

CITY PLANNING COMMISSION
Austin, Texas

Special Meeting -- February 18, 1971

A special meeting of the Planning Commission was called to order at 7:00 p.m. in the City Council Chambers.

Present

Bill Milstead, Acting Chairman
S. P. Kinser
Jack Crier
Alan Taniguchi
Jack Goodman
M. J. Anderson
Fritz Becker
Walter Chamberlain

Absent

C. L. Reeves

C14L-71-3 CONSIDERATION OF PROPOSED PLANNED UNIT DEVELOPMENT ORDINANCE

Mr. Bill Milstead stated that he was requested by Mr. S. P. Kinser to act as Chairman. He explained that the purpose of the meeting was for further consideration of a Planned Unit Development Ordinance and guidelines and the study thereof. Mr. Richard R. Lillie, Director of Planning then explained that prior to the last meeting of the Planning Commission there was submitted to the Commission, a copy of the proposed amendments to the zoning and subdivision ordinances providing for Planned Unit Development projects. Mr. Lillie stated that the proposed guidelines had not been completed for review in time for the regular Commission meeting, so a special meeting was suggested.

The members in attendance at the Planning Commission meeting felt that it would be better for the whole Commission to be present, as four were absent at that time and that the ordinance and guidelines should be considered at the same time.

The following material was acquired from the Law Review Reports as well as from the National Conference Reports, and make up the basis for the staff recommendation for the consideration of regulations and guidelines for Planned Unit Development project approval.

Planned Unit Development regulations always involve, to some extent, replacement of written rules such as existing codes and ordinance requirements, by an approved plan which becomes the source of continuing land use control. Attempts to regulate the internal relationships of a PUD solely by previously written rules defeats the freedom of design. PUD regulation demands a plan approval process consisting of administrative evaluation of a proposed plan in relation to general design standards. PUD approvals by City Planning Commissions are generally not granted on a case by case basis but should follow design standards set forth in regulations establishing a degree of certainty sufficient to insure that all developers will be treated on an equal basis.

C14L-71-3 CONSIDERATION OF PROPOSED PLANNED UNIT DEVELOPMENT ORDINANCE--contd.

PUD should also be accompanied by a detailed development plan, if division of title is to be transferred, a subdivision plat.

The consensus of municipalities with PUD provisions provide for two basic steps: (1) Approval of a general plan at a specific location, usually at a public hearing at which the comments of all interested parties may be considered; (2) Administrative approval of the detailed site plan for the project or any of its component phases. This two step procedure permits the developer to make changes which inevitably become necessary as plans are translated into reality without the delay and burden of repeated public hearings.

Where a general plan is to be developed in successive phases, a feature which is common in large projects, there is concern for the ultimate overall density goal. Once a general plan has been approved in accordance with an overall population density maximum each component phases -- to be developed at different times -- may each present differing density results, at least two rules assuring that the approved density maximum will not be exceeded can be formulated:

- a. No high density phase may be developed before all low density phases are completed; this assures the overall density that one wishes to accomplish.
- b. Phases may be developed in any order, but regulations and covenants must be devised to restrict all the undeveloped portions in order to assure the municipality that the permissible average density will not be exceeded.

The first rule is unrealistic and the risks implicit in the second rule are apparent. However, in spite of the risk that the restrictions in the second rule may not provide continual assurance of density compliance, it more nearly serves the interests of the community and the developer than the first rule.

In regard to open space, permanent maintenance can be assured in at least four ways:

1. The city can take over the open space. This method is not desirable unless an offer to dedicate is accepted by the municipality.
2. The open space can be made a contractual responsibility of the occupants as common interest holders. This method is not desirable because of a lack of central leadership.
3. A special private entity, such as, a homeowners association can take the responsibility. This method is felt to be the best solution in most cases except rental.
4. The developer can remain responsible. This method is the best solution in rental situations.

The very nature of the PUD concept will require some variance to requirements of existing codes and ordinances. The staff is not willing, and the various city department heads are not willing to review these PUD site plans without some form of checklist. The checklist the staff has prepared has been reviewed and revised after several meetings with departments (Traffic, Public Works, Water and Sewer, Parks and Recreation, Legal and Building Inspection) and later submitted to the Austin Association of Homebuilders for their review.

C14L-71-3 CONSIDERATION OF PROPOSED PLANNED UNIT DEVELOPMENT ORDINANCE--contd.

