at Trail Walk and S. Lakeview. The road is not banked and turns are dangerous.

Chairman Michelman closed the public hearing. He stated he has challenges with approving the rezoning and sees no benefit to the community. The rezoning request will go on to City Council; and, today is only the first step in the rezoning request.

Mr. Scamardo, **MOTION to DENY RZ07-001**, 2632 and 2646 Trail Walk rezoning request. Mr. Rosa, 2nd. **Vote: 5-0-1** (abstention: Wiant).

V. CITY UPDATES

3. **2007 Arizona Planning Association Conference**, November 7-9th, Glendale, AZ.

The annual Boards and Commissions Conference will be held in Phoenix on December 7. Any Commissioner wishing to attend either workshop should let Kathy Dudek know. The deadline for registration is October 29.

The Granite Dells Estates I & II annexation request is presently before City Council for discussion and action in the next two meetings.

4. **Community Planning Month**. Proclamation from Mayor Rowle Simmons.

Mr. Worley noted that Mayor Simmons and City Council has recognized the Commission and staff's efforts in the area of community planning.

VI. SUMMARY OF CURRENT OR RECENT EVENTS

VII. ADJOURNMENT

Chairman Michelman adjourned the meeting at 10:12 AM.

~~Don Michelman, Chairman~~
Joe Gardner, Chairman *pro tempore*