

CENTERVILLE PLANNING COMMISSION
Regular Meeting
Tuesday, July 27, 2010

Mr. Briggs called the meeting to order at 7:30 P.M.

Attendance: Mr. Jim Briggs, Acting Chair; Mr. John Palcher, Mr. Jim Durham, Mr. Jeff Gammell and Mr. Bill Etson. Absent: Mr. Paul Clark and Mr. Jim Brunner. Also present: Mr. Steve Feverston, City Planner; Mr. Doug Spitler, City Engineer; and Mr. Scott Liberman, City Attorney.

Excuse Absent Members:

MOTION: Mr. Gammell moved to excuse Mr. Clark and Mr. Brunner from the meeting as they gave prior notice to staff of their absence. Mr. Palcher seconded the motion. The motion was approved unanimously 5-0.

Approval of Minutes:

MOTION: Mr. Palcher moved to approve the Planning Commission Work Session minutes of May 25, 2010, as written. Mr. Durham seconded the motion. The motion was approved 4-0-1 with Mr. Gammell abstaining.

MOTION: Mr. Palcher moved to approve the Planning Commission Regular Meeting minutes of June 22, 2010, with the correction that Mr. Brunner seconded the Motion listed on Page 6. Mr. Briggs seconded the motion. The motion was approved 3-0-2 with Mr. Durham and Mr. Gammell abstaining.

MOTION: Mr. Gammell moved to approve the Planning Commission Work Session minutes of July 13, 2010, as written. Mr. Durham seconded the motion. The motion was approved 5-0.

NEW BUSINESS

Centerville 1095 Main Easement Plat (Kroger Marketplace)

Mr. Feverston reviewed the Record Plan submitted to establish an Easement Plan for the Centerville Kroger Plat located on the northwest corner of South Main Street (SR 48) and Sheehan Road. This plat establishes the water and sanitary sewer easements for the Kroger Marketplace on the subject property.

It was the recommendation of staff to approve the Record Plan establishing the Easement Plan as submitted.

MOTION: Mr. Durham moved to recommend approval of the Record Plan to establish an Easement Plan for the Centerville Kroger Plat as submitted to Council. Mr. Gammell seconded the motion. The motion was approved unanimously 5-0.

UNFINISHED BUSINESSBrookstone Terrace – Preliminary Development Plan

Mr. Gammell was excused from the meeting due to a conflict interest concerning this project.

Mr. Feverston reviewed the Preliminary Development Plan application submitted for Brookstone Terrace located at East Alex-Bell Road and Chardonnay Drive (Chardonnay Valley Condominiums). The zoning on the 37.52 acre parcel of land is R-PD, Residential Planned Development. Based on the estimated number of housing units, 4.08 acres of dedicated parkland will be required. The plan has been divided into 3 phases of development. The average building pads for the development is approximately 1400 square feet with setback of 5 feet between structures. The slopes on the site will allow walkout type houses and ranch style houses will be constructed in the more level areas. Clearing limits will be established on each lot to protect the trees and a public bike path is to be created through the open space in this development to tie in with the existing bike path at Iron Horse Park. A sidewalk will be installed on 1 side of the street tying into Versailles Drive which will then extend to Loop Road.

This application was tabled in June as staff raised concerns at that meeting principally focused on engineering issues requesting enough engineering details to allow staff to make judgments and decisions on the ability to develop the property as proposed. Since that time, the applicant's engineering staff has provided additional information whereby the staff is now comfortable with a report and final recommendation to the Planning Commission. A Design Criteria and Materials document has been submitted to provide general architectural guidelines to the City as a master builder has not been selected by the applicant.

Staff recommended approval of the Preliminary Development Plan subject to the following conditions:

1. A final grading plan shall be submitted as a part of the Final Development Plan subject to approval by the City Engineer demonstrating compliance with Article 9.35 D of the UDO. Based upon the preliminary grading plans, it is unclear that all requirements of Article 9.35 D are met.
2. A final stormwater drainage plan shall be submitted as apart of the Final Development Plan subject to approval by the City Engineer demonstrating compliance with Article 9.35 of the UDO. No determination can be made at this time on the capacity of the existing retention pond.
3. The applicant shall verify that all permits issued by the Army Corps of Engineers are still valid and new permits will be issued to allow for new development into a non-conforming retention basin.
4. All private streets shall have a minimum easement width of 30 feet and pavement width of 26 feet per the original Chardonnay Valley Master Plan.

