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GARDEN CITY
DEVELOPMENT SERVICES

L-MC

BEFORE THE CITY COUNCIL

OF THE CITY OF GARDEN CITY, IDAHO

IN THE MATTER OF SPECIFIC AREA) SAPFY 2023-0001
PLAN THE RESIDENCES AT RIVER)
CLUB 6515 STATE STREET, GARDEN) PETITION AND REQUEST FOR
CITY, ADA COUNTY, IDAHO) RECONSIDERATION
)

)

COME NOW, the Livingstons, the Schmellicks, and the Pattersons, residents of Garden City, Idaho, all having previously appeared herein by and through their attorney, David H. Leroy, holding adjacent real estate interests and being substantially adversely affected thereby, and pursuant to Idaho Code, Chapter 65, Title 67 and the contents of the City Council Decision approving SAPFY 2023-0001, with conditions, signed and filed previously on the 10th day of July, 2023 and hereby timely petition the Garden City Council to reconsider the text of that Decision as to the particulars identified herein, to the extent that the same is considered "FINAL AGENCY ACTION", BECAUSE THE COUNCIL ERRED IN THAT THE WRITTEN DECISION DOES NOT ACCURATELY REFLECT THE CONTENT OF THE ORAL MOTION AND RELATED DISCUSSION, AS ADOPTED, in the following particulars:

1. The language of the decision does not adequately or fully or concisely express the limitations and protections intended by the Council for the existing neighborhood in that it does

not, as to Phase 3, (the East-Sub District):

- A. Sufficiently and precisely describe the elimination of public access connectivity between said East Sub District and North Fair Oaks Place, as the Council intended.
- B. Describe the necessity of requiring the Ordinance, Master Plan and all subsequent development applications to include “an impenetrable barrier of fencing, landscaping or water-course, or some combination thereof” to prevent said connectivity, as the Council intended.
- C. Confirm that such non-connectivity shall include “all forms of public access between North Fair Oaks Place and the East Sub District including, but not limited to, pedestrian, bicycle and vehicular traffic,” as the Council intended.
- D. State clearly that the identified “non- connectivity” is a special condition for the approval and creation of the SAP District and all subsequent development applications must conform therewith, as the Council intended.

2. The language of the decision does not adequately, fully or concisely express or define the extent, degree and nature of the “35 foot tall height restriction” for construction in that area of the East Sub District located to the East and South of the curving Red line as illustrated on the Exhibit “A” diagram of the project, containing some five (5) acres, more or less, as presented by the Developer and adopted and incorporated by the Council at the meeting of June 26th in that:

- a. Said standard should state “the current ground level” as shared by the project site and the existing neighborhood as a discernable standard and baseline from which the height restriction shall be measured, to be effective, as the Council

intended, to minimize impacts upon the adjacent neighboring properties.

b. Said standard should generally describe the construction form or forms which will be planned in the area such as “townhomes” or other types, to provide proper clarity.

c. Said standard should state that the thirty five foot restrictions shall be measured from the baseline to the “highest point of the structure.”

d. Said standard should also confirm that a resultant “reduced density” to some extent more compatible with R-2 standards will also be produced by the height restriction in the Red Line Area, as was discussed and intended by the Council.

3. Attached hereto as the following numbered Exhibits are suggested language changes at the particularly identified textual portions of the Council Decision document which would accomplish the additional specificity sought by this Petition for Reconsideration.

A. As to the Connectivity Issue, see the pages identified as Exhibit “1.”

B. As to the Height Limit Issue, see the pages identified as Exhibit “2.”

4. Attached hereto as the following numbered Exhibits are selected portions of the unofficial, mechanically-made, verbatim transcript of the Applicant’s presentation, Council deliberations, Council Motion as made, and Vote thereon during the official meeting of the Council in session on June 26, 2023, at which detailed and specific verbal expressions and descriptions were made in support of and before the vote to adopt the motion. Said statements support and compel the necessity and propriety of making the requested clarifications for precision, comprehensiveness, accuracy, understanding and subsequent enforceability of the intent of the Council and therefore the Decision itself to avoid irreparable harm to the interests of

these Petitioners:

A. COMMENTS OF BOB TAUTON, AGENT FOR THE DEVELOPER,
COLLECTED AS EXHIBIT "3"

- * No bike, pedestrian or vehicular connection, page 7 (hereinafter "p7")
- p.8,
- * Proposing buffers, landscape mitigation and building setbacks and minimum heights of 35 feet page 9
- * Reduce the bulk and density in the East area p 13
- * Offers "final (red) line" area of about 5 acres demaking 35 foot height limit from higher density area p 14, p 15
- * Property directly North of red line is commercial p 16
- * Reduced lower density is equivalent to R2" p 16

B. COMMENTS OF JOANN BUTLER, ATTORNEY FOR THE DEVELOPER,
VARIOUS PAGES, COLLECTED AS EXHIBIT "4"

- * Reduced height to 35 feet, same as R-2 standard, p 24, p 25 in Phase 3 reduces density p 24
- * No connectivity to North Fair Oaks p 24
- * Block pedestrian and bicycle access to North Fair Oaks to prevent change in essential character of the Plantation neighborhood. p 24, p 25
- * Committed to "fence and densely landscape" the "acceptable in lieu of a stubbed path" in between the area be North Fair Oaks and the project p 25
- * Reduced height and density in Phase 3 p 26

* Types of “fencing and the landscaping that would effectuate the disconnect between the project and North Fair Oaks Place p 26

C. VARIOUS COUNCIL MEMBER QUESTIONS, PAGES ATTACHED AS EXHIBIT “5”

* Blocking access to Fair Oaks with dense landscaping and fencing requires removing stubbed in trail or path p 31-32

* Applicant’s sensitivity mitigates concerns by modifications to height and density and willingness to avoid connectivity and greater separation from existing single family homes p 37

* Elimination of connectivity by a physical barrier such as a water feature or dense plantings is also a question of design or aesthetics p 38

* Other considerations such as a further reduction of density might be considered p 38

* Avoid “disrupting the serenity of Fair Oaks” p 38

* Nice compromise for Fair Oaks and people surrounding those residential neighborhoods to address “concern” of “connectivity” p 38-39

