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1-26-06

MEMORANDUM

TO: Betty Baker, Chair and Members of the Zoning & Platting Commission

FROM: Dora Anguiano, ZAP Commission Coordinator
Neighborhood Planning and Zoning Department

DATE: January 5, 2006

SUBJECT: ZAP Commission Summary

Attached is a ZAP Commission summary, which will be forwarded to the City Council.

CASE # SP-01-0356D(XT) Site Plan Appeal

3. **Appeal:** SP-01-0356D(XT) - Rancho La Valencia
Location: 9512 FM 2222 Rd., West Bull Watershed
Owner/Applicant: Tumbleweed Investment Joint Ventures (Charles Turner)
Agent: LOC Consultants (Sergio Lozano)
Request: Appealling the director's decision to deny a 1 year extension.
Staff Rec.: **NOT RECOMMENDED**
Staff: Nikki Hoelter, 974-2863, nikki.hoelter@ci.austin.tx.us
Watershed Protection and Development Review
4. **Site Plan Extension:** SP-01-0356D(XT) - Rancho La Valencia
Location: 9512 FM 2222 Rd., West Bull Watershed
Owner/Applicant: Tumbleweed Investment Joint Ventures (Charles Turner)
Agent: LOC Consultants (Sergio Lozano)
Request: 3-year site plan extension
Staff Rec.: **NOT RECOMMENDED**
Staff: Nikki Hoelter, 974-2863, nikki.hoelter@ci.austin.tx.us
Watershed Protection and Development Review

SUMMARY

Nikki Hoelter gave staff presentation to the commission.

Commissioner Baker – "In addition to appealing the Director's decision to deny the extension, they are also asking for a 3-year extension.

Commissioner Jackson - If the park fees aren't extended, do they get their park fees back?

Ms. Hoelter – "No sir. they can not get their park fees returned".

George Zapalac – The park land fees would not be refunded; they could be applied to a subsequent user of the property, if someone else came in or for a new site plan that was submitted for the property; the fees could be applied towards that.

Commissioner Baker – "So this agent could ask that this be transferred to another project?

Mr. Zapalac – That's correct.

Commissioner Jackson – What if the subsequent project is much different than this project?

Mr. Zapalac – they still will not get a refund; once their fees are paid, it is put into the Park's Department budget and used for the purchase of parkland.

There was further discussion regarding the parkland fee.

Sergio Lozano, applicant, gave his presentation to the commission.

Commissioner Donisi – Has the applicant been red tagged?

Mr. Lozano – We had been red tagged because one of the houses had encroached into BCCP with some boulders; that was the only red tag that I'm aware of.

Commissioner Donisi – The investment would not be lost if this was not extended, you could apply for a variance, could you not?

Mr. Lozano – "I'm sure we could apply for a variance. The issue is that we have electric, water and other amenities.

Commissioner Hawthorne – If you had to comply with the setback ordinance, what would that mean for you as far as how many units, because this is a long narrow tract?

Mr. Lozano – We will lose approximately 23 units that will fall within the 100-foot setback from the property line.

Commissioner Hawthorne – And the roadways are already constructed and pad built?

Mr. Lozano – Yes; only two homes have been built.

Commissioner Hawthorne – But your utilities are stubbed out at each location?

Mr. Lozano – Yes.

Commissioner Hawthorne – And the ponds are in?

Mr. Lozano – Yes.

Commissioner Hawthorne – Our backup talks about more than 1 red tag; tell me more about the red tag.

Mr. Lozano – If I recall, we had one red tag at the beginning of the project that had to do with the contractor working outside the limits of his work area; in addition to the removal of 3 trees that should have been left in place that were cut down. We agreed to replace the trees. The second red tag was the encroaching into the Balcones Canyon Land Nature Preserve with some boulders.

Commissioner Baker – What about the cut and fill? And also the construction and the waste water receiving and off-site water line?

Mr. Lozano – I do not know about those red tags.

Commissioner Hawthorne – You also mentioned that this property is on a bluff?

Mr. Lozano – Yes.

Commissioner Hawthorne -- From where the roadway ends and the property line begins, where's the bluff located?

Mr. Lozano – Towards the eastern portion of the property, at the very end of the property.

Commissioner Jackson – This has been built as condominiums; are you going to build the whole project at one time or are you building homes as one or two people buy...some of these must be duplexes.

Mr. Lozano – The idea is to be able to sell 6 homes at a time and then as the progress moves forward will complete the project in 2 years.

Commissioner Jackson – And there are two structures currently on the ground?

Mr. Lozano – Yes sir.

Commissioner Jackson – Can you tell me which two?

Mr. Lozano – Lot 20 and 21.

Commissioner Baker -- Where there any inspections or approvals or anything for planning the work etc. that has been mentioned; as far as being stubbed out?

Ms. Hoelter – No, as far as I know there was no permits or inspections for plumbing or electric. It may have been done prior to annexation, but our records do not indicate any permits pulled or inspections made.

Commissioner Baker – Does the City know whether it actually exists; as far as stub out for electricity, water etc. Is it on the site? Do we know?

Ms. Hoelter – Yes; there are on site utilities that I can verify.

Mr. Zapalac – I have more information about the park land fees; the City is required to expend the funds, that are posted for parkland, within 5-years of the date they receive. Unless at the end of that 5-year period, less than 50% of the project has been constructed; at that time the fees can be extended another 5-years. If the City does not expend the funds by the deadline and the actual number of residential units constructed is less than the number assumed at the time that the fee was calculated, then the owner may request a refund and could receive a prorate share of the refund.

Commissioner Baker – Thank you.

Commissioner Jackson – We heard of a red tag for cut and fill but the backup only says that there is a red tag for two violations for construction outside the limits of construction for water and wastewater tie in; has there been a cut and fill violation?

Ms. Hoelter – My records indicate that the exact violations that were red tagged were failure to provide adequate erosion and sedimentation controls and the other was activity outside the limits of construction at the water and wastewater receiving and off-site water line tie in; and the second notice was for development not in accordance with the release site plan; but no, I did not have anything that said cut and fill.

FAVOR

No speakers.

OPPOSITION

No Speakers.

Commissioner Martinez and Gohil moved to close the public hearing.

Commissioner Donisi – I move to approve staff recommendation on Item #3.

Commissioner Martinez – Second.

Commissioner Jackson – I'll make a substitute motion that we grant the 1-year site plan extension.

Commissioner Hawthorne – I'll second that.

Commissioner Jackson spoke to his motion.

Commissioner Hammond – A 1-year extension would take them to February 2006, right?

Commissioner Jackson – Yes; we're only working on item #3, which was there first request; there is a second case.

Commissioner Donisi – Spoke against the motion. Mr. Lozano has come before us many times; my concern is the arguments that were before us, they are arguments that would be persuasive for a variance from the Hill Country Roadway Ordinance.

Motion carried for Item #3. (5-4)

ITEM # 4

Commissioner Donisi – I'll move for the staff's recommendation.

Commissioner Pinnelli – Second

Commissioner Baker – Item #4 is to deny the request for a 3-year extension. All in favor say aye.

Motion carried. (9-0)