

**PUD-84, Frank Berlogar**

**Work Session to review and receive comments on an application for Planned Unit Development (PUD) Development Plan approval to subdivide an approximately 37.4-acre site located at 88 Silver Oaks Court, in the Vineyard Avenue Corridor Specific Plan Area, into up to four lots consisting of three new single-family lots for custom homes and one lot with the existing residence. Zoning for the property is PUD-HR/OS (Planned Unit Development – Hillside Residential/Open Space) District.** Jenny Soo presented the staff report and described the scope, layout, and key elements of the proposal.

Commissioner O'Connor inquired if Alternative 1 is a hammerhead or a court.

Ms. Soo replied that it is a bubble. She added that very tall retaining walls, almost the height of a freeway sign, would need to be constructed between the properties; trees would be removed; and significant grading would be required.

Commissioner Allen inquired what the habitable square footage of other homes in the area are.

Ms. Soo replied that there are three tract homes and production homes – two built by Greenbriar Communities and one by Centex Homes. She indicated that the total building area for each Centex Homes tract averages 4,500 square feet to 8,900 square feet; and the Greenbriar Homes are almost 5,000 square feet to 5,600 square feet.

Commissioner Allen inquired if staff had the sizes of the Silver Oak homes.

Ms. Soo replied that the homes range from 3,500 square feet to 4,700 square feet, and the total building area ranges from 4,400 square feet to about 5,600 square feet.

Commissioner O'Connor inquired what the average lot size is.

Ms. Soo replied that the smaller one is 19,430 square feet, which is less than a half-acre.

Commissioner Posson inquired which Alternative best addresses the neighbors' concerns.

Ms. Stern replied that the neighbors would have to speak on which of those Alternatives they think best addresses their concerns. She noted that all the Alternatives were designed so that the road was on the other side of the development and, therefore, addressed all of the concerns about privacy, headlights from cars, and other similar issues. She added that Lot 2, which is currently just about the peak of the hill, was brought down the hill slightly to address some of their concerns.

Commissioner Posson requested confirmation that staff then does not know whether or not either of these Alternatives would be acceptable to those individuals.

Ms. Soo replied that the neighbors have received all the information, and one neighbor, a resident of Pietronave Lane, came in and indicated that he definitely did not like the three-lot Alternative, Option 1, and that he was not sure which option he preferred. He also requested that the Commission not make a decision tonight.

Commissioner Posson noted that the Slope Classification Map on Exhibit B indicates that there are some slopes greater than 20 percent. He inquired if there are any greater than 25 percent, that is, if there is any implication with Measure PP in this area.

Mr. Dolan said no.

Chair Pearce inquired if there is any indication in the Vineyard Avenue Corridor Specific Plan (VACSP) as to the location of the road.

Ms. Stern replied that it just shows where the road is and where it ends.

Chair Pearce noted that some of the Commissioners have not had the opportunity to have the discussion about stepping homes versus the flat pad and the differences in the elevations and asked staff to speak to the visual impact of the stepped homes at 40 feet versus the 30 feet.

Ms. Stern replied that the main difference is that less grading is required when the homes are stepped so a more natural slope can be maintained. She noted, however, that when this is done, the house sort of cascades down the slope and can create some areas where there is a visual experience of the house being taller than if it were on a flat pad.

Commissioner O'Connor asked staff to speak to staff's preferred layout and if staff's concern is mostly with heritage trees.

Ms. Stern replied that the originally proposed layout does not touch any of the trees. She noted that maintaining the natural appearance of the hillside with the trees goes a long way in satisfying the objectives of the Specific Plan.

Mr. Dolan noted that if this proposed project is looked at independently of other projects in the neighborhood, it is probably the most sensitive to the land.

Commissioner O'Connor inquired if all the heritage trees are oak trees.

Ms. Stern said yes.