* “Connectivity in neighborhoods create conflict” p 46

* Recommend the applicant looking at very, very dense landscaping and potential fencing p 47

D. COMMON THEMES AS RESTATED BY MAYOR EVANS, WITH CLARIFICATIONS, PAGES ATTACHED AS EXHIBIT “6”

* Exhibit A Red Line map noted as additional conditions p 50, p 51

- * Connection to Fair Oaks eliminated as a condition of approval p 50
- * Building height reduced to 35 feet with a resultant “density reduction” p 50, p 55

E. FURTHER COUNCIL COMMENTS AND MOTION AS MADE,
PAGES ATTACHED AS EXHIBIT “7”

- * Eliminate that particular connectivity, eliminate (contrary) statement p 51
- * Three or four council members seem in favor of disallowing connectivity requires an adjustment in the finding that details with the connection p 52
- * Have to take out “potential future connection” of pathway to the “adjacent property owner” p 53
- * Ms. Butler recalled to eliminate confusion on “reduction of density, the 35 feet and the connection” p 54, p 55
- * FINAL MOTION - Restrict Height in Exhibit A area to no higher than 35 feet, thereby reducing density, eliminate connectivity between the East-Sub District and Fair Oaks, as to any form that would allow human beings to access p 56

The pages referenced above are collectively attached as the Exhibit’s noted.

A copy of said entire verbatim transcript has been previously provided to the Garden City Attorney and to Counsel for the Applicant.

5. Each and all of these requested language changes are consistent with and supported by the facts and dialog in the Record, as indicated.

6. Each change requested is also appropriate and relevant to subsequent enforcement under various and previously identified sections of the Comprehensive Plan, Future Land Use Map and Garden City Code sections, specifically as to the East-Sub District, Phase 3 and the Plantation neighborhood, and the future relationship between the same. Each change is also necessarily and appropriately included in the language of the Decision, the River Club District SAP Ordinance, the conceptual Master Plan and the Development Agreement to assume clarity and compliance.

7. Should further proceedings or judicial review become necessary to obtain the relief sought herein, these Petitioners reserve the right and give notice hereby of their intent to additionally pursue any and all previously-raised legal issues presented by and within the entire record of the approval of SAPFY 2003-0001, including but not limited to ownership, spot zoning, application of the Master Declaration, Green Belt Access, Flood Zone, and all such other issues framed by their prior and all written submissions and public testimony, staff presentations, and Developer comments as to the various SAP applications. These Petitioners also reserve the right to request a takings analysis from the City.

8. The exact language of the Decision is of great importance and legal significance to these Petitioners and the other current neighbors similarly situated as it will guide, inform and constrain the Design Review Consultant, future Planning and Zoning Commissions and future Councils, in their respective roles, as to subsequent decisions and appeals during the design and build out stages of the Residences at River Club SAP. Thus, a failure to have fully descriptive and concise text in this Decision, even now, adversely affects the interests of these Petitioners and their neighbors.

CONCLUSION

For each and all of the above stated reasons, the Petitioners respectfully request that the Garden City Council RECONSIDER its above-described Decision, as issued, and make each and all of the requested language clarifications, supplements and changes therein sought by this Petition and such others as may be precisely consistent therewith.

Dated This 10th day of July, 2023.

Respectfully Submitted:



David H. Leroy, Attorney for the Petitioners

CERTIFICATE OF SERVICE

I hereby certify that on this 20th, day of July, 2023 I caused a true and correct copy of the within instrument to be delivered by email and hand deliver to:

Garden City Attorney's Office

Garden City Clerk

Garden City Council



Davalee Davis, Executive Assistant

CONNECTIVITY-EXHIBIT "1"

PAGE 10, PARAGRAPH 26(e) CURRENTLY READS:

"e. Council President Page moved to approve the application in accordance with the Planning and Zoning Commission recommendation including the draft findings of fact, conclusions of law, and conditions of approval with the following amendments:

- i. Include suggested reasoned statements.
- ii. Eliminate the requirement to provide bicycle and pedestrian access to Fair Oaks Place.
- iii. The area shown in the rebuttal presentation, referred to as exhibit A during the hearing shall be restricted to a height of 35."

AS TO THE CONNECTIVITY ISSUE, SUBPARAGRAPH (e)(ii) SHOULD BE AMENDED TO READ:

"ii. Prevent all vehicular, bicycle and pedestrian public access to North Fair Oaks Place by utilizing an impenetrable barrier of fencing, landscaping, water feature, or some combination thereof."

PAGE 25, PARAGRAPH 9(b) CURRENTLY READS:

"9. Required revisions to the Conceptual Master Plan include:

.....
b Extend the publicly accessible bicycle and pedestrian pathway that runs adjacent to the golf course to connect the West Sub-district and the Pierce Park and state Street intersection. The pathway shall also provide for a potential future connection to the adjacent property at the westerly boundary."

AS TO THE CONNECTIVITY ISSUE, SUBPARAGRAPH 9(b) SHOULD BE SUPPLEMENTED BY THE ADDITION OF THE FOLLOWING LANGUAGE AT ITS CONCLUSION:

"However, all public access, including vehicular, bicycle and pedestrian to North Fair Oaks Place shall be prevented by the utilization of an impenetrable barrier of fencing, landscaping, water feature or some combination thereof."

PAGES 25-26, PARAGRAPH 10(g)(v.i)(6) CURRENTLY READS:

"10. A Development Agreement shall be entered into that adopts the Master Plan with the following conditions:

.....
g. Easements required to enact the Master Plan:

.....
vi. At a minimum, include easements for the following:

.....
6. Publicly accessible 12-foot easement, for a minimally 10-foot-wide multi-use (bicycle and pedestrian) pathway that runs along the southern boundary of the subject property.

a. The term publicly accessible shall be defined to mean that the easement shall be perpetual and allow for public access with minor identified exceptions such as closures after customary travel hours.”

AS TO THE CONNECTIVITY ISSUE, THE SAME LANGUAGE OFFERED FOR SUBPARAGRAPH 9(b) ABOVE, SHOULD ALSO BE SUPPLEMENTED AT THE CONCLUSION OF SUBPARAGRAPH 6 (a).

