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Subject: 6.26.23 PC meeting, Agenda no. 19, subdivision regulation, Legistar 78130
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I submitted comments regarding restrictive covenants for the June 6th meeting. I would like to briefly expand and clarify my comments.

1. I believe the ordinance should clarify when "privately owned streets, utilities, parklands, greenways, or any other privately owned common facilities" are allowed. Since the City "subscribes to development occurring on public streets and served by public utilities and public parklands", there should be standards by which Plan Commission can assess whether private facilities are appropriate. At a minimum, the developer should be required to explain why public facilities do not work so that Plan Commission can evaluate whether the proposed private facilities merit a departure from the norm.
2. I believe Plan Commission should look at the scope of restrictive covenants, whether in connection with the subdivision redo or at a special meeting. These covenants are created by the developer, generally have a purpose of preserving aesthetics, generally limit the property use to one single family dwelling, and generally run forever (since a majority or supermajority vote is needed to make any changes). As recognized by staff at the June 6th meeting, these covenants provide a degree of exclusivity.
 - Should these covenants be allowed to override City zoning? For example, should restrictive covenants be allowed to override City ordinances that allow an ADU in every residential district?
 - Should these covenants be allowed to prevent all upzoning to a denser residential use?
 - Where is residential growth going to occur? At some point all of the old, funky and unique neighborhoods, neighborhoods that contribute to a sense of the City's character, will be upzoned with bigger and denser buildings. Yet the areas with restrictive covenants, areas often exclusive, will retain their character. For example, in Alder District 9, about 2/3 of the residential lots are covered by restrictive covenants.
 - Should restrictive covenants have a time limit of 20-30 years? This limited time frame has been used by some developers to ensure the subdivision develops in a cohesive way, but then City zoning and other ordinances treat the subdivision the same as any other similarly zoned property.
 - To what extent is the City able to regulate restrictive covenants? Clearly there is some ability for the City to do so since MGO 28.147 makes void and unenforceable any negative use restrictions prohibiting a grocery or pharmacy.

Proposed 16.23(1)(e) discourages the development of noise sensitive land uses (such as residential, schools and recreational areas) adjacent to airport approach zones. Despite (1)(e) talking about mitigating the adverse effect of noise should development occur, there is nothing in the proposed ordinance to mitigate airport noise.

- A simple initial step would be to prohibit residential subdivision (and, if possible, land combinations) in the area mapped by the airport for 65dB or greater. The FAA has identified 65dB as the threshold of significant aircraft noise as well as incompatible residential land use.

Respectfully Submitted,
Linda Lehnertz