#### **THE PUBLIC HEARING WAS OPENED.**

Frank Berlogar, Applicant, stated that he lives on the property and that when he started looking at submitting an application for the three-lot hillside residential development, he

came to the conclusion that it was not possible to get three lots up there and have it look reasonable, as it would be too massive and have too much of an impact. He indicated that he made a number of decisions: first, to apply for two lots instead of three; and second, to put the road between the new homes and the existing homes to avoid the backyard-to-backyard impact on neighbors, which would be a more sensitive approach.

With respect to the oak trees, Mr. Berlogar stated that he loves the oak trees and that they were the main reason he bought the property. He indicated that he really wanted to maintain the trees and that he believes the initial application for the two lots is the best plan for that site and would like consideration on that. He indicated that the architect who developed the design guidelines for the existing Silver Oak homes and developed the design guidelines for these proposed two homes as well as prepared the photo simulation is present tonight to answer any questions the Commission may have.

Joseph Gorny, Project Consultant, stated that he is available to answer any questions regarding the photo simulations.

Gevan Reeves, neighbor, stated that he was present tonight with three other neighbors who are members of the Homeowners Association, and he was speaking on behalf of the homeowners. He noted that reading through the VACSP, it is apparent that hillside residential is set to a higher standard than other homes in the development area, with specific expectations and requirements. He indicated that he and his neighbors all moved into their homes recently and had an expectation that the Vineyard Avenue Corridor Specific Plan would govern the development of both the proposed Berlogar development and all future developments in the area, on both the intent and letter of the Specific Plan. He noted that there are two other hillside residential areas in Berlogar's parcel that could be developed in addition to what is being shown today, and another hillside residential. He expressed concern not just for this proposed property but also for future development.

Mr. Reeves stated that he had sent a letter to the Commission, which is included in the packet. He indicated in that letter that the proposal to move one of the homes out of the proposed designated development area to the top of the hill violates both the spirit of the VACSP as well as two factual items. He noted that the VACSP states: "*The purpose of this designation [of hillside residential] is to allow for a clustering of homes in well-defined areas of the hills in order to preserve significant natural features such as ridgelines, hilltops, oak woodland, creeks, and steep slopes. Open space land surrounding the HR district is to be permanently preserved.*" He stated that the location of the home is being moved from a designated development area to the top of a hill, which has been designated as open space, and 25 feet of the hill would be lopped for the house. He added that they too love the oak trees and that environment, and they are not advocating tearing down oak trees by any measure. He stated that with respect to hillside residential, the VACSP states: "*in HR areas, all home sites must be located within the designated development areas as generally depicted on the land use plan. Lot lines may extend into land designated as Open Space, but primary residential*

*buildings and residential accessory structures may only be sited within the designated development areas."*

Mr. Reeves stated that there was a discussion in the past about this, and he did not see that in the packet. He added that there was also a staff memo to the Planning Commission in 2006 indicating that staff had consulted with Wayne Rasmussen, former Principal Planner and Project Planner for the Specific Plan, and Wayne had stated that due to the environmental constraints of the hillside residential areas, house locations were meant to be fairly precise as represented by the 'blobs.' He noted that he thinks that is contrary to what was mentioned today. He added that he had sent an email regarding PUD-32, which was not included in the packet, and there was also a consideration for PUD-54 in which staff had since discovered that the VACSP and the EIR restrict construction from occurring within 100 feet of the center on jurisdictional waters of the U.S. He indicated that he believes because this is a drainage way, an EIR impact necessitated alternative considerations, and there is a Specific Plan, a related EIR, and a Mitigated Negative Declaration plan that says the homes must be in the designated development area. He added that one of the arguments in this case, and in previous cases, is what the "blobs" mean.

Mr. Reeves stated that the relocation or expansion of the proposed development contemplates a deviation of 103 feet in horizontal distance and over 50 feet elevation to the top of the hill, and a 25-foot partial flattening of the top of the hill. He indicated that to allow for this deviation of the designated development area would amount to a *de facto* amendment of the Specific Plan. He added that staff had indicated that there was some discretion to approve deviations from the designated development area; however, staff's interpretation ignores the next sentence of the Specific Plan that expressly limits the flexibility by clearly stating that all primary residential buildings and residential accessory structures may only be sited within the designated development areas, that the lot lines can extend out but the buildings must be in that area.