PAGE 26, PARAGRAPH 10(p) CURRENTLY READS:

“10. A Development Agreement shall be entered into that adopts the Master Plan with the following conditions.”
.....

p. All sidewalks and public pathways shall be designed and constructed to the project boundaries so that they facilitate future connections.”

AS TO THE CONNECTIVITY ISSUE, THE SAME LANGUAGE OFFERED FOR SUBPARAGRAPH 9(b) ABOVE SHOULD ALSO BE ADDED TO THE CONCLUSION OF SUBPARAGRAPH 10(p).

PAGES 26, 27,28, PARAGRAPH 11 (b) (xxv) CURRENTLY READS:

“11. Prior to the adoption of the Residences at River Club District SAP Ordinance, revisions to the proposed code shall be made to:

.....
(b) Make clear the following concepts are incorporated:

.....
(xxv.) Amend language for bicycle connectivity standards to require connectivity to the boundary of public right-of-way.”

AS TO THE CONNECTIVITY ISSUE THE SAME LANGUAGE OFFERED FOR SUBPARAGRAPH 9(b) ABOVE SHOULD ALSO BE ADDED TO THE CONCLUSION OF SUBPARAGRAPH (b) (xxv).

HEIGHT LIMIT-EXHIBIT “2”

PAGE 10, PARAGRAPH 26(e) CURRENTLY READS:

“e. Council President Page moved to approve the application in accordance with the Planning and Zoning Commission recommendation including the draft findings of fact, conclusions of law, and conditions of approval with the following amendments:

- i. Include suggested reasoned statements.
- ii. Eliminate the requirement to provide bicycle and pedestrian access to Fair Oaks Place.
- iii. The area shown in the rebuttal presentation, referred to as exhibit A during the hearing shall be restricted to a height of 35.” (sic)

AS TO THE HEIGHT LIMIT ISSUE, SUBPARAGRAPH (e) (iii) SHOULD BE AMENDED TO READ:

“iii. In the map area East and South of a curving Red Line, containing some five acres, more or less, as shown in the rebuttal presentation, referred to as Exhibit ‘A’ during the hearing, buildings shall be restricted to a height of 35 feet, as measured from the current ground level to the highest point of the structure, also resulting in a reduced density in said area.”

PAGES 24-25, PARAGRAPH 9(a) CURRENTLY READS:

“9. Required revisions to the Conceptual Master Plan include:

a. The height of the area of the East Subdistrict, identified in the image referred to “Exhibit A” of the applicant’s rebuttal presentation on June 26, 2023, hearing shall be limited to a maximum of 35'. The review of this change to the East Subdistrict will be reviewed no later than the design review of the West Subdistrict.”

AS TO THE HEIGHT LIMIT ISSUE, PARAGRAPH 9(a) SHOULD BE AMENDED BY ADDING THE SAME LANGUAGE SHOWN FOR THE REVISED SUBPARAGRAPH (e) (iii) OF THE COUNCIL MOTION ABOVE TO THE CONCLUSION THEREOF.

PAGES 26 and 27, PARAGRAPH 11(b)(1) CURRENTLY READS:

“11. Prior to the adoption of the Residences at River Club District SAP Ordinance, revisions to the proposed code shall be made to:

b. Make clear the following concepts are incorporated:

.....

i. Amend regulations to limit the height of the area of the East Subdistrict, identified in the image referred to “Exhibit A” of the applicant’s rebuttal presentation on June 26, 2023, hearing to a maximum of 35’.”

AS TO THE HEIGHT LIMIT ISSUE, PARAGRAPH 11(b)(1) SHOULD BE AMENDED BY ADDING THE SAME LANGUAGE SHOWN FOR THE REVISED SUBPARAGRAPH (e) (iii) OF THE COUNCIL MOTION ABOVE TO THE CONCLUSION THEREOF.

EXHIBIT "3"

TONY TONT

um by the location of the new Entry Road they're going to be further away for a minute the um
13:44

Lakeside Drive homes that's number three those are located immediately to the
13:50

West of the subject site one of the houses that was there was already taken down by
13:57

achd when they purchased the lot for part of the right-of-way um again these these homes also
back

14:04

onto Plantation Drive they don't front the golf course they don't apartment they don't back onto
the golf course and

14:11

when with the project as the current master plan um indicates they will be they will be
14:17

have setbacks of 159 175 and 188 feet from what we think will be the octave
14:25

adult building so that's that's over half a football field away so and there

14:31

will be a um a landscape buffer between their lot line and the parking lot that
14:37

already exists and there's mature mature vegetation there so I think we can be fairly comfortable
that there isn't

14:43

going to be a significant impact number four are all of the homes that
14:48

are on the south side of the golf course along Plantation Lane and other
14:53

cul-de-sacs there's no impact on these homes there's no bike ped connection

14:59

there's no vehicular connection there's no loss of golf course Frontage
15:05

and they would be looking across with the reconfiguration of the golf course four or five
Fairways before they would

15:13

even see the uh the project and that would only be the houses that are on the north side of
Plantation Lane those that

15:21

are on the South Side people that are along the river would never be able to see the project and of
course in between

15:26

our fairly mature trees they're you know that obviously block a lot of The View
15:32

um an interesting point is that if they do have a view of State Street it's not
15:38

terribly attractive right now you thought strip commercial that is poorly designed you have some
new

TAYTON

15:45

um multi-family that I wouldn't describe as being exceptional architecture and of course you have you know over 30 000

15:52

trips a day and car lights and that sort of thing so with the project they will have a better

15:58

a nicer view looking looking north towards State Street because it'll be a

16:03

you know a highly developed very excellent architecture as framing

16:10

the golf course so that will be um should be beneficial so no impacts

16:15

Charleston Place is number five um Charleston Place does not lose Golf

16:21

Course Frontage it Golf Course surrounds them on three sides there's no vehicular access or

16:29

bike pad access that's proposed and there's limited visual impact of the

16:36

from the three lots that are at the end of the cul-de-sac to to the proposed what you know

16:43

currently in the plan is town homes that are 35 feet the same maximum height as

16:49

they have in their own neighborhood and again for those that look at State Street it would be an improved

