

BEFORE THE CITY COUNCIL

OF THE CITY OF SPOKANE, WASHINGTON

In the Matter of	)	
CEDAR ROAD ESTATES,	)	
QUALCHAN HILLS,	)	CLERK'S FILE NO.
	)	
Planned Unit Development	)	PLN 83-5

FINDINGS OF FACT

1. THE APPLICATION

1.1 This matter is a Planned Unit Development, constituting a master plan for a large area of land prepared jointly by the several owners. The master plan was submitted as two distinct applications which, because of their essential interrelationship, were processed, heard, and considered together.

1.2 The proposal under consideration as revised consists of the following:

a) Cedar Road Estates: a 527 acre preliminary planned unit development and preliminary plat. It contains 1,157 single family residential lots; 6 tracts totaling 75.5 acres to be rezoned to "R-3L" which would permit a maximum of 1,114 multiple family residential units; 12 acres set aside for a school site; three sites set aside for community service facilities; and 140 acres as open space to be managed by a homeowners association.

b) Qualchan Hills: a 113-acre preliminary planned unit development and preliminary plat. It contains 205 single family residential lots; 4 tracts totaling 24.2 acres to be rezoned to "R3-L" which would permit a maximum of 369 multiple family residential units; and 37 acres as open space to be managed by a homeowners association.

1.3 The master application, consisting of plans, maps, renderings, geotechnical, housing, and market reports, a detailed environmental impact statement (EIS) in supplementation to the EIS prepared for the "Cedar Road Development Company and Manito Golf and Country Club Annexation" in November, 1980, and other data, was in proper form and had sufficient content so as to satisfy the application requirements for preliminary PUD's, preliminary plats, rezones to an "R3-L" classification, and a zone boundary adjustment.

2. THE COMPREHENSIVE PLAN

2.1 Annexation of territory to the City of Spokane involves considerable regional planning studies and hearings by the Plan Commission, the City Council, and the Spokane County Boundary Review Board.

2.2 Various basic regional planning determinations were made in 1980 and 1981 in consideration of the potential annexation of the general area of this project site. Among these decisions are

- a) a trend to development from rural to urban had begun;
- b) this area is within the City's water and sewer service area;
- c) the time has come to provide for residential development in accordance with the City's planning and utilities policies and programs.

2.3 Various urban fringe area planning analyses produced in final form in March of 1981, new zone classifications, including the two categories of Country Residential.

2.4 Also during this time, partly in response to the increased use of condominium and other modern development devices, ordinance amendments were developed to specify and add detail to the objectives, mechanisms and standards for planned unit development and innovative residential development techniques. These amendments also were passed in early 1981.

2.5 After public hearings in connection with the annexation, a land use plan for this project site was adopted designating the site as Country Residential with four general locations designated for Medium Density Residential. The Comprehensive Plan and Zoning Ordinance contains criteria for locating Medium Density Residential areas such as, among other things, topography, view, and other physical features, which the Plan Commission took into account in locating the Medium Density symbols.

2.6 In its January 28, 1981, annexation report to the City Council (later adopted by the City Council), the Plan Commission made land use recommendations as follows:

- a) Establishment of a "CR-1" zone classification, permitting the keeping of animals and allowing one unit per two gross acres. The "CR-1" zone was required along the south boundary of the project site to buffer the acreage tracts to the south.
- b) Establishment of a "CR" zone classification that allows up to three dwelling units per gross acre through the use of "innovative" PUD provisions of the ordinance. Except for the "CR-1" buffer area, the project site is currently zoned "CR".
- c) The designation of certain areas for future development as medium density residential uses in various portions of the annexation area. The project site was allocated a total of 94 acres of medium density area with a specified maximum density in the medium density areas of 1,598 units. The provision for medium density residential development was in addition to the density permitted in the CR-1 and CR zone classifications.

d) The use of innovative plats, cluster housing and planned unit developments was encouraged.

### 3. ZONING

3.1 The Country Residential Zone is a low density residential zone often applied to land on the urban fringe where rural areas or unique natural resources are confronted with urbanization. It is intended primarily to provide for the compatible coexistence of low-density residential uses with rural and semi-rural environments, retaining a country character of low-density, varied lifestyles with extensive open space.