Mr. Reeves state that he does not know if the scale on the visual photos are accurate as they show 12-foot tall retaining walls, and 30-foot tall buildings as basically a half inch. He added that the Alternatives, and primarily the first Alternative was fairly transparent to make the Alternatives look as offensive as possible so as to go back to the desired plan and raise questions such as why the trees have to be destroyed, why the building has such a large envelope and if it needs to be flat. He stated that this is hard to visualize by looking at photos and invited the Commissioners to come visit the site and take a look at what the neighbors are trying to visualize.

Colin Proudfoot stated that he has lived on the lot marked No. 2 for 14 years, before any of the development on the hill. He concurred that any Alternative that destroys the heritage oaks that are hundreds of years old on that property would be a travesty, and noted that the initial application does not destroy the oaks while all the Alternatives do. He indicated that he believes there may be a compromise solution that would improve the visual impact to the Silver Oaks residents as opposed to the ones in the plan that shown today. He noted his objection to any Alternative that takes the road from the

initial proposal between the Silver Oaks properties and his property and runs directly along his property line. He further objected to the proposals that locate the pads within 30 feet of his property line, moving them next to his property rather than somewhere in the middle, again to pacify the Silver Oak residents. He indicated that he thinks that would be unfair. He added that he believes there should be a solution that would lower the heights of the pads without major grading, taking out any of the trees, and meet everybody's concerns.

Terry Kingsfather stated that the other speakers have covered pretty much everything he wanted to say.

Mr. Berlogar stated that he just wanted to cover one topic: the location of the "blobs" and how accurate and specific those really are. He indicated that he had his AutoCAD operator overlay the Specific Plan on a Google photo, and most of the existing homes are not correctly identified, with one of the homes shown on the other side of the street. He questioned how anything can be that accurate if the locations of the existing homes are not accurate on the Plan.

#### **THE PUBLIC HEARING WAS CLOSED.**

Commissioner Olson asked staff if they feel the visuals in the packet are pretty accurate.

Ms. Stern replied that when scale is considered, one tries to adjust it to normal vision, and that is very subjective; something that is sort of annoying on the horizon is focused upon and deemed to be bigger on the photo. She referred the matter to Mr. Gorny, who could talk to whether or not this was taken with a normal lens that would try and capture how the eyes would see this and explain that a little bit better.

#### **THE PUBLIC HEARING WAS RE-OPENED.**

Mr. Gorny stated that what his team did was overlay some conceptual house plans over the grading plan that they were given, then went to each one of the neighboring properties and set a square on there that they made six feet tall to make sure they had the right eye level. He explained that not much of it would be seen with a straight 50-millimeter lens so they actually widened it a little bit to show the entire hill in order to get a sense of what it looked like in the distance.

Mr. Gorny stated that when they built the computer model, Photoshop gave them the exact lens that they had when they were looking at the view, and they were able to set the camera in the computer model to have the exact same lens; so they knew that when they built the computer model, they were looking from the same exact spot. He continued that they basically set their camera on top of that square; they looked in the same direction and set the camera exactly the same, and then from there, they basically took out the skies and were laying it in. He indicated that he believed it was a 45-millimeter lens because they were going the other way to a slightly wide angle as

otherwise, one would only see the size of the hill and did not get a sense as to what was at the sides of it. He added that they also wanted to make sure they had both houses in each one of these.

### **THE PUBLIC HEARING WAS CLOSED.**

Commissioner O'Connor asked staff to comment on the location of one of those homes being put at the top of the hill and the grading of the hill and why staff would consider that to be their preferred spot. He stated that he thinks they are weighing trees versus locations and how far off the top of the hill is from the original "blob" on the map. He noted that this is a very large property and inquired if there were no other alternative to get a roadway that would not affect the trees while leaving the homes down where they originally were.