5. The final design for the traffic calming proposal at the intersection of Chardonnay Drive and Versailles Drive shall be provided as a part of the Final Development Plan.
6. The final design of the proposed “eyebrow” streets ensuring accessibility by fire and refuse vehicles shall be submitted as a part of the Final development Plan.
7. The proposed walkway and/or bikeway shown as a part of the Phase 3 shall be constructed by the developer as a part of the Phase 3 development in-lieu-of obligating sidewalks along each private street throughout the Brookstone Terrace Development.
8. The Planning Commission specifically approves the Design Criteria and Materials document included as a part of the Preliminary Plan in-lieu-of conceptual architectural designs and building footprints.
9. The Final Development Plan and Record Plan for Brookstone Terrace shall establish reserve areas or easements to be owned and maintained by the Homeowners Association for those areas where tree preservation is intended. These reserve areas or easements would include Lots 1 thru 8, Lots 21 thru 25, and Lots 43 thru 56.

MOTION: Mr. Palcher moved to remove the Preliminary Development Plan application for Brookstone Terrace from the table. Mr. Etson seconded the motion. The motion was approved 5-0.

Mr. Durham stated the letter written by Matt Parrish, Cors and Bassett, LLC, addressing ownership and the ability of COB 10 to develop property owned by Chardonnay Valley and/or the Chardonnay Valley HOA was not satisfactory and asked Mr. Liberman’s opinion of its content.

Mr. Liberman stated an agreement between the existing Homeowners and the developer of Brookstone Terrace should be filed with the City as a part of the Final Development Plan which states the existing portion of the development shall be included as a phase of the overall future development.

Mr. Durham asked if all of the owners of the legal interests were not in agreement, could the Planning Commission approve a new plat.

Mr. Liberman stated it could be done if the Homeowner’s Association has been legally reactivated and it is representative of all of the owners, the City could move forward.

Mr. Doug Herald, HPA Development Group, stated their original goal was to have all property owners agree to be a part of the overall master HOA. It was later determined that 2 property owner holdouts would never agree and, therefore, 8 of the 10 properties with only the property around them will be part of the Master HOA.

Mr. Durham stated the common areas were never deeded over to the HOA and the areas are noncontiguous. He stated based on that alone, he did not feel there was enough information to approve the application.

Mr. Graham Parlin, HPA Development Group, stated their company would not spend any money to make any improvements to property that would not be under their control.

Mr. Liberman stated a condition could be placed on the Final Development Plan that would require the applicant to prove ownership of the property. He further stated that the final plat and Final Development Plan are not going to be approved until satisfactory ownership is presented to Planning Commission and to the City.

Mr. Parlin stated since this application was tabled at the last regular Planning Commission meeting, their organization has worked diligently with the residents, City staff and the Engineer's office to try to address the 16 conditions discussed at that time. He stated he felt those issues have been accomplished. He requested the members approve the application with the 9 conditions presented during this meeting as well as an additional condition relating to the ownership and resolution of the master condominium association.

Mr. Charles Grove, 6919 Chardonnay Drive and Secretary-Treasurer of the existing Homeowners Association for Chardonnay Valley, stated it has become very frustrating in not being able to get the outstanding 2 signatures required for the agreement with the new developer. One of those persons was told in June by her attorney she was in fact part of the HOA and has since paid her membership dues. The other person insists he is not part of the HOA and, therefore, has never paid membership dues. Mr. Grove stated the City must take some action to allow the project to move forward to remove some of the operating expenses from the 8 active members in the HOA.

Mr. Robert Kenley, 6851 Chardonnay Drive and President of the existing Homeowners Association for Chardonnay Valley, stated the one holdout homeowner lives out of town and rents his house to a family member. Mr. Kenley stated he has that information in writing. The owner insists his house is not a condominium and he refuses to pay the HOA dues. The HOA was re-established in October, 2009 and it is now 2010 and they are still trying to get those 2 homeowners to join the other 8 owners. Mr. Kenley stated there will never be 100% participation and if the City wants the conditions to change from its current situation, it will have to be satisfied with agreement by 80% of the residents.

Mr. Briggs asked Mr. Spitler to address condition #1 of the staff recommendations concerning the final grading plan.