3.2 To accomplish such objectives as extensive open space to retain a country character, the Country Residential zone encourages innovative design in planned unit developments and plats, utilizing such innovative design techniques as clustering of residences, lot averaging, zero lot lines and economic incentives.

3.3 As many other zone classifications, the Country Residential zone is divided into two categories; Category I being for less intense uses and Category II allowing more intense uses.

3.4 The major differences between the Country Residential, Category I (CR-1) and Category II (CR), are that the former allows the keeping of livestock and provides a density one-fourth that allowed in Category II. A residential building lot in the CR-1 zone must be at least two acres in size; in the CR zone, 22,000 square feet (unless innovative techniques are employed).

3.5 The Zoning Ordinance in various sections provides for binding site plan, innovative residential development, planned unit development, zoning agreement in a Limited (L) zone and other devices intended to provide for flexibility and adjustments in traditional development by which each building occupies an individual lot, platted to provide the minimum area, setback, and other dimensional requirements as dictated by the zone classification. For purposes of this proceeding, it is not necessary to discuss at any length the formal and procedural differences between a PUD, an innovative residential plat, or an innovative PUD plat. Because of the nature of the CR zone, special provision is made in the Permitted Uses section (Sec 118.20) to encourage Innovative Residential Development. This section references the Innovative Residential Development sections of the Zoning Ordinance (Secs. 320.10 and 320.20) and is deemed controlling over the other PUD sections to the extent of any differences in language.

3.6 The Cedar Road Estates project site has 38.4 acres zoned CR-1. The CR-1 zone is located along the south boundary of the site to buffer the acreage tracts to the south. The project plan has 13 residential lots in the CR-1 area. The Qualchan Hills project has no land zoned CR-1.

3.7 The Cedar Road Estates project has 413.1 acres that will remain in the existing CR zone classification. Utilizing the innova-

tive development provisions of the CR zone, Section 118.20, a gross density up to 3.0 units per acre is permitted. At this density 1,239 single family residential units would be permitted on the Cedar Road Estates site.

The Qualchan Hills site has 88.8 acres that will remain in the existing CR zone classification. Utilizing the innovative development provisions of the CR zone, a total of 266 single family residential units would be permitted on the Qualchan Hills site.

3.8 The "innovative residential development" provisions of the CR zone (Sec. 118.20 of the zoning ordinance) provide:

a) Flexible lot area and density bonus are to be earned and allowed with the achievement of "good design", "innovative planning" and "provision of open space".

b) Open space may be included in the gross acreage in calculating density if it is suitable in shape, size and location to be accessible to the residents of the PUD for passive and active recreation, to enhance aesthetics, to buffer land uses, to achieve a development adapted to the terrain and to preserve open space better than a conventional plat.

3.9 The Comprehensive Plan for this site, in addition to giving general locations for the Medium Density designations and specifying acreage and density, also specified that the corresponding zone would be the R3-L classification, which enables the Zoning Board and City Council to require a concomitant agreement and prior approval of development plans.

3.10 The ordinary criteria for granting a zone change petition are consistency with the Comprehensive Plan, which includes elements of timing and coordination with relevant local circumstances, and the selection of appropriate zoning techniques, all with a view to promoting the public interest and general welfare.

3.11 In this case, R3-L rezoning also involves integration of the multi-family residential design into the PUD master plan.

3.12 The Cedar Road Estates project designates six parcels, Tracts "A" through "F", with a total area of 75.5 acres, to be rezoned from CR to R3-L. The area and the density allowed in each tract is as follow:

Tract	Area	Dwelling Units
A	16.6	282
B	13.1	223
C	8.9	151
D	10.8	184
E	15.9	186
F	10.2	88

The zone reclassification for each parcel is subject to City Council

approval of the final plat and final PUD covering that parcel. Tracts "A" through "E" are not presently submitted with a specific site plan.

The zone reclassification of these tracts is subject to Zoning Board approval of a specific site development plan. Tract "F" has been submitted with a specific site development plan.

