

WALNUT CREEK PLANNING COMMISSION
REGULAR MEETING MINUTES

KINRUGGS
DISCUSSION

pg 4 top of pg

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October 28, 2004
7:00 p.m.

COMMISSIONERS PRESENT: Larsen, Jorgensen, Kaplan, Moore, Pickett, Silva, Simmons

COMMISSIONERS ABSENT: None

STAFF PRESENT: Planning Manager Sandra Meyer
Senior Planner Scott Harriman
Senior Planner Janice Stern
Associate Planner Alan Carreon
Assistant Planner Deborah Han
Assistant City Attorney Margaret Kotzebue

TRAIL
DISCUSSION

pg 35
minutes

Chair Larsen called the Planning Commission meeting to order at 7:08 p.m. in the City Council Chambers, City Hall.

ADDITIONS/WITHDRAWALS/CONTINUANCES

None.

PUBLIC COMMUNICATIONS

None.

See also:
H1510A file folder

CONSENT CALENDAR

- a. **Adopt Meeting Schedule for 2005**
- b. **Approve minutes of September 23, 2004**

On motion of Commissioner Pickett, seconded by Commissioner Jorgensen, the Commission present voted unanimously to approve the Consent Calendar.

AYES: Pickett, Jorgensen, Kaplan, Larsen, Moore, Silva, Simmons.

NOES: None.

ABSENT: None.

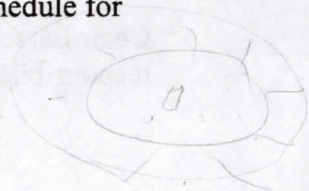
ABSTAIN: Kaplan, Silva, Simmons (on item b only).

Motion passed.

PUBLIC HEARINGS

- 1. **GENERAL PLAN 2025** – Staff will provide a status report, and the Planning Commission may discuss and provide direction to staff on issues arising from the General Plan update.

Senior Planner Janice Stern presented the staff report, discussing the meeting this week that completed the review of goals, policies and actions. She gave highlights of the discussions on urban design and community support systems. She also reviewed the possible time schedule for the rest of the process before the Plan is passed on to the Planning Commission.



Commissioner Pickett asked when the community meetings would be held. Ms. Stern said Wednesday, November 17th in the evening and Saturday, November 20th in the morning, to discuss plan alternatives.

Chair Larsen encouraged public attendance and participation in the process.

2. **P-D REZONING, VESTING TENTATIVE MAP 8457, DESIGN REVIEW APPLICATION NO. Y03-003 – KINROSS TERRACE.** Review of a proposed P-D rezoning and tentative map to accommodate construction of a 12-lot residential subdivision on a vacant 3.58-acre site previously a part of the Diablo Valley Golf Course. The project is situated at the end of Kinross Drive, north of Marchbanks Drive.
ZONING: P-D, Planned Development (PD 859)

Senior Planner Scott Harriman presented the staff report, reviewing the 12-lot subdivision (with one affordable unit), new private street, offsite utilities, drainage plan, rezoning requirements, location map, General Plan designation, zoning and the history of the application, including preliminary review by the Planning Commission. He noted that revised plans were provided at the dais tonight. He also discussed the site constraints that resulted in “no build” zones due to environmental concerns, landscaping, fencing, revised golf course planting area, and easements for offsite utilities and drainage.

Mr. Harriman reviewed the Mitigated Negative Declaration and summarized potential impacts and proposed mitigations, as well as public comments and responses. Staff recommends approval of the project.

Chair Larsen asked about maintenance of the “no build” zone. Mr. Harriman indicated that deed restrictions will require the owners to maintain the area.

Commissioner Silva asked about the natural fall of water runoff from the rain. Mr. Harriman said that most of the water soaks in, although he acknowledged the occurrence of sheetflow through Kinross Drive at times of heavy rain. Development of the area should minimize the effects.

Commissioner Simmons asked whether Kinross Drive would be open to the public. Mr. Harriman said staff agrees it should be a public street. He also expressed his personal opinion that the street should not be narrowed.

Commissioner Simmons asked whether sewage would follow the same path as the storm drain. Mr. Harriman showed the routes of both the proposed sewage and storm drains.

Commissioner Simmons asked who would be responsible for necessary repairs. Mr. Harriman said it would be a private facility, maintained by the homeowners association.

Commissioner Simmons asked about the locations of open wire fencing. Mr. Harriman showed specific locations on the site plan.

Chair Larsen asked and Mr. Harriman confirmed that the narrowing of the street would be the responsibility of the applicant.