16:55

appearance just as I was describing the situation for the Plantation Lane folks

17:00

Fair Oaks place which has obviously been a lot of the discussion uh on the part

17:05

of the the public and concerns about connectivity and and just to remind

17:12

BILL, PEP

everybody the the applicant is not proposing Mike Pitt or vehicular

17:17

connection to Fair Oaks uh echd has weighed in and said that there would be

17:23

no vehicular access to that cul-de-sac so it's certainly supported what we've

17:28

said all the way along they are recommending by comped connection of course but that will be up to council to

17:34

decide if that's the way it should be um there's loss of a playable golf

17:40

course there's hole number two that uh or new number two that let me get that

17:46

straight I'm probably I've got the whole Rod sorry I haven't golfed on the golf course uh ever so I'm I'm a bit confused

TAUTON CONT

17:53

but there is um there is an existing Fairway along the north side that is

18:00

part of the development area and so the Fair Oaks people will they'll lose that

18:05

green um but with the building setbacks that we have proposed and it would be the

18:11

same thing for the folks on Charleston with the building setbacks that we had proposed and the

35 foot height of the

18:18

townhouse in the conceptual master plan in a landscape buffer and so on it's

18:25

partially mitigated let's put it that way so it's just not as severe uh an

18:30

impact as it has been represented the Edgewood Plantation uh yes Mr Totten I

18:37

apologize for interrupting so where would uh what number is Fair Oaks what

18:42

would be remember number six yes sorry thank you number seven is the assisted

18:49

living facility and we heard from the manager of a the you know seeing open

18:54

space was valuable to their um their residence and I certainly understand that

19:01

um but again with with building setbacks and with buffers I think we can certainly mitigate that situation

19:07 ??

the kessinger laying Lots which are directly to the to the east number eight

19:14

um those folks of course will lose their Golf Course Frontage situation

19:21

um with loss of the playable hole but you know we're proposing buffers and

19:26

Landscape mitigation and that sort of thing so we think that the in building setbacks and minimum highs of 35 feet

19:34

again the same same Building height maximum as in the R2 Zone that

19:41

mitigation can help to um well obviously mitigate against that

19:47

loss so overall you know they're just the impacts that we've heard the burdens

19:52

listening to Mr Bush the burdens on on the plantation Community

19:58

um we just don't see that now there there could be some adjustments and we have a thought tonight on an adjustment

TAUTON

COUNCIL MEMBER

TAUTON CONT.

✓

✓

9

in the East area we would limit the height to

26:33

35 feet which in itself would reduce the bulk

26:38

which was one of the concerns that we heard from Mr Leroy in reduced the density another concern that we heard

26:45

from everybody and really the the higher density would be more

26:51

oriented towards State Street Frontage but there but there's an issue that I'd

26:58

like to go over with you and that is what is the East area and what is the boundary and where would that

27:04

delineation take place so um if you could move to that first slide

27:12

okay so um Marion Council this is the sub-district map from the original

27:20

application and it really kind of matched the phasing plan that LPC that

27:28

generated to figure out okay how would we develop this project if it were all approved as the master plan indicates

27:34

so we have the the West area Central area and then the yellow is the East

27:40

area um next slide

27:46

so during during the the application process we thought that we would prepare

27:52

the minor land division map and make that application and that

27:58

application is on hold we thought it might give people assurance that you know there this was really going to

28:05

happen that the Lots would be created the parts that would be created and Mr gusterson would get the golf course back

28:11

which he's indicated many times is when that would take place but our engineer

28:17

indicated to us that we couldn't do a minor land division following the

28:23

configuration of that first um phasing sub-district map because we

28:29

needed to have all the parcels needed to have Frontage on a public Street so Fair Oaks is a public Street and

28:38

*ROE for.
LOT SPLIT ~~FRONTAGE~~
& FRONTAGE
REVISED
LAYOUT FOR
EAST
SUBDIST.*

yes we do have Frontage but we were not going to take access to Fair Oaks and of ✓

28:43

course achd said you're not going to be able to do that even if you wanted to so it became necessary to adjust that East

28:52

parcel so that it had Frontage it's not State Street and and as you recall based

28:57

on the um the tis work that we did in the review by echd there is an access point

29:06

that is a write-in write out it's essentially across from Zamzows so that

29:13

would be the only place where there would be access for the East parcel so

29:18

what happened is we altered it um

29:23

we we adjusted that to be that way so you can see the arrows there that indicate Ingress and uh and the ability

29:32

to get out of the site but obviously the area that's fronting State Street should

29:38

not be 35 feet I mean it's just it would be a very unfavorable location for

29:44

anything of that height Townhomes single family whatever um so we gave some thought to okay if we

29:52

were going to limit um create a create an area in the final line where on one side it was 35 feet

30:00

and the other other side it would be for higher density residential where would

30:05

that be so um there's a couple of possibilities but we wanted to put one idea in front of

30:12

you and Trevor if you go to them um next one so this is the um Golf

30:21

Course Improvement plan from July of 2019. and there were a series of these plans that were done by our our golf

30:28

course architect changing configuration met with members got their input that sort of thing and

30:36

um but the development parcel which is the you know lighter yellow shaded area

30:41

that that's kind of stayed consistent until additional acreage was added which

30:48

is about five more Acres that was roughly 17 acres and you can see that it has the old in this particular diagram

30:54

it has the old uh alignment for the for the road coming in uh in from

SPLIT
DENSITY
IN EAST
SUB DIST

31:01 Plantation or not in from the signal on Pierce on Pierce Park and State Street
31:07 and that was before achd had designed things and so our design conforms more
31:12 31:12 with it now this particular illustration was included in a letter by Mr holler
31:19 31:19 once again where he was comparing this diagram to the diagram that showed the
31:24 additional Development Area and well I've used this diagram since it's part
31:29 31:29 of the public record and we didn't want to introduce any new diagrams but I can
31:35 tell you that the the Development Area was pretty consistent even though in several iteration the
golf course
31:42 31:42 you know alignment and play changed so this area I mean we've heard from from
31:49 31:49 folks um there seemed to be support for that
31:54 31:54 being where high density would be located now of course that map doesn't include the additional ✓
the five acres
32:01 32:01 that goes over to Fair Oaks but in terms of high density that seem to be
32:07 32:07 acceptance for that so um go to the next slide Trevor so this is a more detailed look at it
32:14 32:14 it's kind of a a weird spear point if you like uh where
32:21 32:21 it was really driven by the golf course layout but as I said our our golf course architect figured
out different ways to
32:29 32:29 do things a lot of it had to do with where we located the maintenance building from when this
illustration was
32:35 32:35 done um so one possibility is that everything
32:41 32:41 that's in the yellow would be the higher density in the area with its indicators
32:46 32:46 hole number two which is New Hole number two that is now part of the development area that
would be subject to a 35 foot
32:54 32:54 maximum height go to the next slide so that's on on the conceptual master
33:00 33:00 plan from our our original application
33:05 33:05

