

LD&T - January 12, 2017

Bill Bardenwerper –

Back in April 2016 we came through and had this plan approved but it turned out that this area that we were going to do as single family and bring a public street through there and so forth, turned out to have some serious wetlands issues. There was just too large an area there that was not developable.

Now we're looking to build an addition to that in the portion of the rear property that actually can be developed.

It will be left as it is, as a large open space owned by this particular apartment community.

Kevin Young –

We discovered this whole back portion, or a big part of this back portion has fingers of wetlands that run up through the property. Wetlands take a long time to get permitted, we needed to get the project moving so we broke the front portion off from the back and went forward with construction.

So we came back, this whole portion has fingers of wetlands running through it. That's why we don't have any units or any proposal for any development in this portion, it is to remain as is.

These residents have the opportunity to enjoy this large open space.

Bill Bardenwerper –

This will be finishing up the rental community. This will be the last phase of all this work here.

Commissioner Jeff Brown -

I'm really disappointed in the way this one worked out. They came in, under oath, presented a development plan and testified that this lot was not developable, so we allowed them to do that private road apartment complex knowing that it could never be extended.

And they testified that they would not, or they could not develop this lot, so I absolutely do not support this plan. (ultimately voted yes at Planning Commission)

Planning Commission – February 2, 2017

Case Manager Brian Mabry -

There is significant wetlands to the south which the construction is proposing to avoid.

Bill Bardenwerper -

We're coming in for the last phase of Avalon.

Because of the fact that after the development plan was approved we realized we had a bunch of wetlands.

All this stuff turned out to be the wetlands, the wet area that we couldn't. Kevin will run through and show you exactly where those fingers of wetlands come up through there. So the only model end that was to be developed was this little bit in here. And so a decision, since we lost the opportunity to do what we intended, single family which we intended, because they do single family as well, was to just complete the multi family in this area.

This is all we're looking to add to it and ends up completing the development that David and Kenny have done here with their Ashton Park and Avalon Developments.

The final phase of this would be these townhome style, townhome apartments just like already built there.

Kevin is going to come up and Kevin will focus on where those wetlands are and what can be done on the balance of this property, which is nothing. This is the final phase of what has really been a four-phase development with two different names to it.

Kevin Young –

This phase II is an 8-acre tract of property, 5.9 acres will remain open space, as Bill said a significant amount of that is wetlands.

The rest of the area is to be open space, protected wetlands.

Bill Bardenwerper –

It makes sense to finish out this development. It's a nice end to what we've been doing.

Commissioner David Tomes -

The one area where you do have R4 lots it seems to be that the wetlands serve as a big buffer to those areas.

Commissioner Robert Peterson –

I think they are doing a lot with that wide buffer area that are going to lessen the impact as they get over to the R4 zoning.

Metro Council Planning and Zoning Committee – February 28, 2017

Brian Davis, Planning & Design Staff –

They are proposing to construct units as far north as they can to stay off these areas which are the areas identified as concern because of wetlands and flooding.

Metro Council Meeting – March 9, 2017

Councilman James Peden –

This is the third time this has been amended in 18 months. We changed the zoning in 2015. They then decided after spending millions of dollars on land studies and all this investment, oh wait we can't build on what's in the back can you please let us get rid of the townhomes and build more apartments in the middle. That was done in a category 3 review without any real planning and zoning just LD&T, didn't have to even go to Planning Commission. So now you can see today all the green space in the back that they couldn't build on, they are now building more apartments.

I was emboldened by Jeff Brown from Public Works who brought up a very good point. Had they come to us with this plan 18 months ago, we as a city, planning and zoning, essentially Jeff with Public Works would have asked for a completely different design.

We sit here and use excuses and bait and switch. And we use things like the economy changed, this change this has nothing to do with that. This has to do with them, well let's see how much we can change as we go through the process. To the point that we are giving them their second zoning change. And it's not anything what we stated with when we gave them their first zoning change.

The other piece of this is this back part does not conform with the neighborhood plan. To the lawyers are we setting precedent if we pass this for ignoring neighborhood plan in future?

There is a floodplain there in the middle they are avoiding. Hopefully we get some trees out of this.

I did of course bring up the logical perspective that the fist plan had single-family homes and if you suddenly decided now you can just build, why not go with Plan A instead of amending all the way to Plan C.

Planning Commission - May 23, 2019

Case Manager Jay Lucket –

There was a compromise at that point to complete the public road to get some of connectivity around the site but not to the site or thru the site. And the justification for that was based on the idea that there where these wetlands here and that it wouldn't be developed in that area. So, they would be allowed to do this but not the connection because they didn't function together.

Staff Analysis and Conclusions. The plan would not provide for the preservation of the environmentally sensitive areas on the subject site. The proposed plan would eliminate wetlands on the site, potentially exacerbating flooding problems on and around the subject site.

The Connectivity within and around the subject site is inadequate. The lack of connectivity was previously justified by a need to avoid disturbing the wetlands areas of the site.

The request is not adequately justified and does not meet the standard of review.

Commissioner Ruth Daniels –

I can't help but reference back to them saying we're not going to develop it but now they say it's changed. But not that the wetlands have changed. I'm not sure what change has happened? What changed the cost of materials or whatever? I'm always concerned when you talk about taking away wetlands.

I have to look at the staff report and the main thing that jumps out at me is it does not meet the comprehensive plan and the previous justifications of the zoning change. I rely on the staff for their expertise.

Commissioner Jeff Brown –

I agree with the staff report.

I'm always going to go back to connectivity and I am really disappointed we couldn't get this connected. The findings on that original zoning plan did say we compromised on connectivity however there was this wetland preservation set up.

One of the comments (from Bardenwarper) was if we didn't want to see this developed why was it rezoned? I don't think we every would have recommended a split zoning and I don't think Metro Council would approve a split zoning. We've been consistent that we rezone to whatever the highest intense use on there to fit the property. I agree with the staff report it

does not comply with the findings on the original rezoning, this does not comply with the comprehensive plan.

Commissioner Lula Howard –

I do have a concern about connectivity and we didn't hear much about that today.

Commissioner Richard Carlson –

The thing that keeps standing out in my head is the staff report where it says it the plan will not provide for the preservation of environmentally sensitive areas.

The next thing under D in staff report is development in wetland could potentially cause drainage problems in the community. And then it says further approvals from Army Corps of Engineers and the Division of Water would be necessary to the develop. I know there are certain things that happen in certain sequence but I'm wondering if the Army Corps of Engineers and Division of Water approval would even happen. Again, I'm concerned about the preservation of environmentally sensitive areas.

Commissioner Marylin Lewis –

I don't like the way this has unfolded. We've been from a public road to a private road. From single family to multi family to a zoning change where I think we were influenced by the land that buffered the multifamily from residence. Now through a series of changes we're onto what we have today. And I'm more bothered by the connectivity issue and having 181 units that only have one access out.

Vote:

Yes: 4 - Tomes, Peterson, Lewis, and Howard

No: 3 - Daniels, Brown, and Carlson

Absent: 3 - Robinson, Smith, and Jarboe