

March 13, 2019

Comment on Conditional Use Permit Approval for Hillview Crossing TED

To members of the Land Use and Planning Committee:

In the opinion of the District XI Human Resource Council (HRC) the conditional use review exists to tease out those hazards and risks and, hopefully, resolve those issues inherent in the proposed land use design that may threaten the unique natural and social contexts of the proposed use. This includes geophysical and biological factors as well as public infrastructure and services, property rights and interests of the surrounding land owners, as well as public health and safety.

If the Hillview Crossing TED presents a wide range of these potential threats, hazards, and risks which require scrutiny by the Land Use and Planning Committee (Committee), and ultimately the City Council, it is entirely within the legal power of the Committee and/or the City Council to reject it in its entirety or require such mitigations as it thinks best. Given the conditional use ordinance contains criteria regarding the public health and safety and neighborhood and general welfare, the Council is at liberty to require those conditions it deems necessary to mitigate the risks and hazards it recognizes in the TED.

As the Committee now knows, review of a project under conditional use standards can be a painstaking and difficult process, especially when the sticking points are technical in nature. However, there is one consequence of the present project that is not technical but rather has a solution in reason and the underlying philosophy of land use regulation in general. I am referring, of course, to the failure in the present project design to accommodate mitigation of the landlocked status of a four-acre parcel of land that is owned by the HRC and lies immediately west of the proposed project. This is certainly a consequence of the developer's preferred design and is within the Council's power, discretion, and prerogative to mitigate in the conditional use approval process.

This parcel acquired its present landlocked status due to the failure of past governmental oversight to prevent the subdivision of a certain parcel of land of which this four acre piece was once a part. Subsequent official approval of development around this isolated piece without resolving this landlocked condition has maintained its unusable status for too long. This is a problem for the neighborhood and community for several reasons.

1. Prevention of access for required care and maintenance. The landlocked status of HRC's parcel makes complying with the legal requirement to suppress noxious weeds

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and cut hazardous vegetation difficult. Without rightful access, getting to HRC's parcel must be with the permission of the adjacent land owners who are not obliged to grant it.

2. Increasing threat of wildfire due to expected increase in drought conditions of climate change. The HRC parcel grows up to tall grass in the summer. With the increase in density around this piece, there is an ever-present chance that a fire could be ignited there by whatever means, which surely would be a threat to the proposed TED lying immediately east of this parcel in an area with prevailing westerly winds.
3. Inability to use the four acres to fulfill the Growth Management Plan goal for maximizing development within the city limits. The lack of access to a "public" road prevents this land from being developed for use by the community as housing or parkland.
4. Landlocked status prevents HRC from realizing reasonable value for its property. Although the land was a gift, HRC has a duty to try to maximize the value of all its assets both real and human in furtherance of its mandated goals in its three-county service area to provide social services and benefits. HRC has been paying exorbitant property taxes on this parcel for years and would like to see it placed into service to benefit the community. Missing yet another opportunity to provide the needed access to a "public" road by failing to require the developer to grant an easement to HRC to its road system is perpetuation of a hardship on an important public agency providing needed services to the general welfare.

To reiterate, the conflict for access to the HRC parcel appears to be between the developer's project design and the hazards and risks to the neighborhood and general welfare inherent in the proposed project at this particular location. Analysis and scrutiny of these hazards and risks is the heart and soul of the conditional use approval process. It is not an acceptable outcome to approve a project if such approval leaves unresolved certain issues which could have been dealt with before, but remedies were forgone to the detriment of the neighborhood, the general welfare, and public health and safety.

As I have previously stated, HRC is willing to compensate Hillview Crossing for access from its proposed road to this 4-acre parcel.

Thank you for consideration of these comments and I look forward to working with you on this issue.

Respectfully submitted,



Jim Morton  
Executive Director



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