ACCEPTABLE

um that is what that line would look like so everything that is I guess southeast of that line

33:13

um towards the cul-de-sacs would be maximum 35 feet and that line is a

33:20

football field away it's it's 300 feet plus from the call this from the homes

33:25

on the cul-de-sacs and the uh and the folks that are at the East End of the uh

33:31

of the property on messenger so that's an idea we wanted to put on the table

33:36

but um again the the thought is to try and

33:42

respond to what we heard from Council and respond to what we heard from the neighbors

33:48

um who did not find that our mitigation plan that we proposed the Planning

33:54

Commission and that's they recommended to you um we're trying to try to find that

33:59

solution that would please folks obviously LPC is going to take a hit in

34:06

terms of density and so on but um they're willing to live with that

34:11

um and then Joanne would um I think in her testimony she's going to be speaking as to how this

process

34:19

might might work as far as altering the conceptual master plan if

34:27

TAVTON
you agree with this or if you have another idea anyway uh questions Mr Tom or Mr Mayor yes

Mr Tom thank you for uh

34:35

showing this will this particular slide that's currently displayed be uh readily

34:41

available throughout the rest of the meeting uh yes or could that be bookmarked in some way
that's easily and

34:47

quickly as accessed as we go through the remainder of your presentation

34:59

a couple just a couple questions I believe the property is directly north of that red line are all
commercial

35:04

properties correct that is correct yes okay and the other question when you mentioned that the
height

35:09

um you're going to maintain it at 35 feet obviously at a lower density is that equivalent to R2 I
mean do you

35:17

*Slide that
stays adjusted
Layout to
be
attached
to approval
if? DA*

EXHIBIT "4"

Butler

the board you received answers of reduced height in phase three reduced density in phase three and no

50:17

connectivity to North Fair Oaks place as Mr Taunton made clear in his

50:23

presentation the applicant is willing to address the very issues the neighbors have raised in hearing Ear hearing two

50:30

weeks ago reduce the height to yes the same height that is the R2 height of 35

50:36

feet which necessarily reduces the density and to continue to block

50:42

Fair Oaks

pedestrian and bicycle access to North Farrell's place there will be no change in the essential

50:49

character of the plantation neighborhood the maximum height of the houses in

50:55

phase three will be 35 feet just as in Plantation Plantation and phase three will be

51:00

disconnected the plantation neighbors will continue to access their homes by a State Street and Plantation River Drive

51:07

those neighbors who are members of the River Club will continue to play golf pickleball and socialize with their

51:14

neighbors as they do today phase three continues to reflect the

51:20

purpose of the specific specific area plan designation part of an overall master plan that

51:27

offers more diversity in housing lower density but still density to support the

51:32

retail in the project and also support the transit Corridor or State Street some of that density as we've always

51:39

said in our application can get transferred out of phase three and and

51:44

probably to the extent that we can we would we would move some of that density West and to 51:52

the central area that will that will become clear as we get to more detailed site design

51:58

continuing there won't be any car parking on North Fair Oaks place there's no direct route and neither the city nor

52:05

achd has recommended or is allowing that vehicular access and as one of the

52:12

council members noted two weeks ago if by some fluke unusual parking were ever

52:17

Silly

to occur on North Fair Oaks place the residents there could create a parking permit program to ensure that there was

52:24

parking enforcement available from the city I just want to repeat some of the

52:30

statements of on compatibility from the last hearing so that there is no confusion

52:36

Mr Leroy and others indicated that phase three was offensive because of the height the density the connectivity this

52:44

was repeated by several others who testified that reduced height reduce density and no connectivity would make

52:50

free phase three and I believe I'm quoting Reese's smell it correctly more compatible with us

52:57

so again the applicant will reduce the height to 35 feet in the area that Bob has shown we've committed to fence and

53:04

densely landscape the area between North Fair Oaks and the project to eliminate bike ped access ✓
which Mr Leroy said at

53:11

? STUDY

the last hearing was acceptable in lieu of a stugged path this is reasonable

No SWB

53:18

reasonable mitigation of a potential connection issue

53:23

Mr Leroy also said in the hearing that he wanted no development in phase three

53:29

as mitigation because as he told council member Jacobs if there is no development

53:35

there will be no temptation to trespass over into North Fair Oaks what he is asking for with that

53:41

statement is for the city to prevent any development on another person's private

53:46

property that's not reasonable mitigation that's a request of the city

53:52

to take private property from one private property owner for the benefit of another private property owner and

54:00

that the city cannot do the city has worked diligently to follow

54:07

the guidance of the comp plan and has made a thorough factual review of the application for comp plan compliance

54:13

it's just one further example of that I'm going to speak to objective 10.4 of the comp plan which requires the city to

54:21

David

and I'll quote designate locations in proximity to existing and future Transit stops throughout the city that serve as

54:28

activity centers further the action steps associated with that objective

54:33

have been taken you've amended your development code to provide a Zone the sap Zone to facilitate Neighborhood

54:41

Activity and Transit oriented development nodes their development and you have also provided for phase Master

54:48

planning you will be approving a project that as the the third action step states that

54:55

provides a transition in the height and scale that is compatible with the

55:01

existing neighborhood from complaint compliance to compatibility there is no illegal spot

55:09

zoning here those will be our arguments if we wind up going to another venue

55:15

the applicant proposes to bring the concept plan for phase three back to the city for review concurrently with the

55:23

detailed site plan application in connection with phase one this will require at that time design review

55:29

consultation it'll require notice to the neighborhood notice to the neighbors

55:35

anybody else that has indicated that their interest in parties and it will give the ability of the neighbors to

55:40

appeal of decision that they don't like to the city council in addition to the reduced height and

55:47

density in phase three we will bring back at that time more details in connection with the types of fencing and