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Commissioner Silva asked and Mr. Harriman showed the end location for the existing Kinross Drive.

Public hearing

Chair Larsen noted that the City Attorney had agreed that he did not need to recuse himself from the item.

ALAN CAMP, Delco Builders, said he had no problems with the conditions of approval. He offered to answer questions from the Commission.

Commissioner Pickett asked the yardage distance of the golf course green. Mr. Camp said it was between 140 – 150 feet. Commissioner Pickett asked and Mr. Camp confirmed the distance to the nearest house was about 100 feet. Mr. Camp also mentioned that it meets the standards for golf courses.

Commissioner Pickett asked who would be responsible for the maintenance of the landscaping along the green. Mr. Camp indicated the golf course would, since it will be on their property. Mr. Camp said the same situation would occur on the north side of the street, where the developer will supplement existing landscaping, and the Heather Farms Homeowners Association (HOA) will assume responsibility.

Commissioner Pickett asked how many private parcels will be crossed for the drainage system.

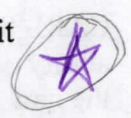
Engineer Vince D'Alo said it would only cross one parcel, and the rest of the system will be along private streets (Homestead and Seven Hills Ranch Road). He discussed the ownership of the roads by absentee heirs.

Commissioner Pickett questioned the complexity of obtaining the easements. Mr. Welm discussed the contract process and provision for maintenance of the system.

Commissioner Pickett asked if the public right-of-way would be changed. Mr. D'Alo said the entire cul-de-sac would be designated public right-of-way.

Commissioner Silva asked for clarification on the fence locations, which Mr. Camp provided, discussing the use of lattice, welded wire and solid board materials in various spots.

Commissioner Silva asked about a walk-thru to Seven Hills Ranch Road. Mr. Camp said it would be a continuation of an existing public trail, although it was not an improved trail.



DOYLE HEATON discussed the length of the application process and recent awards for best development in the City for another project, as well as the company's reputation for quality developments.

Mr. D'Alo clarified that a public trail will be established to Seven Hills Ranch Road, noting that there is not one currently. Commissioner Simmons asked where the trail would be, and Mr. D'Alo showed it on the map.



* * Mr. Harriman noted that the current General Plan says there shall be no connection from Kinross Spur to Seven Hills Ranch Road. *

CHRIS CAIN, 955 Seven Hills Ranch Road, spoke in opposition to the rezoning, disputing staff's interpretation of the legality of converting golf course use to residential. He also disputed the description of the project as "infill development." He expressed concern about the impact of the offsite drainage on existing homes, noting that the pipes should be completely under the street. He also commented on engineering difficulties with the circular route to the creek around an existing oak tree.

Commissioner Kaplan asked the location of Mr. Cain's home, and Mr. Cain showed on the site map. Commissioner Kaplan asked for clarification about perceived precedence to allow further golf course conversion to residential use..

BRUCE HEROLD, 1556 Homestead, agreed with Mr. Cain's analysis of the history of the property. He noted that the property to the immediate west is zoned for 1/2-acre lots, and promises were made to the low-density neighbors that the golf course would serve as a buffer zone from higher density areas. He asked the Commission to consider 1/2-acre lots instead.

Mr. Herold also shared pictures of the cyclone fence along his property line, which is now covered in landscaping and his desire to keep it as such, in order to discourage deer. He also expressed concern about drainage to his lot from the natural contours of the land.

Commissioner Silva asked where the deer come in; Mr. Herold said from Homestead.

CHARLES HENDRIX, 2012 Walnut Street, said he was opposed to the development and the golf course should remain as an open space buffer zone. He commented on the impact on his property from drainage. He also commented on the multiple jurisdictions involved and the ultimate responsibility for maintenance. He questioned public posting of the project, construction traffic on Walnut Boulevard and the impact on natural wildlife in the area.

DOLLIE MALCEWICZ, President of Heather Farms Homeowners Association, questioned Mr. Camp's assertion that they will maintain the landscaping along the tennis courts, since a formal agreement has not been approved by them (or even discussed as far as she knows). Chair Larsen asked her position on the development. She indicated that some in the association were for it, and others were not, so the board was remaining neutral.

CARL SWANSON, 1515 Homestead, expressed concern about drainage and sewage and the ability of the new HOA to financially bear the responsibility. He also expressed concern about the new public trail and its impact on the quiet enjoyment of his home.

Commissioner Pickett asked about the sewer backup in his neighborhood. Mr. Swanson said he didn't know the details except that a neighbor had to leave his home for the past six months due to a break in the line.