The Qualchan Hills project designates four parcels, Tracts "A" through "D", with a total area of 24.2 acres, to be rezoned from CR to R3-L. The area and the density allowed in each tract is as follow:

Tract	Area	Dwelling Units
A	16.1	230
B	.57	10
C	3.61	62
D	3.92	67

The zone reclassification for each parcel is subject to City Council approval of the final plat and final PUD covering that parcel. These tracts "A" through "E" are not presently submitted with a specific site plan. The zone reclassification of these tracts is subject to Zoning Board approval of a specific site development plan.

The tracts proposed for zone reclassification to R3-L are consistent with the City Comprehensive Land Use Plan for the area established by the Plan Commission annexation report of January 28, 1981, which the City Council adopted March 23, 1981.

3.13 The principal purpose of innovative residential development is to allow flexibility in the design of developments so as to achieve a better development of benefit to the community than would result from conventional platting. More specifically, Sec. 320.10 of the Zoning Ordinance encourages imaginative design to achieve more efficient use of land, energy, and resources and a more livable development.

3.14 Among the innovative residential development techniques specifically prescribed in Sec. 320.20 are

- a) clustered housing, whereby residence buildings or dwelling units are clustered in groups and the yards and open areas which would ordinarily surround each building on an individual lot are clustered into large areas of common open space;
- b) mixed residential building types;
- c) flexible yards, whereby the individual residence yards or setbacks are adjusted, or even reduced to zero; and
- d) lot area averaging, whereby the several individual lots have varying areas but the total area of all lots and common open space equals or exceeds the total lot area specified for the number of units for the zone classification.

3.15 While the zone reclassification of certain area from CR to R3-L was specifically contemplated and provided for at the time of annexation, the specific timing, location, and boundaries of such zones were unknown at that time. Events and circumstances since the time of annexation make the proposed rezones appropriate at this time. The changes of circumstances include:

a) The extension and construction of sewer and water services to the Thorpe Road - US 195 interchange and beyond to the airport industrial area. This has greatly enhanced the ability to extend sewer and water services to the project site.

b) The developing employment base in the West Plains area, evidenced by the airport industrial park development, approval of the Parkwest Industrial Park, and development of Firemen's Fund Insurance Company regional headquarters.

c) Changing real estate and mortgage market which now requires and supports higher density as a means to provide affordable housing.

d) Site planning has been accomplished to identify the R3-L locations and boundaries in a PUD and plat.

3.16 The Cedar Road Estates site plan provides for an adjustment in the boundary of the existing CR-1 zone in the southern portion of the site. The zone change requested is to allow the CR-1 boundary to follow the proposed street alignment of the plat. The proposed boundary alignment will not significantly change the location or area or the existing CR-1 zone and will enhance the buffer area along the southern boundary of the site.

#### 4. THE HEARING

4.1 By ordinance the Zoning Board has jurisdiction to hear

- a) rezone petitions,
- b) zone boundary adjustments,
- c) PUD applications, and
- d) plats of PUD's.

The Board recommends to the City Council and the City Council takes final action on zoning and plat approvals. The action of the Zoning Board on a PUD by itself, not involving a rezone or a plat, is final, subject to appeal to the City Council.

4.2 In all decisions under the Zoning Ordinance the Zoning Board is obligated to effectuate the clear purposes of the Comprehensive Plan as adopted by the City Council upon the recommendation of the Plan Commission. The Zoning Board does, however, exercise discretion and judgment, including interpretation of the Comprehensive Plan, to some extent. Besides determining the timeliness and consistency with the Plan of a rezone petition, matters of judgment presented by this application include

- a) the relative desirability of the overall design of the PUD,
- b) whether the design warrants density bonus,
- c) the impacts of the development on surrounding properties,
- d) the imposition of conditions of approval, both with respect to an "L" zone and in connection with the PUD or plat approval.

4.3 The Zoning Board held public hearing on this application on October 20, 1982, March 18, 1983, and April 6, 1983. In each case notice was posted and mailed to surrounding property owners as required by the zoning and subdivision ordinances and the platting statute.

4.4 At its October 20, 1982, hearing the Board required the preparation of an environmental impact statement. The notices of the threshold determination, the preparation and availability of the draft EIS and the hearing thereon were made through the City's SEPA Public Information Center and by mailing in compliance with law. At its April 6, 1983, meeting the Board approved the Supplemental Final EIS as adequate.