Ms. Stern replied that the map shows the road meandering between the trees. She added that the angle also needs to be considered as a reasonable slope has to be maintained for any emergency vehicles to get up there. She indicated that there may be a way to adjust the road a little bit but there is not too much latitude to do so.

Commissioner O'Connor inquired if there is an alternative that might remove one tree as opposed to three, four, five, or six trees.

Mr. Dolan replied that there probably is an alternative that would change the number of trees to be removed, and the height on the hill versus the location of the road. He noted, however, that these are not the only two variables; the distance between the homes, the size of the homes, and the space they would take are also variables. He added that he is not sure calling that one home as being placed on the top of the hill is exactly accurate as it is farther up the hill.

Commissioner Allen stated that when the Alternatives were created, it looks like the underlying assumption was a westerly road, which was common to all of the Alternatives. She noted that this raises the question of if there were two properties that were lower on the hill but had an easterly road similar to the proposed plan, whether that might potentially be an option that would minimize the damage to the trees and help save them.

Ms. Stern replied that Exhibit B shows that down the hill a bit further are the tree outlines which are pretty much all over. She added that maybe some of those trees are smaller or less visible, and it might be possible to look into that. She noted that this is a Work Session, and these ideas can be considered.

Chair Pearce agreed that because this is a Work Session, discussions can be less exacting than normal. She indicated that the Commission can go through the discussion points and ask questions of staff as they come and have a conversation about them.

**1. Does the Planning Commission support the applicants' proposal for siting the homes, or is there a preference for Alternatives 1, 2 or 3?**

Commissioner Allen stated that, as a background, she visited the site twice and that this is the first time she has been exposed to the property. She noted that she walked the site from the perspective of a pedestrian and a bicyclist and a resident, and then walked the site with staff for about an hour and a half actually looking at each of the Alternatives. She indicated that given that, she does not support any one of the Alternatives purely but would support something that would be a blending of the proposal and a blending of Alternative 3. She stated that that would mean lowering the house that is right now located toward the top to be more in line with where the lower property is. She noted that she thinks that would have less visual impact to everyone and little more of a clustering, and assumes an easterly alignment of the road in a way that protects those heritage trees.

Commissioner Olson stated that he supports the applicant's proposal and none of the other Alternatives.

Commissioner O'Connor agreed with Commissioner Allen and stated that he is more inclined to follow the applicant's proposal. He stated that the visuals are pretty clear: if the upper home is not at the top of the hill, it is pretty close to it for breaking blue sky and quite a way away from the original "blob." He indicated that he knows there is some flexibility with "blobs" but that he would prefer not to have the home so visually exposed. He added that he would also like to protect as many of these heritage oaks as possible and would rather see a little more work with where the road is sited without doing much damage to those trees; the tradeoff would be making the homes less visible.

Commissioner Ritter stated that he supports the proposed plan as it disturbs the least amount of area and leaves it the most natural-looking without removing any heritage trees. He noted that it appears the applicant has met all the zoning and Specific Plan requirements, based on his proposed plan that was there before any changes of a sort could be made. He added that based on the photos, the homes appear to fit in pretty well and looked aesthetically pleasing.

Commissioner Posson stated that he generally supports the applicant's siting and does not prefer any particular Alternative. He indicated that he thinks some additional work needs to be done, especially taking a look at the Specific Plan Residential Design Standards, the concerns brought up by Mr. Reeves regarding siting, lot line, and those types of things. He added that he would like to study the Specific Plan a little bit more to see whether or not the alignment, as proposed, conforms with that or not.

Chair Pearce stated that she thinks she is the only member of the Planning Commission that was a survivor of the “blob” discussions. She recalled the discussion that “blobs” were going to be conceptual rather than specific. She indicated that she is not a big fan of houses on top of hills because of the visual impact. She stated that she understood that when the houses are situated in that way, they sometimes have less of an environmental impact; however, she would prefer to mitigate the visual impact and have them in a less environmentally sensitive area, impacting less trees and involving less grading. She noted that taking a look at the number of trees impacted, the amount of disturbed area, and things of that nature, her inclination is to support the proposed plan with regard to the siting and then have conversations about how to mitigate that visual impact.