Commissioner Silva asked the location of Mr. Swanson's home. He pointed it out on the area map.

STEVEN MEHLMAN, 2125 Oak Grove (attorney representing Robert Henderson of 1578 Siskiyou) discussed his prior experience on the Planning Commission and in the neighborhood. He commented on deficiencies in the Environmental Impact Report and agreed with Mr. Cain that this was not an infill project. He further discussed growth-inducing impacts of the development, and he also cautioned that the conditions of approval should include restriction of further development on the golf course.

Commissioner Jorgensen asked when the tennis courts were put in and confirmed they were part of the Heather Farm Planned Development in 1973.

Commissioner Jorgensen asked and Mr. Mehlman confirmed that the golf course area was originally intended as a buffer zone.

Commissioner Moore questioned whether a condition could be added restricting further development of the golf course, noting that a deed restriction or statement of intent in the findings might be more enforceable. Mr. Mehlman suggested both be done.

There was further discussion about the enforceability and legality of different options to convey the desire of the City that no more of the golf course be developed.

Commissioner Pickett asked about the location of the 7th fairway and the tennis courts, as opposed to the proposed location for this development. Mr. Mehlman discussed the original intent of the Planned Development for the golf course to serve as an open space buffer.

ROB HENDERSON, 1578 Siskiyou, discussed the history of the area and the original EIR for the property in 1984. He also read an excerpt discussing the precedence that would be set by allowing residential use on the site. He noted that legal action was being taken to block the proposed development.

JON ARCK, 509 Adirondack Way, said he had been opposed to high density development on the site, but he expressed support for this as a reasonable, well-thought-out proposal. He also encouraged the narrowing of the street to deter excessive parking in the area. He commented on his impressions of discussions with the Heather Farm HOA, noting he was a member as well.

Commissioner Jorgensen asked about the proposal to add landscaping along the tennis courts. Mr. Arck said he was familiar with the proposal but he had not seen an actual maintenance agreement.

Commissioner Kaplan confirmed the location of Mr. Arck's home. He also confirmed that Mr. Arck preferred some of the curb be red, for a no-parking area.

Commissioner Pickett confirmed that the homes on Siskiyou were in the same HOA that Mr. Arck was in. Mr. Arck said there were 359 homes in the HOA, although he acknowledged there were others in the area as well. Commissioner Simmons asked if the bylaws would allow the new residents to join the Heather Farm HOA. Mr. Arck said he was not sure.

Commissioner Simmons asked about money spent by the Heather Farm HOA for landscaping along Kinross. Mr. Arck said there is existing landscaping, but it could be improved.

ANTHONY NEWWEY, 521 Adirondack, noted that 18 of 21 homeowners on his street support the project, and they live closer to the site than any other homes. He indicated that the developer has been extremely attentive to the neighbors' concerns.

In response to a question from Commissioner Kaplan, Mr. Newwey said he had lived on Adirondack since 1985, and he was not involved with previous development applications for the site. Commissioner Simmons asked for clarification on when Mr. Newwey talked with his neighbors about the project. Mr. Newwey said it was more than two years ago.

DONNA SMITH, 1526 Siskiyou, expressed opposition to the project, commenting on possible traffic impacts on Ygnacio Valley Road.

Rebuttal

Mr. Camp discussed the flexibility of the General Plan, which allows for a review process and adjustment as the community needs change. He clarified that a landscape agreement has not been finalized with Heather Farms HOA yet, although it has been discussed with them at several community meetings with them. He apologized to Ms. Malkowitz for giving the wrong impression that a formal agreement has been completed. He expressed willingness to work with the neighbors to address their concerns. He noted that the proposed development would serve as a transition between high and low density areas.

Mr. D'Alo said that the Central Sanitary District was aware of the problem on Homestead and acknowledged that the developer will be responsible for enlarging and upgrading the equipment along the line. He noted that there would be peer review of the drainage plan as well.

Commissioner Pickett asked if the stormwater runoff into the creek would be bearable. Mr. D'Alo noted that 70% of the previous drainage to the creek had been diverted to the Walnut Creek channel, and thus the creek should be able to handle additional drainage from this development.

Chair Larsen asked and Mr. D'Alo confirmed that the applicant would be responsible for ensuring that the drainage lines would be adequate.

Commissioner Simmons asked the nature of the problem at the Homestead residence. There was some discussion of the type and size of pipes to be used for the drainage system.