4.5 The hearings and proceedings of the Zoning Board in this matter were in all respects proper, sufficient and fair.

4.6 By a closely divided vote the Zoning Board, on April 6, 1983, denied the two applications. Following denial of the proposal as submitted the Board passed a motion suggesting that approval would be given to a modified plan at a reduced density - three units per gross acre - with or without R3-L zoning at the applicant's option.

4.7 An appeal from the denial was filed on April 7, 1983, and the City Council set the appeal for hearing on April 25, 1983, out of regard for the asserted possibility that a lapse of financial commitments would moot out the issues presented and in contemplation that the Zoning Board would at its April 20, 1983, meeting take final, formal action on its findings.

4.8 For a number of reasons the Zoning Board did not meet on April 20, 1983, and has not formally adopted findings. Typically, the Zoning Department staff drafts findings which are presented to the Board for adoption, with or without modification, at a subsequent meeting and which are included in the Board's report to the City Council on a rezone or a preliminary plat. When, however, the City Council holds its own hearing, such as on an appeal, Board findings are not necessary to identify the issues or explain the considerations. The City Council finds, therefore, that in this case formal findings of fact by the Zoning Board would not have contributed materially to its hearing process.

4.9 The secretary to the Zoning Board in consultation with interested City departments and other public agencies had drafted a set of conditions of approval which the Board would have adopted, with or without modification, had the Board substantially approved the application. The Board did not act on these conditions but

some of them and the subject matter of some of them were addressed during the hearing.

4.10 Because the Zoning Board makes recommendations for approval or disapproval to the City Council, and because the City Council is not bound to follow the recommendations of the Board, even in substance, the absence of formal findings and conditions adopted by the Board does not affect the jurisdiction of the City Council to hear and decide this matter.

4.11 The City Council had before them the record of the proceedings of the Zoning Board, including the staff reports summarizing the recommendations of City departments and other agencies; the extent of citizen petition for and against; and technical data.

4.12 In Spokane the City Council does not decide appeals from Zoning Board decisions on the record. It holds its own hearing in addition to reviewing the record of the Board. The complete record of the Zoning Board proceedings was placed in the City Clerk's office for review and inspection by Council members.

4.13 The record before it and the content of its own hearings are sufficient to furnish the City Council adequate factual information to understand the proposal, the reasons for opposition and all the factors which must be considered.

## 5. THE PROJECT

5.1 The project site is characterized by a variety of soil types, considerable variation in elevation and some steep slopes. The soils do not present significant agricultural potential. The rocky and cobbly soils will make excavation more difficult and expensive. The geology and topography may require site-specific engineering and construction measures to insure stability and prevent massive disruption.

5.2 The project site includes areas which drain into the Hangman Creek valley and which overlay an aquifer recharge area. Residential development of the site requires public water and sewer service.

5.3 There is virtually no development to the immediate east and north of the site because of the Latah Creek flood plain and shoreline management development restrictions. There is low-density rural land use to the south and southwest with residences on acreage tracts. The only feasible source of public utilities are City of Spokane lines in southwest Spokane west of Latah Creek. The project will extend water transmission mains and sewer trunk lines in excess of three miles to the site.

5.4 Extensive studies and hearings were made and held on the original application for approval of phased development of an ultimate 3,076 units. In an effort to seek better understanding of the conflicting views, if not to accomplish a compromise, the City Council directed negotiation of a revised proposal of reduced density. The City Council entertained a revised proposal for 231 fewer units. It is concluded that the revised proposal is better than the original



proposal in that it provides an even better transition to the surrounding residences. However, the revised proposal is not so different from the original that the staff reports, studies, environmental impact analysis and other data is nullified or rendered inapplicable.

5.5 The original Cedar Road - Manito Annexation draft and final EIS and the supplemental draft and final EIS for this project adequately describe the environmental consequences of the proposal and alternatives to the proposal and the other requirements of the State Environmental Policy Act. The proposal as modified is not significantly different from that described in the EIS.

5.6 The draft and final EIS, the project Master Plan and the report of the Zoning Department to the City Council have described in considerable detail the provisions made by this project for public needs and services. The factual material contained in these documents and supplemented by hearing exhibits and public testimony provides the basis for the ultimate findings that follow:

A. The revised preliminary plat, preliminary PUD and R3-L rezone proposals for both projects and the CR-1L boundary line adjustment are consistent with the existing Comprehensive Land Use Plan for the City and the annexation report submitted by the City Plan Commission on January 28, 1981, and thereafter adopted by the City Council.