55:53

Fair Oaks
the Landscaping that would effectuate the disconnect between the project and North Farrell's place

56:02

I have a few random rebuttal con comments that are going to be a little bit disjointed here

56:09

um I won't address everything that people brought up but I have some uh and

56:14

again ask me if there are others that you would like me to address with regard to parking that issue keeps

56:20

EXHIBIT "5"

1:04:35

for your presentations Butler I do have a question um and I realize that this is a conceptual drawing

1:04:43

so just your candor is appreciated but I don't think I have a clear understanding

1:04:50

to a question that councilmember Jacobs asked of Mr Taunton earlier today uh what what is

1:04:58

the uh not the high I understand clearly that you're not going to go above 35 feet is

1:05:04

the is the current position you've taken what would you estimate that density to

1:05:09

B and I understand your your aim is compatible with R2 but not R2 what can

1:05:15

you give me a compatibility what what does that density look like I don't know that and I'll ask Bob to

1:05:22

help me if he can or Trevor um I don't know that we know which is why we're going to have to come back with a

1:05:27

concept plan um to to show exactly what can fit in there and at a 35-foot house and at the

1:05:35

you know permitted uses in in that zone so I think we're gonna have but that so

1:05:40

I can't answer that today I don't know but I do know that it does have to go

1:05:46

through a public process and so hopefully that makes you feel comfortable that we have to go through

1:05:51

that yeah sure and we'll see scrutiny at a later time right

1:05:56

okay yes sir thank you for um you're welcome your

1:06:03

presentation did I understand correctly um you mentioned

1:06:08

um uh blocking access to to Fair Oaks uh with uh dense landscaping and fencing

1:06:17

um pardon me then [Music] wouldn't that require are removing the

1:06:24

condition uh uh proposed by uh staff that we stub uh a trail or a path at the

1:06:33

very least this is gonna this will be a decision by

1:06:40

Council we have said that we would um create offense and dense Landscaping

1:06:45

no alligators um but

*Mayor on
COUNCIL
MEMBER, 10/23
Q*

*remove Conduit
stub trail.*

o

31

but it's made up of multiple neighborhoods I think the council's responsibility is not only to advance

1:18:12

the prosperity safety and well-being of the community but also to preserve an enhanced sense of neighborhoods within

1:18:19

that larger Community to sum the application offers a positive approach to the former and to sum the

1:18:26

application presented a challenge to the latter my sense is that phase three of the
1:18:33

applicant's plan is the greatest if not the only compute component of the plan that has raised neighbors concerns

1:18:41

I think a neighborhood requires scale that knits together

1:18:47

pardon me its occupants on Common Ground the boundaries can be soft

1:18:54

are ill-defined but there's usually a sense of identity of place linked to place in a neighborhood
1:19:02

while the residents of Fair Oaks in Charleston are part of a greater Community several have expressed

1:19:07

concerns that suggest their neighborhood's character is under threat as the Greater Community evolves and as

1:19:14

a new distinctive neighborhood is developed adjacent to their tranquil

1:19:20

cul-de-sacs the applicant's sensitivity to these concerns is evidenced by efforts to hear

1:19:26

and steps taken to mitigate those concerns including modifications to the

1:19:32

density and height of the dwellings in phase three the willingness to avoid

1:19:37

Transit connectivity to an adjacent neighborhood and by providing a greater separation of

1:19:45

the new development from existing single-family homes so given the professionalism and

1:19:51

considerations of the applicant and the sincere concerns of the neighborhood adjacent to the proposed development I

1:19:58

think this application has presented merits some conditions

1:20:03

not least among these in my view is the elimination of connectivity by path

1:20:08

between phase three property and Fair Oaks the creation of a physical barrier such

Speaker?

1:20:16

as a water feature or dense plantings may be desirable but I think that's rightly a question of design or

1:20:21

Aesthetics rightly considered by the applicant and City staff other conditions might be considered

1:20:28

such as a further reduction of density of phase 3 development

1:20:34

and such a condition May further allow the concerns of adjacent Neighbors I think that again is something that

1:20:41

maybe the parties can talk about I think the concerns of achd and and

1:20:48

possibly Boise for that matter regarding the safety of cyclists and pedestrians who wish to access a green belt

1:20:54

connection are best addressed by that body's accelerating its planned

1:21:00

development of safe multimodal traffic between Pierce Park and Plantation River

1:21:07

Drive rather than disrupting the serenity of Fair Oaks

1:21:13

so those are my thoughts at this point in time but I'm encouraged by what I heard tonight and uh

1:21:19

I think I'm hopeful that we can reach a

1:21:25

an agreement on these issues thank you

1:21:31

thank you Mr Mayor thank you Russ thank you council members

1:21:40

Paige I'm not going to be redundant because on some of these you guys spoke about because you were very eloquent

1:21:46

when I was looking at this application I really had three things that um that I was concerned about one was

1:21:52

the density on that East District it was very important to me that we listened to community about not having a four-story

1:21:59

apartment building overlooking your homes and I think that was something that was echoed by some of the other council

1:22:07

members and and their thought process and the fact that we're lowering that to a lower height

1:22:14

um is good and it's it's a it's a nice I think compromise for the Fair Oaks uh in

1:22:21

in the people surrounding those residential neighborhoods that the development backs up to moving that to

1:22:26

an R2 high and so I'm I'm glad to see that the applicant was willing to make that change

1:22:31

the other uh issue that was a concern to mine is is connectivity and so there's

1:22:37

people on the council know in previous Muse that we've had is I take the comprehensive plan pretty seriously I

1:22:44

bring it with me to every meeting and and sometimes I'm told maybe maybe too much but when I was

1:22:52

looking at the development I really did reference the comprehensive plan and so when I look at the connectivity

1:23:00

issue um you know part of when I make my when I

1:23:06

put my thought processes I have to be able to articulate why I feel one way or

1:23:12

another um even if it might not be popular with the most so I personally feel that a

1:23:18

connectivity is needed and this is and this is the reason why so one I work on State Street and and

1:23:25

it's a busy Street and I've seen multiple accidents right outside our Far West

1:23:33

every year there's always several I've seen lots of near-misses there's a sidewalk that goes right

1:23:39

right in front of the business and people pull out and they almost hit bicyclists and pedestrians and things like that so State Street's a tough

