



MEMO No. 2

TO: City Council

DATE: March 6, 2019

FROM: Mary McCrea, Development Services

RE: **Hillview Crossing TED Conditional Use – Summary of LUP Discussion on January 16 & 23, 2019 and February 27, 2019.**

The Land Use and Planning (LUP) committee of City Council has discussed the Hillview Crossing TED Conditional Use on January 16 & 23, and February 27, 2019 following the public hearing for this project on December 17, 2018 and the pre-public hearing discussion at LUP on December 12, 2018. The following is a summary of discussions on Hillview Crossing TED at Land Use and Planning Committee on January 16, 23 and February 27, 2019:

- A. On January 16, 2019 there was discussion at LUP regarding:
1. Road-related issues including City Fire comments related to concerns for provision of emergency services for the private cul-de-sac road designs if parking restrictions of one side on Road B & northern Road A & no parking on southern Road A were not enforced by the HoA and if snow removal is not completed properly; and
 2. Maintenance costs-Agencies have concerns related to maintenance costs. City Storm Water Utility is concerned with the potential of having to take over maintenance of the storm water facilities if the HoA goes defunct. Streets has concerns that if the HoA does not enforce plowing or other maintenance items of the streets that the streets do not meet city standards and city equipment is designed for maintenance of sub-standard roads.
- B. On January 23, 2019 there was discussion at LUP regarding:
1. Continuation of discussion on road related issues and whether the Missoula Police Department could enforce parking and snow removal on a private street within a public access easement. City Police and City Attorney's office responded that City Police can not enforce "No Parking" restrictions and snow removal on private streets.
 2. City Engineering does not approve of the roads dedicated as right-of-way because they are dead end cul-de-sacs and the roads would be difficult to maintain using standard City equipment such as snow plows because the roads are narrow.
 3. An option Council could consider is a new condition of approval requiring all the roads be built wide enough to allow parking on both sides which would eliminate the need for the No Parking Restrictions. Title 12, Section 12.22.140 requires a minimum 35 feet back of curb to back of curb with parking on both sides.
 4. Jason Rice provided some estimates on maintenance costs for the roads, parks, storm water facilities etc. Council discussed the need for a consultant to prepare a detailed estimate of regular maintenance fees and replacement costs for the HOA. Council also discussed whether a condition of approval is warranted to require creation of an SID to provide a backstop in the event the HOA did not provide adequate maintenance of the facilities.

5. Human Resource Council comments related to connectivity. City Attorney stated that there was no way for City Council to require the Hillview Crossing development to provide access through their site to the adjacent site owned by the Human Resource Council. City Council requested the Judge's decision on the prior lawsuit be uploaded to SIRE and that has been done.
6. Public comment concerning construction staging in Wapikiya Park. Extension of the sewer main to serve the subject property will go through Wapikiya Park. The applicant stated that staging of construction equipment in the park would occur only for the sewer main extension and only until the sewer extension work is completed. All other construction staging would occur from Hillview Way access to the subject property.
7. Comment concerning that the trail to 39th Street would be impacted by construction to extend the Sewer Main. Neil Minor explained the process and permits required for work within a trail easement or a park. Once the construction work for the sewer is complete, the applicant will be required to restore the trail easement area and park to conditions prior to construction.
8. Traffic Impacts to Hillview Way from the Hillview Crossing development. Troy Monroe Assistant City Engineer stated that Hillview Way currently has 5,000 vehicles per day and the road was built to handle 10,000 vehicles per day. From an engineering standpoint, there are no concerns with people exiting the site onto Hillview Way and turn lanes are not warranted. The intersection of Road A with Hillview Way meets engineering design standards for vertical curve and site distance per AASHTO.
9. Project's participation in the Hillview Way SID. Yes the Hillview Crossing property directly benefits from the roadway improvement and is within the SID assessment area. The assessments for future development are outlined in item G of the Memo dated December 12, 2018. The assessments are payable per unit at time of building permit issuance.
10. Agency comment related to Wildlife. Council discussed comment from Randy Arnold, Regional Supervisor for Region 2 of Fish, Wildlife and Parks and his recommendation that the Hillview Crossing TED Development Covenants include a Living With Wildlife section as provided by Mr. Arnold. This is found in item N of the Memo dated December 12, 2018. Staff recommends a new condition of approval #24 requiring the inclusion of the Living With Wildlife section and amendment of condition of approval #23 to include the Living With Wildlife section as one of the covenants that require written approval by the City Council in order to be amended or deleted.
11. Public comment related to Wildlife included concerns regarding the long stretch of buildings blocks movement of wildlife from Miller Creek to the valley floor. Fencing both at the boundary of the site and if all unit parcels are fenced will force deer into the roadways. Council expressed a desire that the developer pursue the use of wildlife friendly fencing.
12. Concerns regarding cut and fill, manufactured slopes, location and height of retaining walls, and the need for a geotechnical report for both building sites and roads. The applicant stated they had provided a Geotechnical Report from 2015, however it was not included in the conditional use submittal packet.
13. The applicant provided the 2015 Geotechnical Report which was uploaded to SIRE. The applicant provided an email to City Engineering with comment and their position regarding why they feel the report is adequate which has also been uploaded to SIRE. The Memo dated December 12, 2018 included a recommendation from the City Engineer that a condition of approval be added to require a Geotechnical Report for roads, infrastructure, and home locations, including any excavation or embankment

locations. See #5, under Item I in the Memo. Council discussed the need for an updated Geotechnical Report before making a decision on the conditional use request.