B. The preliminary plat for both projects is consistent with the purpose, intent and implementation provisions of the CR-1, CR, and R3-L zone classifications.

C. The proposal meets the statutory and ordinance criteria for a preliminary plat in that it makes appropriate provision for the public health, safety and general welfare; water supply; sanitary sewage disposal and drainage; streets and public ways; open space; park land; and other public facilities; and it serves the public interest.

i. The present requirements imposed upon the project sponsors for on-site road improvements are adequate for the first phase of the project. Eventually, improvements in U.S. 195 where project access roads intersect will likely be required. Development of this project and other land in the area will dictate the timing and extent of any such improvements to U.S. 195, a limited access facility, as determined by the State Department of Transportation. Because the State Department of Transportation has the authority and responsibility for the design and construction of any such future improvements, the City cannot impose specific improvement obligations upon the project sponsors. But the conditions of approval of this proposal involve City approval of phased development and provide coordination to ensure that development does not outstrip adequate state highway access. These conditions make appropriate provision for streets and public ways to the extent to the City's responsibility and lawful authority.

ii. The development of this project will require the extension of City sewer and water services to the site.

iii. The project site is served by two school districts. The proposed plat sets aside property for a school site in the Cheney School District. No appropriate location for a District 81 school site or a City park is available on the project site; nor has District 81 indicated that new facilities are needed on the site. The applicants have voluntarily agreed to pay a \$200 fee per unit for the purchase of a City park site, in lieu of dedication of additional land. The Park Board and District 81 have an agreement for joint use of such future site in this general area. This fee agreement constitutes adequate provision for these facilities.

iv. The applicants have presented a drainage plan which appears to adequately serve the drainage needs of the property without adversely impacting Hangman Creek or the quantity or quality of groundwater in the area. The technical evidence presented by the EIS, special geotechnical studies and the hearing testimony indicate that the development of this property as proposed will not have a significant effect on groundwater resources in the area.

v. The applicants have presented a master plan which appears to adequately provide for development controls on the steep slopes and unique geologic conditions which occur on a portion of the site.

vi. The proposed developments will permanently dedicate to a homeowners association substantial open space which will preserve sensitive environmental features, protect natural drainage ways, buffer adjacent land uses and provide for active and passive recreational facilities.

D. The location of the site close to the center of Spokane, the substantial business development occurring nearby on the West Plains, and the proximity of urban development on the north and east of the site indicate that the timing is right for the development of the area. Public facilities are available. The design of the plat appears to be well adapted to the characteristics of the site and its potential amenities. The projects provide for a variety of housing types and lifestyles and incorporate features to ensure housing affordability. These projects are considered to be in the public interest.

E. The proposal satisfies the innovative residential planned unit development and bonus density criteria in that the plan, relative to an assumed conventional plat, achieves a good design through innovative planning and accomplishes a number of worthy objectives, including:

- i) less overcovering of natural ground,
- ii) less area devoted to streets and utility lines,
- iii) less disruption of natural surface water drainage channels,
- iv) less cut, fill and other earth moving,
- v) diminished potential for infiltration of or interference with ground water,
- vi) avoidance of extensive construction on more sensitive sites,

which are either designated for multiple-residential development or preserved for scenic enjoyment in common,

vii) economy of housing and utilities,

viii) economically feasible provision of a variety of housing types and modes in response to the projected market needs at time of construction,

ix) minimal conflict with surrounding land use patterns and lifestyles, from roadway design and the placement of larger lots and lower densities on the southern and southwestern buffer.

F. This proposal is of public necessity, benefits the general welfare of the community and constitutes good zoning practice and will not be unduly detrimental to surrounding properties.

G. The matter before the City Council involves approval of preliminary PUD's, preliminary plats, and "Limited" zoning. All these matters involve further review and approval in more specific detail. It is concluded, therefore, that there are no important planning, zoning, design, construction, or environmental issues unresolved which require the City Council at this time to disapprove or delay approval of this proposal.