1:23:46

street it's fast it's 40 miles an hour and I'm just envisioning

1:23:52

you know the children of residents not so much as they're trying to ride

1:23:57

down State Street to a bus stop for things like that down the sidewalk that's going to be

1:24:04

developed for for the development that 1800 feet but once you get past it it's just kind of a

1:24:09

mediocre sidewalk all the way down to Plantation Drive and so then I also look at the

1:24:15

comprehensive plans and goal number seven of the comprehensive plan is to connect the city

1:24:21

and Russ eloquently said that you know when we as city council we have

that based on my experience in campaigning which was referenced by somebody in public testimony in the

1:36:56

community of Plantation um and the the many subdivisions that are involved there

1:37:02

the uniqueness about plantation is actually the residence you people who

1:37:10

um get together regularly in the street or in each other's driveways for a happy

1:37:16

hour it is residents that live next door to your best friend for 30 years and go on daily

1:37:22

walks together it is the testimony of pulling into your neighborhood and seeing two turtles on a rock

1:37:29

that is Americana that is a unique thing to your neighborhood and I congratulate

1:37:35

you all that's unique to Garden City and I'm certain that it is unique to a

1:37:40

greater landscape than that and I encourage you regardless of

1:37:46

what the applicant decides to move forward is to choose to preserve that

1:37:51

part of your neighborhood and that part of your residency so having said all of that

1:37:59

um I would encourage the applicant to reconsider some of the design and

1:38:05

potentially consider using more muted colors I

1:38:10

understand it's on State Street this thing will get a huge draw regardless of the colors

1:38:16

um and I also um consider the connectivity a big issue I

1:38:22

think the connectivity in neighborhoods create conflict that's been my

1:38:27

observation and we are seeing that played out um through covid certainly many many

1:38:34

neighborhoods reported increased parking and strangers accessing the green belt

1:38:41

in residential neighborhoods um I I strongly would prefer that

1:38:48

agencies not promote access to Green to the green belt through private

1:38:54

neighborhoods and on private property it becomes as I stated in my opinion and

1:39:01

having witnessed and had some conversations it creates conflict So

1:39:07

Jørgen

✓

44

based on that I would prefer and recommend that um to the applicant's credit looking at
1:39:15

✓
very I would say very very dense landscaping and potential fencing uh I I
1:39:23

understand the the connectivity to the city I I believe that that burden lies
1:39:31

on many agencies and it is being pursued
1:39:36

um I do believe to to your concern regarding the golf course Mr Gustafson
1:39:43

has been very consistent in all statements that I can find and I try to
1:39:48

go back calling public statements and articles Mr Gustafson has been very
1:39:54

consistent in his statement and commitment to developing a world-class golf course I
1:40:01

don't see any indicator that he is doubting or doubting that path he's an
1:40:07

entrepreneur he's using his money to push this development forward he's
1:40:14

leveraging property to be developed to ensure that this golf course continues
1:40:19

to be developed which will be a benefit not only to the immediate community and
1:40:25

neighborhood but to the city um I do want to touch on a couple of
1:40:32

other um comments that were made one and on
1:40:37

these I may need to ask for clarification and confirmation from staff or Mr rodhams
1:40:43

Miss Butler stated that the Tod requirement of a quarter mile from uh
1:40:51

the access point is guidance from the the plan and not a requirement
1:40:58

can that be confirmed Mr mayor council member I think that's a factual question
1:41:03

for Miss thornberg
1:41:12

mayor council member Jorgensen what the conference plan States is that uh the
1:41:19

Tod designation um and the comprehensive plans designation and I actually have a page
1:41:26

number to put out on page 33 of the comprehensive plan
1:41:34

does note that a TOD would be a quarter mile a walkable appropriate within the
1:41:40

EXHIBIT "6"

and then you have an approval I just wanted to clarify that thank you

1:46:11

okay further deliberations

1:46:18

so I'm hearing what I perceive to be some common themes

1:46:25

I think exhibit a again

1:46:31

uh the details of which uh would be perfected uh that's a

1:46:40

[Music] um they correct me if I'm wrong somebody but that

1:46:46

that detail uh would come as it comes through these application process for

1:46:52

the construction uh specific approval for the buildings there I would go through design review

1:46:59

and uh that's that that's the point in time when it would be evaluated uh the

1:47:05

matter before us tonight is the sap which promotes this concept plan under

1:47:12

certain specific uh uh obligations in what we're going to

1:47:19

see at a later time so sections uh one and two

1:47:24

or districts one and two however you want to describe that we've had no

1:47:30

uh discussion that would deviate from the findings of facts and conclusions uh

1:47:37

section three there's been an exhibit a uh in which there's gonna uh the

1:47:43

applicant has agreed to make um basically

1:47:50

um uh [Music] would voluntarily or would accept I

1:47:56

should say as a better word some additional conditions or change in the conditions and that would be

1:48:02

uh connection to the Fair Oaks

1:48:07

uh to Fair Oaks uh would be

1:48:12

eliminated that would be a change in the conditions of approval

1:48:20

um the building height would be reduced to 35 feet

1:48:28

that's going to result in a density reduction but we

MAYOR EVANS

MAYOR RECAP

50

EXHIBIT "7"

1:51:05

so we are required to uh provide staff with some direction for what we want a

1:51:12

decision document to look like if we decide to move on that and I believe the

1:51:19

mayor is now asking us to uh orchestrate those findings

1:51:27

and if there's specific changes that need to be made we have before us a

1:51:32

draft document that has some uh some red language and uh and I yeah I feel like this is

1:51:40

probably going to take um some work to go through and I think that that's what the mayor's asking for

1:51:45

at this time am I wrong you're not wrong I think we want to get this uh document my my

1:51:52

motivation was uh I've heard three council members um respond and deliberation positively

1:52:00

on two of the three issues I um I discussed uh and uh three of the

1:52:10

four council members on the connectivity issue seem to be uh in favor of disallowing that

1:52:18

connectivity so if that's the direction that if I'm picking that up correctly

1:52:23

then we need to make an adjustment in the finding that deals with the connection

1:52:28

uh council members has the mayor mischaracterized your opinions about connectivity two for three do not want