Commissioner Pickett asked about the ability of the new HOA to address and repair later problems. Mr. Heaton discussed standard conditions for an HOA and the governance by the California Department of Real Estate (DRE) over homeowners associations. Commissioner Pickett confirmed that liquidity is built up over time, and the DRE will ensure there are adequate funds.

Commissioner Pickett asked about traffic impacts. Mr. Heaton noted that a traffic survey had been completed, indicating the new homes will have less impact than the ballfields at Heather Farm Park.

Commissioner Silva asked how many feet of sewer and drainage lines would be maintained by the HOA. Mr. Heaton said the HOA will maintain the storm drain, but the Central Sanitary District will maintain the sewer lines.

Commissioner Kaplan asked for staff response regarding the additional condition for no further development on the golf course. Mr. Harriman said the City could not place conditions affecting offsite land rights. City Attorney Margaret Kotzebue said the tentative map approval would only apply to this development, not the rest of the golf course.

Mr. Harriman suggested the findings for approval could address the issue. Ms. Kotzebue agreed.

Commissioner Kaplan asked about the traffic issue. Mr. Harriman discussed the traffic analysis done in 2001, which indicated minimal impacts from this development.

Commission Comment

Commissioner Moore said his support for the project had not changed from previous hearings. He said it was an appropriate land use for the site, and the Mitigated Negative Declaration adequately addressed environmental concerns. He expressed sympathy for the concerns of the neighbors, and he suggested that Mr. Herold's fence remain. He agreed that a statement in the findings could clarify the unique application to this site only, with no legal precedence intended. He also expressed appreciation to the applicant for his work with the neighbors.

Commissioner Pickett agreed with Commissioner Moore. He characterized the project as infill, relatively small in comparison with the neighborhood and not inconsistent with the original intent. He did not think approval of this development would set precedence, and he expressed support for the narrowing of Kinross and limiting parking to one side. He also indicated that the storm drain and sewer problems had been addressed by the City requirements, state regulations and oversight by the Central Sanitary District. He agreed the proximity to the golf course would not create significant impacts. He indicated his support for the project.

Commissioner Kaplan expressed appreciation for the community input. He encouraged the developer to continue to work with the neighbors to address their concerns. He indicated he supported the project with a clear statement of intent added to the findings.

Commissioner Simmons agreed the developer had done a reasonable job in responding to the neighbors. He expressed appreciation for the open wire fencing along lot one. He suggested the street should not be narrowed. He also expressed concern about adequate access to the storm drains at the end of Kinross when new vegetation is planted.

Commissioner Silva expressed appreciation to the public for their comments. She said she was sympathetic to their concerns, but she agreed that the drainage plan will be sufficient to meet the needs of the neighborhood. She too felt there would be no legal precedent, noting that it has taken 23 years for the project to reach this point with no proposal for further encroachment on the golf course.

Commissioner Jorgensen agreed the project was a reasonable proposal, especially compared to past proposals. He was especially appreciative of the affordable unit. He agreed Kinross should

not be narrowed. He indicated he would support the application, with a statement of intent in the findings.

Chair Larsen expressed agreement with the other Commissioners. He also agreed the street should not be narrowed.

On motion of Commissioner Pickett, seconded by Commissioner Jorgensen, the Commission voted unanimously to approve P-D Rezoning, Vesting Tentative Map 8457, Design Review Application No. Y03-003, with a statement of intent in the findings and agreement from the homeowners association for maintenance of the landscaping.

AYES: Pickett, Jorgensen, Kaplan, Larsen, Moore, Silva, Simmons.

NOES: None.

ABSENT: None.

ABSTAIN: None.

Motion passed.

Chair Larsen thanked the public for their attendance and comments.

The Commission recessed from 9:20 to 9:25.

3. **APPEAL OF A ZONING ADMINISTRATOR'S DECISION TO APPROVE A MINOR SUBDIVISION (MS 803-01), VARIANCE AND TREE REMOVAL PERMIT (PUBLIC HEARING)** The proposed two-lot subdivision is located at 1 Eckley Lane. ZONING: R-15 (Single Family Residential)

Senior Planner Janice Stern presented the staff report, reviewing the existing conditions at the site, zoning, General Plan designation, location map, subdivision map, zoning administrator approval and findings, and proposed tree removals. She summarized the grounds of the appeal by Gary and Judith Ginder, including the historic role of the Eckley family in Walnut Creek, inconsistencies with the Howe Homestead Park Master Plan, and the need for an environmental impact report. She also discussed staff's response to the appeal, including recommendation that the Zoning Administrator's decision be upheld.