Mr. Spitler stated during the final development plan detailed information will be required to demonstrate compliance of the standards for the grade of slopes, surfaces, etc., with the Unified Development Ordinance (UDO).

Mr. Durham stated it was his understanding the developer was to show all phases of development for the entire acreage to be considered by the Planning Commission in review of the Preliminary Development Plan. He stated it was a requirement of the overall process and, in this case, Phase 3 has not been specifically addressed.

Mr. Feverston stated that was the intent of the Planning Commission to see the development concept of the entire site. The plan does indicate 167 units of residential uses, however, it does not indicate the type of residential being considered. There will be approximately 4 acres of parkland dedication required based on the residential development, however, that requirement will not be addressed until the Final Development Plan and the Record Plan stage.

Mr. Durham stated if the application were approved as submitted, the City would not accept any parkland as it would not be accessible by a public street.

Mr. Feverston stated parkland cannot be dedication to the City if it is not accessible by a public street or by public easement.

Mr. Durham questioned why we would accept parkland that is only accessible by a public bikeway (easement) and not a public street.

Mr. Feverston stated that is an issue that occurs with construction of private streets which will have to be determined as this process advances.

Mr. Durham stated as other condominium projects have developed in the City, those developers have always paid the fee. Should that be the case, does the developer not have to pay the fee during the first phase.

Mr. Feverston stated parkland dedication fees can be paid 100% upfront as part of the development plan, it can be paid by subdivision or section, or it can be paid on a per unit basis.

Mr. Durham stated even though he would make a motion to approve the application, he would be voting no based on his perception that there are many questions of the developer's ability to proceed as it does not appear the City has received adequate information the plan can conform to the requirements of the UDO. Further, he stated he was very bothered by not having a layout for Phase 3 which is a requirement of the UDO.

Mr. Parlin asked in terms of parkland dedication, would the bikeway area be applied to the amount of requirement.

Mr. Feverston stated since it is not known at this time whether construction of a bikeway is a possibility so it has not been determined if the requirement would be satisfied.

MOTION: Mr. Durham moved to approve the Preliminary Development Plan application for Brookstone Terrace subject to the following conditions:

1. A final grading plan shall be submitted as a part of the Final Development Plan subject to approval by the City Engineer demonstrating compliance with Article 9.35 D of the UDO. Based upon the preliminary grading plans, it is unclear that all requirements of Article 9.35 D are met.
2. A final stormwater drainage plan shall be submitted as apart of the Final Development Plan subject to approval by the City Engineer demonstrating compliance with Article 9.35 of the

UDO. No determination can be made at this time on the capacity of the existing retention pond.

3. The applicant shall verify that all permits issued by the Army Corps of Engineers are still valid and new permits will be issued to allow for new development into a non-conforming retention basin.
4. All private streets shall have a minimum easement width of 30 feet and pavement width of 26 feet per the original Chardonnay Valley Master Plan.
5. The final design for the traffic calming proposal at the intersection of Chardonnay Drive and Versailles Drive shall be provided as a part of the Final Development Plan.
6. The final design of the proposed "eyebrow" streets ensuring accessibility by fire and refuse vehicles shall be submitted as a part of the Final development Plan.
7. The proposed walkway and/or bikeway shown as a part of the Phase 3 shall be constructed by the developer as a part of the Phase 3 development in-lieu-of obligating sidewalks along each private street throughout the Brookstone Terrace Development.
8. The Planning Commission specifically approves the Design Criteria and Materials document included as a part of the Preliminary Plan in-lieu-of conceptual architectural designs and building footprints.
9. The Final Development Plan and Record Plan for Brookstone Terrace shall establish reserve areas or easements to be owned and maintained by the Homeowners Association for those areas where tree preservation is intended. These reserve areas or easements would include Lots 1 thru 8, Lots 21 thru 25, and Lots 43 thru 56.
10. For the Final Development Plan and subsequent Record Plans for Brookstone Terrace, the applicant shall provide to the satisfaction of the City Attorney proof as to the applicants legal ownership and right to control all property or provide agreements with the current owners of the current condominium association and/or the separate property owners if necessary.
11. Parkland shall be dedicated in accordance with Article 9.47 of the Centerville Unified Development Ordinance.

Mr. Palcher seconded the motion. The motion was denied 2-2 with Mr. Durham and Mr. Briggs voting no.

There being no further business, the meeting was adjourned.