A meeting was also held with the Homebuilders Association and discussion led to a basic understanding of the purpose of the guidelines. Mr. Lillie stated that these guidelines should be considered by the staff and the Planning Commission as minimum standards, or the maximum variance from existing codes and ordinances. They can exist as a policy statement adopted by the Planning Commission or they can exist as part of the Zoning Ordinance and be adopted by the City Council. For example, the townhouse provisions were accomplished by Ordinance. Certainly the ordinance route is less flexible. It may be the decision of the Commission to forward the guidelines to the City Council along with the proposed ordinance and ask that they too accept these guidelines. The Council will be asked to review PUD proposals on appeal situations.

The items in the guidelines themselves that are of primary concern to the staff are density, land use and minimum size of a project. Accept for these items the Homebuilders Association and the staff are in basic agreement. In the staff's meeting with the Homebuilders Association, the staff agreed to consider the suggestions of 3,500 square feet per unit as a density factor, about 12 units per gross acre, and to consider no minimum for area on a PUD application.

Mr. Lillie then suggested going through the guidelines starting with those that the staff and the homebuilders are in agreement upon, and going on to the three major points for discussion.

The Commission and the Homebuilders present felt that all the guidelines should be gone through together and be given the staff and the homebuilders recommendations together.

Mr. Tom Bradfield and Larry Niemann, attorney, were representing most of the audience as well as the Homebuilders Association. Mr. Bradfield indicated that it is of vital importance to set the tone of the Ordinance and of the guidelines. A preamble for the guidelines was presented and after discussion the following wording was suggested:

"The purpose of the following Planned Unit Development Guidelines is to establish a general checklist for preparation and review of PUD proposals. The Guidelines will serve to identify minimum site plan requirements as well as to identify the maximum variances from existing codes and ordinances. Departures from these requirements may be considered for approval or disapproval by the Planning Commission or on appeal, the City Council after receipt of the recommendations from Departments of the City of Austin.

The Guidelines are prepared with recognition that the PUD ordinance is intended to accommodate the changing life style of Austin residents by fully utilizing the ingenuity and design capabilities of builders, architects, designers, site planners and developers. The guidelines should be followed and interpreted to give effect to the specific intent of the PUD ordinance, i.e. to encourage and permit open spaces and green

C14L-71-3 CONSIDERATION OF PROPOSED PLANNED UNIT DEVELOPMENT ORDINANCE--contd.

belts, and to permit flexibility, ingenuity, and a more creative, economical, and desirable use of land, while still maintaining high standards of health, safety, and durability."

Mr. Lillie pointed out that the departures from these requirements may be considered by the Planning Commission, or on appeal to the City Council, after review is made by the various departments of the City. The staff wants a checklist which cannot be varied from on the whim of any particular individual and one that can be depended on from project to project and from Planning Commission to Planning Commission.

Mr. Ken Zimmerman stated that these guidelines should be just exactly what they say, guidelines and should be varied.

The members of the Planning Commission, Planning Department staff and interested persons proceeded to review each item on the checklist.

1. Subdivision required. Approved as suggested.
2. Special permit required. Approved as suggested.
3. Project Size. Five acres will be the minimum acreage for a PUD.

The staff recommends that the minimum project acreage be set at five acres. At the same time, recognizing the purpose of the guidelines, there will be some tracts less than five acres which would lend themselves to a PUD. Mr. Lillie stated that he would review examples later. Where tracts of less than five acres are requested the staff would need to view them as they relate to the character of the neighborhood insofar as land use, property lines, zoning, utilities and street access are concerned. A very practical problem arises in the staff's ability as well as other departments, to handle the increased workload created by the review of many PUD applications above the already heavy subdivision, zoning and special permit load. Holding to a five acre minimum would help in a very real way. Too, there may be an economic break-even point on size of project where development will be forced into larger packages.

Mr. Tom Bradfield stated that when the PUD is submitted first in subdivision form and special permit form, it could be either approved or disapproved. This process is complete and not like a zoning case. The plan itself is complete and in the hands of the staff. A neighborhood now can determine whether a zoning change is good or bad or how hard it would be on a small tract of land. The PUD is so carefully planned that everyone has a visual statement of what the plan will be.

Mr. Becker was concerned that if someone applied for a zoning change and it was denied, then they would come in with a PUD application.

Mr. Bradfield felt that the applicant should have come in with the PUD in the first place.

91

C14L-71-3 CONSIDERATION OF PROPOSED PLANNED UNIT DEVELOPMENT ORDINANCE--contd.

Mr. Larry Niemann stated that the PUD process gives the neighborhood greater protection than zoning does. The developer has to come in with a detailed plan similar to a special permit and this gives the neighborhood a greater opportunity to criticize. He felt that some restriction should be placed where a zoning denial might require the applicant wait a year before he could bring a PUD plan. He feels that there is a need for people to use the PUD process. If a person could come in with a PUD on two acres then maybe criticisms could be worked out.