## ***2. Is the proposed road alignment acceptable?***

Commissioner Posson stated that he has no preference one way or another.

Commissioner Ritter stated that he does like the idea of not making it downward to the Silver Oak residents and that he would like an option that would make the road come up around another way.

Commissioner O’Connor stated that he actually thought it was a good alignment because it gave some separation between homes and thought that would probably be more acceptable. He noted that he did hear some people say it was not what they liked but he thought that would give them a little more privacy than the Alternatives.

Commissioner Olson stated that he supported the proposed road alignment. He inquired if this would be a private or public road and indicated that he thinks it ought to be private and gated.

Ms. Stern replied that in terms of the classification in the Specific Plan, it was actually shown as a public road that would have been wider. She noted that staff is supporting a private road that would be narrower and added that she does not know if the applicant wishes to have it gated or not.

Commissioner Allen stated that she supported the applicant’s proposal for the road alignment.

Chair Pearce stated that she also supports the applicant's proposal. She noted that the road alignment appears to be sensitive and that moving it more westerly would impact the property on the other side.

**3. *Is the proposed building height specified in the Design Guidelines acceptable?***

Commissioner Olson stated that he has always been in favor of the step design. He added that he does not have a problem with the specified building heights.

Commissioner O'Connor stated that he does not have any concerns either. He noted that stepping could give the house a taller visual look to it and that the Commission has been through this before; however, on the hillsides, stepping would do less damage with less grading to the hillside, so he is fine with it.

Commissioner Ritter agreed.

Commissioner Posson stated that he was fine with it.

Commissioner Allen also indicated that she was fine with it.

Chair Pearce agree with Commissioner O'Connor that it is more environmentally sensitive. She added that the flat pad does not make any sense, and the visual impact can be mitigated. She noted that the best way to protect the hills is to be environmentally sensitive.

**4. *Is the proposed maximum floor area acceptable?***

Commissioner O'Connor said yes, given the size of the lots.

Commissioner Ritter stated that he thinks it is very reasonable, given that they are very similar and actually proportionally smaller-sized based on their acreage.

Commissioners Posson, Allen, and Olson stated that they were also fine with it.

Chair Pearce stated that she was fine with it as well.

**5. *Should additional photomontage viewpoints be included?***

Commissioner Ritter said no.

Commissioner Posson stated that in light of the visual concerns of the neighbors, a little bit more would be of value as it would give the Commission and the public a little bit more sense of what it is going to look like once it is developed.

Chair Pearce stated that when the Commission talks about having additional viewpoints, staff and the applicant are given direction on where the Commission would like the viewpoints to come from. She asked Commission Posson if he had a sense of what he is looking for.

Commissioner Posson replied that he does not. He added that he thinks the more they can simulate what it would look like from Silver Oaks, the better it would be, especially in light of what the Commission heard from the residents tonight.

Commissioner Allen indicated that she supports additional viewpoints as well. She suggested stakes for the proposed plan, especially if the upper house were brought down a little bit. She stated that it might help to have an additional two or three scenarios that people could really look at to see if one scenario is better than another.

Commissioner Olson stated that he thought the pictures were good. He agreed that it probably would be helpful for the people in the area who have concerns to check a few other viewpoints on this.

Chair Pearce agreed. She stated that she certainly liked what were given to the Commission, except for the conceptual one that had the violent green on it, which she assumes is still a draft. She indicated that she would support more viewpoints if there are specific things that neighbors are looking for and that it might be good for the applicant to check in with them to mollify concerns about the visuals.

Commissioner O'Connor stated that he was fine with what was submitted, based on what the proposals were. He added that he would like to see a couple of options if the upper house were moved down, and given the concerns of the neighbors, it would be good to have one or two view shots from even their backyard to see what the exposure is going to be from those homes.

**6. *Are there any other concerns the Planning Commission has about this proposal?***

None of the Commissioners had any other concerns.

Chair Pearce stated that the Commission has discussed the major points and thanked everyone.