C. On February 27, 2019 there was discussion at LUP regarding:

1. Mary McCrea presented a Summary of Discussion to date. The applicant provided additional information regarding the Geotech report, fencing on TED unit parcels, and storm water. The following items discussed on December 12, 2018, December 17, 2018, January 16, 2019 & January 23, 2019 have yet to be resolved:
 - a. Road issues regarding enforcement of No Parking restrictions and snow removal by HOA on private roads that if not enforced could impede emergency vehicle access. An option Council could consider is a new condition of approval requiring all the roads be built wide enough to allow parking on both sides which would eliminate the need for the No Parking Restrictions. Title 12, Section 12.22.140 requires a minimum 35 feet back of curb to back of curb with parking on both sides.
 - b. If HOA does not adequately fund reserve for replacement and regular maintenance of the roads, parks, storm water facilities etc. facilities may fall into disrepair and impact public health and safety.
 - i. An option would be to add a condition of approval that requires the developer to hire a consultant to prepare a detailed estimate of regular maintenance fees and replacement costs for the roads, parks, storm water facilities etc. and provide that information in the Development Covenants and to each buyer.
 - ii. Council also discussed whether a condition of approval is warranted to require creation of an SID to provide a backstop in the event the HOA did not provide adequate maintenance of the facilities.
 - c. Concerns regarding impacts to wildlife were expressed by the public and staff received comments from Fish, Wildlife and Parks. Public was concerned about wildlife movement from Miller Creek to the valley floor obstructed by the wall of buildings and fencing. The applicant presented some diagrams with fencing at the rear of structures, however there are no rules in place that would limit fencing to what the applicant presented.
 - i. An option would be to add a condition of approval to require the Living with Wildlife covenants be included in the Development Covenants as recommended by Fish, Wildlife and Parks.
 - ii. Additionally a condition of approval could be added allowing only wildlife friendly fencing at the perimeter of the subject property; and prohibiting fencing for unit ownership parcels except at the rear of units that does not enclose the space between duplex structures.
2. Council discussed concerns regarding whether the Geotechnical Report from 2015 needs to be updated related to the following:
 - a. The recommendations in the report are only valid until December 3, 2020. Construction of project will not be complete by that date. Option is to add a condition of approval requiring a new geotechnical report for the site grading for roads, utilities, home construction locations and retaining walls.
 - b. Troy Monroe, Assistant City Engineer has reviewed the 2015 *Updated Geotechnical Evaluation Report, Mass Grading, Utilities and Roadways, Hillview Crossing – Missoula* and provided the following comments.

- i. The report was specific to the proposed 2015 TED layout and would need to be updated for the proposed TED. There is enough similarity between layouts that generalizations for the geotechnical aspects can be made.
- ii. The report is for the overall site grading. It can not be used to determine specific home requirements but does give an overall evaluation of the proposed home sites.
- iii. The report recommends 2.5 horizontal to 1 vertical slopes maximum; 3:1 slopes recommended - with the uphill portion of the entry road only allowed to be 2:1 slopes.

City Engineering has not seen any exhibit which shows maximum design slopes.

- iv. The report requires that all fill be placed on a horizontal plane. This requires that the existing ground be stair-stepped with eight feet (8') minimum horizontal steps. This method of embankment eliminates any weak plane soils that may be at the surface.

Speaking with the Geotechnical Engineer who wrote the report – this stair-step is a general requirement for MDT embankments. He stated that major earth moving construction firms will know how to do this type of embankment but cautioned that smaller excavation firms may not have done this before.

- v. The report uses customary loadings for streets and homes and does include utilities that normally reside in the ROW.
- vi. The report does not evaluate any storm water detention/retention basin. As noted in the storm water report the development will be required to hold 17,393 cubic feet of storm water.
 - 1). City Engineering has not seen any proposal from the developer as to how they plan to retain the required storm water.
 - 2). A storm water basin built up at the base or dug into the hillside would affect the stability of the hillside and should be evaluated.
- vii. There were no retaining walls in the 2015 TED layout so retaining walls and their associated point loads were not included in the geotechnical evaluation.
- viii. Factors of Safety range from 1.4 to 1.5 for static conditions (1.4 is the recommended minimum) and 1.1 to 1.4 for seismic conditions (1.1 is the minimum).
 - 1). A Factor of Safety can be described as 100,000 pounds force acting on the hill and if there is 140,000 pounds force counteracting, this would be a FOS of 1.4.
- ix. The geotechnical report was written from a mass-grading standpoint. Meaning that all excavation and embankment would be performed at once. The Geotechnical Engineer would have concern if the excavation and embankment were made into smaller projects and performed at different time intervals.
- x. The overall conclusion from the report is that the 2015 TED layout and geotechnical construction requirements would allow the building of the project and would meet minimum safety factors. The changes between the 2015 TED application and the 2018 TED application, including both retaining walls and an unknown storm water storage facility, would require a new geotechnical evaluation.
- xi. City Engineering does not have enough information to determine if the retaining walls and storm water facility would significantly reduce the factors of safety or not.

- c. City Council has not resolved whether the 2015 Geotechnical Report, with an expiration date in December of 2020, is adequate for City Council to determine that the Hillview Crossing TED conditional use will not have a significant adverse impact on the general welfare of the perspective homeowner's of the TED ownership units and the residents below the Hillview Crossing TED.
- d. Additionally City Council has requested a condition of approval requiring a Geotech report for each building site at the time of building permit review for each two-unit townhouse structure.

Referring to the email from Councilman DiBari on topics for discussion, under those listed for January 16th the Transit Agency Comment has not been discussed. Under topics for January 23rd and subsequent meetings, Council started the discussion on the Geotechnical related issues but did not finish that topic. None of the other topics listed for January 23rd have been covered.