Mr. Goodman asked what a good minimum would be, one acre, two acres, or three acres.

Mr. Lillie indicated that most reports and ordinances state that five acres and ten acre minimums are best. If a request is made for less than five acres then the staff must look at the character of the neighborhood as well as various other considerations.

Mr. Niemann stated that the concern of the developers is that a five acres minimum would act to discourage smaller tracts.

Mr. Kinser stated that the staff would make a recommendation on the application but the Commission would have the final decision, like in zoning cases.

Mr. Goodman indicated that he was in favor of the statement Larry Niemann made in regard to the project size. The motion was made to amend the guidelines to read under number

3. Project Size - "Five acres or less if approved by the Planning Commission"

The staff agreed with this and the Commission then unanimously

VOTED: To add the words "or less if approved by the Planning Commission" to the third guidelines.

4. Density - The staff recommends that density presently permitted in the "SR", "AA" and "A" Use Districts be retained for PUD densities of three units per gross acre in "SR", five units per gross acre in "AA", and seven units per gross acre in "A". In a typical subdivision of 9,000-10,000 square foot lots, the yield is about three to four lots per acre. The seven units in PUD would almost double the existing density and in addition would permit flexibility not now possible under our ordinances. Permitting up to 12 units per gross acre, possible by accepting a 3,500 square foot per unit minimum, would allow about three to four times the normal density in today's typical subdivision. The staff also does not feel that the PUD should allow a density which may not be possible by zoning, and should not be a substitute for zoning.

The staff feels that the main thrust for PUD applications will fall into areas zoned "A" both in older and newer developed neighborhoods. The density

C14L-71-3 CONSIDERATION OF PROPOSED PLANNED UNIT DEVELOPMENT ORDINANCE--contd.

requirements under the PUD should not permit density encroachment into these areas. If two 12 units per acre is permitted this is the density that will be in PUD projects.

Mr. John Browning stated that it is not good to exceed the seven units per acre that is in existence, however, if we are not careful we will preclude building homes such as low income. We must increase the density. We should make the limit broader. We should allow a higher density and consider each PUD on its own merits.

Mr. Taniguchi asked if it is possible to bring in zoning with the PUD. He felt that it might be good to require "BB" zoning with PUD. There needs to be a response to the neighboring area on the PUD.

Mr. Lillie stated that it may be possible in different parts of the City where the income levels permit the acquisition of homes on small lots. The staff can look at the kind of development located around it and recommend more than seven units per acre.

The staff is willing to consider varying the density in different areas.

Mr. Kinser stated that he was thinking about housing the higher income people and the lower income people.

Mr. Niemann thought that the guidelines for density should have added:

"The above density may be increased by the Commission only after careful review."

Mr. Tom Bradfield stated that he knew that using the minimum size lots on which duplexes can be constructed on an acre of land will yield $5\frac{1}{2}$ such lots on that acre including the streets and one can probably get 11 units on the land, but it seems that if permitted the flexibility of the PUD, one can do a better job for the neighborhood, than what is now provided under the Zoning Ordinance.

Mr. W. R. Coleman cited the example of standard duplex subdivision on Pecos Street just south of West 35th Street. These are minimum lots with higher priced duplexes on them. The developers could have made more open space than there now is. This is one example of what the PUD could have done.

Mr. Tom Bradfield asked if the Commission would agree on this.

Mr. Goodman indicated that the staff should get together with the representatives on a report and submit it to the Commission.

5. Premiums - Mr. Lillie stated that this provision provides some bonus to the developer if he plans into the PUD more amenities through public or private open space; unincumbered by buildings, street or parking. Before premiums

C14L-71-3 CONSIDERATION OF PROPOSED PLANNED UNIT DEVELOPMENT ORDINANCE--contd.

are possible a minimum of 50% of the tract must be available as open space. For each ten percent of additional open space an additional five percent of permitted dwelling units may be constructed. He also stated that these premiums would likely arise only when one is involved with higher density zoning and with highrise buildings.

Mr. Wallace Mayfield asked that if a development proposal were under five acres would the staff take a negative attitude.

Mr. Lillie indicated they would not. It would be reviewed completely in order for the staff to make a recommendation to the Planning Commission.

Mr. Tom Bradfield stated that it is difficult for him to see how one can increase the density at the same time he is increasing the open space.