Commissioner Jorgensen asked about the installation of curbs, streets and gutters. Ms. Stern clarified the related conditions.

Commissioner Simmons asked about other 2-story homes in the immediate area. Ms. Stern said there were none other than the Howe home, although others in the area could be upgraded to 2-story.

Commissioner Silva asked who has the responsibility to determine historical significance. Ms. Stern noted that in the absence of any City codes related to historic preservation, staff had sent a letter to the Walnut Creek Historical Society, whose response had indicated it was not a historic resource. She indicated that ultimate responsibility lies with the interested parties to bring forward significant information.

Public Hearing

SKIP BERGESEN, applicant, expressed satisfaction with the conditions of approval. He asked for Commission approval of the subdivision, noting that the aggregate size of the two lots exceeds the minimum requirement.

GARY GINDER, 549 La Vista Road, reviewed the basic issue of whether it is appropriate to destroy the Eckley home. He discussed the background of the application and research into the early family history. He also disputed staff's assertion that no new information had been brought related to the significance of the home.

JUDITH GINDER discussed the letter from the historical society about the inventory of potentially significant historic structures in the City, as well as the role of the Eckley family.

Mr. Ginder concluded with a discussion of the current list of historic structures, noting that not being on it does not preclude a structure from historic preservation. He also discussed the need for a City ordinance to address the issues. He asked the Commission to grant the appeal, sending the item back to staff to determine whether the house can be moved onto Howe Homestead Park. He also commented on the intent of the Howe Master Plan, and questioned why the City has done nothing to make the homestead into a public park.

Commissioner Simmons commended the Ginders for their careful research. He asked whether the Eckley home is unique in terms of structure or architectural style. Mr. Ginder said it wasn't, but he noted that there are other historic homes whose only significance is the person or people who lived there.

Commissioner Pickett asked if the possibility of moving the house was raised at the Zoning Administrator hearing. Mr. Ginder acknowledged it was not specifically discussed.

Chair Larsen asked who would be responsible for moving the house. Mr. Ginder said Mr. Bergesen could probably move it more cheaply than demolishing it.

ED HIRSHBERG discussed his experiences with moving structures. He indicated the building would probably not survive the move, or at best, would require extensive repair and renovation after moving it.

Commissioner Kaplan asked about the possibility of moving the structure, but not restoring it to habitable condition. Mr. Hirshberg said it would still need a lot of work.

DAVID SKINNER, 3018 Walnut Boulevard, discussed his 30 years experience with the city of Oakland Parks Department and the impact from the loss of open space. He said subdividing the lot would have a negative impact on Howe Park.

Commissioner Kaplan asked if Mr. Skinner thought the City should buy the property. Mr. Skinner said yes, the City should consider purchasing the property and adding it to the park space.

PRIMO FACCHINI, President of the Walnut Creek Historical Society, said Mr. Ginder's presentation was accurate and helpful. He noted that Mr. Ginder was a member of the Society

Commissioner Silva asked about the hours of operation, which the applicant reviewed. At the suggestion of Commissioner Silva, Planning Manager Sandra Meyer agreed the hours could be clarified in the conditions.

Mr. Boyers thanked Lieutenant Skinner for his assistance and attendance at the meeting.

Assistant City Attorney Margaret Kotzebue added a CEQA statement to the conditions.

Commission Comment

On motion by Commissioner Moore, seconded by Commissioner Kaplan, the Commission voted unanimously to approve Conditional Use Permit Application No. Y04-094, with clarification to the hours of operation.

AYES: Moore, Kaplan, Jorgensen, Larsen, Pickett, Silva, Simmons.

NOES: None.

ABSENT: None.

ABSTAIN: None.

Motion passed.

COMMISSION CONSIDERATIONS

None.

CORRESPONDENCE

None.

STAFF'S BRIEF ANNOUNCEMENT OR BRIEF REPORTS ON HIS OR HER ACTIVITIES

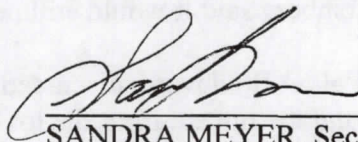
None.

COMMISSIONERS' BRIEF ANNOUNCEMENTS OR BRIEF REPORTS ON HIS OR HER ACTIVITIES

None.

ADJOURNMENT

Chair Larsen adjourned the Planning Commission meeting at 11:45 p.m. to the next special meeting November 4, 2004.



SANDRA MEYER, Secretary
Walnut Creek Planning Commission