1:52:36

connectivity through Fair Oaks president of the council I I do not want

1:52:42

connectivity it's three three don't three don't correct yeah I'm sorry okay excuse my misstatement yeah three don't

1:52:48

want us so that's because we're not actually sort of voting at this moment so I just want to make sure that we're going down the

1:52:54

right path I don't want to mischaracterize what I'm hearing so to speak president of the council I I I'm

1:53:01

confused why um you're concerned about that bullet because

1:53:07

uh the is it the second half of that statement because I don't think we're

1:53:13

preventing or anyway discouraging public transportation along States and in

1:53:19

Glenwood and Adams you know nor are we presenting stops in
1:53:24 neighborhoods and that's the the language that I was
1:53:30 hanging up on was um
1:53:37 oh I see what you're saying yeah there's another reference no go ahead there's another reference
1:53:44 explicitly
1:53:49 [Music] um referred to
1:53:56 um [Music]
1:54:01 foreign
1:54:17 [Music]
1:54:33 uh I just don't see it right now mayor and council member Heller
1:54:39 um are you talking about page 83 where it talks about if there's an or
1:54:44 there it says the pathway shall also provide the potential future connection to the adjacent ✓
property owner or I
1:54:51 think that's what your references yes
1:54:58 exactly right so that yeah whatever the council
1:55:05 decides we would have to in Wordsmith correct or take it out ✓
1:55:11 uh that eliminates the obligation to provide that I would talk
1:55:18 about quite what I call it access to yeah that's on a separate and
1:55:27 CUTDESAC as to the the common sense or at least fear of the second vacation River Drive
1:55:35 and Plantation Lane I have made that note thank you thank
1:55:41 you for that clarification well thank you for the help
1:55:49 I think whatever the decision the council makes then that's going to
1:55:55 modify uh the decision document which uh Mr watams and Miss thornborough will
1:56:02 collaborate to correct uh or to make in compliance with what

1:56:07

your ever your decision is tonight and that will come back to us next time uh

1:56:13

for your approval and that would that would

1:56:18

uh start the shot clock the members do any

1:56:24

of you have further direction for the staff so that we can have a really great decision

1:56:32

document that reflects our positions

1:56:37

I think we get to author this somebody else writes it but edit right marriage

1:56:46

well what I'm going to do when I'm Com when I'm convinced that we don't need to recall anyone which I think I'm getting

1:56:52

there I'm going to close the public hearing formally so you're in a position to take a an action so

1:56:58

uh we've got the clarifications I think if I'm reading everyone's

1:57:06

body language right um

1:57:13

okay we'll go ahead and close the public hearing instrument yes council member Heller I'm sorry did you make a

1:57:20

reference to miss Butler uh yes but I don't know oh I didn't no no thanks

1:57:26

oh she's making herself available

1:57:33

so um yes

1:57:40

um just for verification should we recall the applicant to confirm that they are

1:57:47

amenable and in agreement with what we've discussed I think what we've discussed the applicants already

1:57:54

conveyed their position s

1:58:03

okay um okay well

1:58:09

Butler

as a part of our deliberation Ms Better would you come back up and let's let's eliminate any confusion because we're

1:58:15

talking about the reduction of density the 35 feet and the connection those

1:58:20

three things if and it was just really timing um that I was confused about what we

Butler

✓

SA

1:58:27

were proposing was yes in that exhibit a area eliminating the height of reducing

1:58:32

the height down to 35 feet we had also said that we would bring back and confirm the density within that area

1:58:40

when we bring back the site-specific design for phase one so that you see the

1:58:47

whole thing together that's correct to answer somebody's question and and uh if

1:58:53

that's acceptable we can do that we didn't you know reducing the height is the issue the main issue for

1:58:59

compatibility and like some confirmation that that should take away a great deal of

1:59:06

the density in that area we will never meet R2 density we were never designed to meet R2 density but that height is ✓

1:59:14

the main issue and keeping the use as housing is is appropriate for compatibility and if it sounds like

1:59:21

you're saying yes we can bring that back the timing is that was what I was confused about yeah

1:59:27

that was that was what I meant when I referenced it uh the specifics on them on exhibit a would come back with an

1:59:35

application for the site-specific okay yeah thank you very much is that anybody disagree

1:59:41

with my characterization okay all right um

1:59:49

so uh you can continue to discuss or I'd entertain

1:59:56

and actions

2:00:02

thanks oh Mr Mayor you know I I've stated my um my thoughts on on just the

2:00:10

connectivity and I worry about grandchildren right you know in the development but I also but I'm also it's

2:00:17

not going to be something that is going to remember

2:00:23

voting against I guess the project that if it comes to that it's just more of a production preference of what we would

2:00:29

see from a safety perspective thanks appreciate that councilmember Jacobs

2:00:36

✓

55

so um we have a decision document that needs um

2:00:42

to be incorporated in a motion that deals with

2:00:47

the connectivity issue the maximum Building height

2:00:59

yeah I just had Miss Butler come back up for for that clarification so they

2:01:05

Mr Mayor yes uh I move for

2:01:11

staff to prepare a finalized decision

2:01:16

document by means a fact conclusion of Law and decision on sap FY 2023.0001

2:01:26

to affirm the position of the or the recommendation of the Planning

2:01:32

and Zoning Commission to restrict height of billions and exhibit

2:01:39

A's I guess East sub District to no higher than No taller than 35 feet

2:01:47

thereby reducing the density to something more compatible to the R2 although not the same as R2

2:01:54

to eliminate connectivity between

2:01:59

the East sub district and Fair Oaks

2:02:10

okay I've got a motion to clarify the motion that's any connectivity and I think it wasn't uh

2:02:17

well the the third one was antidotal because we don't know what the reduction yeah

2:02:27

Mr Mayor so I'm a little confused so your question too

2:02:34

uh president Council was I I just wanted to make sure it was clear that the connection issue

2:02:42

was was any form of connection that would allow

2:02:48

human beings to go from one side to the end yes Mr Mayor I I think any um uh

2:02:54

multimodal connectivity uh it doesn't include the Pharaoh *Fair Oaks*

2:02:59

um Community uh is do as you wish make paths all over

2:03:08

of the better okay I've got a motion do I have a second

2:03:14

I would second the motion that a motion a second do we have discussion

*FINAL
MOTION*