Larry Niemann stated that if the density were 3,500 square feet per unit, the premiums would not be necessary; however, if the density is restricted then perhaps the premiums should be considered.

Mr. David Barrow felt that the premiums should be left in.

Mr. Jack Goodman read the statement in the guidelines under premiums which states:

"The above density bonus schedule is available in "SR" and less restrictive if the owner or developer proves to the satisfaction of the City departments that such density increase will not adversely affect public facilities such as traffic generation and public utilities services."

He felt that this was a judgment decision and that most decisions made will be a judgment. If a developer came in with a PUD and felt he were meeting the requirements, whereas the staff didn't what would be his recourse?

Mr. Lillie indicated that the developer could appeal to the Commission. This applies to all the requirements in the PUD provisions.

Mr. Kinser asked what difficulty the applicant would have in appealing the PUD.

Mr. Lillie indicated that the appeal would appear on the Commission agenda for review.

6. Height - Approved as suggested.

7. Land Use - Mr. Lillie stated that the staff's primary concern here is to afford reasonable protection to the permissible uses of immediately adjacent properties surrounding the site as well as to uses within the PUD boundaries itself. Land uses in the PUD at the boundary should be compatible with land use and zoning in the adjacent area.

C14L-71-3 CONSIDERATION OF PROPOSED PLANNED UNIT DEVELOPMENT ORDINANCE--contd.

The staff is recommending that in a residential PUD a maximum of five per cent of the land could be used for commercial or industrial purposes. The purpose of this provision is to prohibit large-scale commercial or industrial developments without a zoning change under the guise of a PUD while, at the same time, permitting limited areas for commercial use to serve PUD residents. The guidelines also require that this development must occur within the PUD area, not on the boundary, if the adjoining neighborhood does not permit similar land use. On five acres this would allow about 11,000 square feet of non-residential commercial or industrial use.

Larry Niemann stated that the words "shall" and "may" should be changed to "should". He also felt the provision requiring 50 per cent of residential units to be built before any commercial construction should be changed.

Mr. David Barrow wanted to know the reason for the statements in the guidelines.

Mr. Lillie stated that there is an opportunity for a developer to put in commercial development in a residential area without zoning and forgetting about the rest of the PUD project. This commercial development probably would not have support without residential going in first.

Mr. Barrow felt that this invites criticism from the neighborhood.

Mr. W. R. Coleman stated that Lakeway Inn was built before the residences were there. It was a place for people to participate in first.

Mr. Taniguchi felt that there should be more delineation.

Mr. Barrow felt that there should be some things first to attract people to the place.

Mr. Kinser stated that this will mostly deal with residences already present.

Mr. Lillie did agree that commercial could be put in before residential in some instances where there existed commercial uses adjacent to the PUD.

Mr. Goodman asked if the PUD could include areas reserved for any commercial development.

Mr. Lillie said that it could.

Mr. Brady Barnes from Bryant-Curington Engineers asked if a developer has a large PUD of several hundred acres does he have to wait for 50 per cent of the area to be residential?

Mr. Goodman said that he could get a commercial zoning and put it in.

Mr. Bradfield agreed with this statement.

C14L-71-3 CONSIDERATION OF PROPOSED PLANNED UNIT DEVELOPMENT ORDINANCE--contd.

Mr. Larry Niemann stated that if the developer wishes to depart from this rule of thumb, the Commission could consider this when the PUD application is made.

Mr. Tom Bradfield felt that this provision contradicts the purpose of the Ordinance.

Mr. Lillie indicated that this provision eliminates the possibility of a PUD which is commercially oriented without a zoning change. There should be a zoning change that goes with it. PUD should not be substituted for zoning.

Mr. Taniguchi stated that if there is a large amount of acreage with an expressway going through then a commercial PUD could be submitted.

Mr. Bradfield asked why there should be commercial in the middle of residential in a PUD.

Mr. Lillie indicated this provision allowed further flexibility in services provided within a large PUD.

Sections A,B,C,D,E,F, and G-- Approved as suggested. Further study suggested.

8. Coverage - The Zoning Ordinance permits 55 per cent coverage in 1st and 2nd Height and Area Districts and 75 per cent coverage in 3rd and 4th Height and Area Districts. The staff anticipates most PUD's will be in the 1st Height and Area District and coverage should be a maximum of 55 per cent. This would result in a minimum open space of 45 per cent on the tract.

9. Minimum Access - Mr. Lillie stated that the minimum access should be 50 feet on a dedicated street.

Mr. Crier asked if on a five acre development in "B" Residential zoning there would be adequate ingress and egress.

Mr. Lillie stated that the City Departments would recommend to the Commission if there were enough ingress and egress to the site. On a tract of that description 50 of access would not be adequate.

Mr. Barrow asked if a developer had a 50-acre PUD, what would happen if the 50 foot street dead-ended there.

Mr. Lillie stated that the street would either be cul-de-saced or extended through the tract. It is obvious additional access would be necessary for a project of this size.

10. Streets - Mr. Lillie stated that if streets are dedicated they shall meet City standards for right-of-way.

The Homebuilders felt the requirement should read:

C14L-71-3 CONSIDERATION OF PROPOSED PLANNED UNIT DEVELOPMENT ORDINANCE--contd.

"If dedicated shall have City approval for R.O.W. but do not necessarily need to meet the City standards for R.O.W."

Mr. Lillie indicated that if there were a variance requested a recommendation must be forwarded to the Commission from the appropriate departments.

Mr. Chamberlain pointed out that there should not be streets with less than 30 feet of paving.

11. Street Improvement - The Homebuilder's Association thought the statement should read:

"If dedicated or private the proposed improvement shall have City's approval for paving, curbs and gutters."

Mr. Lillie indicated he would confer with Reuben Rountree and in turn the developers to come to an agreement on the exact wording of the street improvement guidelines.

12. Approved as suggested.

13. Approved as suggested.

14. Approved as suggested.

15. Approved as suggested.

16. Yards (general) - Mr. Lillie and the Homebuilders Association agreed to the adding of the words "up to and including zero lot line" to this guideline. The guideline reads as follows:

"Permit reduction up to and including zero lot line except at PUD boundary where Ordinance requirements shall apply or common open space provides area equivalent to Ordinance requirements."

17. Approved as suggested.

18. Approved as suggested.

19. Building Spacing - The staff recommends consideration of 10 to 15 foot minimum between buildings.

Mr. Tom Bradfield felt that a 10 foot minimum be the requirement between buildings.

The staff agreed with the Homebuilders Association, and a 10 foot minimum is established.

20. Approved as suggested.

C14L-71-3 CONSIDERATION OF PROPOSED PLANNED UNIT DEVELOPMENT ORDINANCE--contd.

21. Approved as suggested.
22. Open Space - The staff added the words "to the public" to the second sentence for clarification. This was agreed to by the Homebuilders Association.
23. Landscaping - There was a difference in opinion of the wording of this guideline.

Mr. Goodman felt that some general landscape plan of what will be developed should be required.

Mr. Barrow felt that the guidelines should not be too specific about it.

There was no real problem with this guideline except on the wording.

24. Approved as suggested.
25. Approved as suggested.
26. Approved as suggested.
27. Approved as suggested.
28. Approved as suggested.
29. Approved as suggested.
30. Approved as suggested.
31. Approved as suggested.
32. Approved as suggested.

Mr. Lillie went over six examples of undeveloped land in the City where development might occur and pointed out the effect of the existing Zoning Ordinance requirements and the proposed PUD requirements as outlined under the guidelines.

The staff and the developers agreed on adding a new guideline Number 33 to the set of guidelines. It reads as follows:

33. Modification of Guidelines - These guidelines may be changed at a public hearing set by the Planning Commission by a majority vote of the full commission.

Mr. Lillie indicated that these ordinance amendments could be sent to the Council for the setting of a hearing no sooner than March 4th. The hearing itself could fall as early as March 25th.

C14L-71-3 CONSIDERATION OF PROPOSED PLANNED UNIT DEVELOPMENT ORDINANCE--contd.

Mr. Larry Niemann asked if by recommending and submitting the Ordinance and the guidelines to the Council would assume that they are to consider acting on both. The guidelines are really the responsibility of the Commission.

Mr. Milstead stated that the Commission should indicate to the Council that these are the guidelines that the Commission has adopted and the Commission will try to use them when applying them to the PUD's that will be submitted.

Mr. Lillie stated that the guidelines will be submitted along with the recommended ordinance revisions with a letter stating that the Commission has adopted the guidelines to use as the basis for review with each of the factors to be considered in review by the City Departments and Planning Commission. That the guidelines are not intended to be adopted by the City Council but simply to inform them. He indicated that he would have the letter for them at their next regular meeting.

The motion was made to approve the guidelines and to submit them to the City Council along with the Ordinance for consideration.

They then unanimously

VOTED: To APPROVE the amendments to the Zoning and Subdivision Regulations providing for the development of Planned Unit Development (PUD) projects and to approve the guidelines as the basis for review.

ADJOURNMENT: The meeting was adjourned at 11:30 p.m.