



## Legislation Details (With Text)

**File #:** AR NV 19-00184      **Version:** 2      **Name:**

**Type:** Planning Case      **Status:** Passed

**File created:** 3/28/2019      **In control:** City Council

**On agenda:** 5/28/2019      **Final action:** 5/28/2019

**Title:** A non-use variance request pertaining to City Code Section 7.3.504.D.2 to allow slopes 25% or greater to be disturbed or located within a designated building envelope.

(QUASI-JUDICIAL)

Related files: CPC PUZ 19-00004, CPC PUD 19-00005

Presenter:  
Mike Schultz, Principal Planner, Planning and Development  
Peter Wysocki, Planning and Community Development Director

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. FIGURE 4 - University Bluffs-LSA 11x17, 2. 7.3.504.D.pdf, 3. 7.5.802.B Nonuse Variance

Date	Ver.	Action By	Action	Result
5/28/2019	2	City Council	approved	Pass
4/18/2019	1	City Planning Commission	referred	Pass

A non-use variance request pertaining to City Code Section 7.3.504.D.2 to allow slopes 25% or greater to be disturbed or located within a designated building envelope.

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**Presenter:**

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Peter Wysocki, Planning and Community Development Director

**Summary:**

Owners: School District 11  
Consultant: N.E.S. Inc.

This project includes concurrent applications for a zone change of 9.9 acres from R/HS (Residential Estate with Hillside Overlay) to PUD/HS (Planned Unit Development with Hillside Overlay; detached single-family residential, 2.93 dwelling units per acre, maximum building height of 35 feet) and associated University Bluffs Filing 4A Development Plan and a non-use variance to allow slopes comprising of 25% to be disturbed and/or to be located within certain building envelopes. The site is

within the University Bluffs Master Plan, however per City Code, that plan is considered implemented (85% or more of the site has been built out), the property was originally identified for an elementary school site. Staff is also administratively reviewing a subdivision plat for this site.

**Previous Council Action:**

City Council has not taken any action on this specific site, the last actions within University Bluffs (or University Park neighborhood) was during the late 1990's and early 2000's that related to PUD zones created throughout the neighborhood. City Council rezoned the adjacent Frank Houck Park in 2006.

**Background:**

The property, consisting of 9.9 acres, is part of the University Park neighborhood located south of North Academy Boulevard, west of Union Boulevard and north of Austin Bluffs Boulevard. The neighborhood was originally master planned during the early 1980's as the Houck Estates Master Plan. The Master Plan was periodically updated through the years and in 2000 became known as University Park Master Plan. The current University Park Master Plan (see City Planning Commission memo for plan) was approved in 2000 to reflect 258 acres of open space purchased by the TOPS (Trails, Open Space & Parks) committee known as the Austin Bluffs Open Space; part of the Pulpit Rock Open Space. The entire Austin Bluffs Open Space, including Pulpit Rock, comprises of a total of 584 acres.

The subject property was identified as an 11 acre "Park/School" site in the 2000 University Park Master Plan (see City Planning Commission memo for copy of master plan) and located adjacent to an identified "Park" site consisting of approximately 6.44 acres. The Dr. Frank Houck Park was dedicated to the City in 2001 and comprises of 11.5 acres; approximately 8 acres consists of the park, the additional 3.5 acres consists of the linear trail system that runs north of the subject property and to the east. The park was developed in 2006 that includes the play structures, sidewalks and trail system.

City Code § 7.7.1207.E: Disposal of Surplus School Land (see City Planning Commission memo for copy of City Code section) outlines the process school districts are required to follow when surplus land is determined; land must first be offered to the City and then to the dedicating land owner, in this case Classic Homes. School District #11 first offered City Parks the option to purchase the property, however, the Parks Department declined (see City Planning Commission packet) citing no interest in the property. It is also important to note that if interested in the property the City would be required to reimburse the school district or the land owner as outlined in subsection one (1) of the above Code section). The School District then engaged in discussions with the dedicating developer, Classic Homes. The School District Board rejected Classic's offer (see City Planning Commission packet) and later posted a "Request for Offer" (RFO) on the property.

The proposed applications appear to be consistent with the envisioned land use patterns for the subject parcel as it relates to several themes in PlanCOS. The PlanCOS plan identifies this area within the Vibrant Neighborhoods section as the "Pulpit Rock" neighborhood and categorized as an "Established Suburban Neighborhood".

Throughout the PlanCOS document, infill development is encouraged and should be embraced with thoughtful but forward thinking ideas. The proposed development would certainly be considered infill development on a piece of vacant ground that was originally intended for an elementary school. Although the project is not necessarily creative in design or providing the higher density that is sometimes desired for infill projects; the project blends with the established surrounding character

within the University Park neighborhood and adds to the availability of housing options along the North Academy Boulevard corridor.

Alignment with these themes are further detailed in the Planning Commission staff report.

**Financial Implications:**

None

**Board/Commission Recommendation:**

All three (3) items were before the City Planning Commission on April 18, 2019 as new business items at which time the Planning Commission voted unanimously on all three (3) items (6-0-3 Absent: Commissioner McMurray, Eubanks and Smith) to recommend approval to City Council.

Please reference the minutes from the hearing for a detailed record.

**Stakeholder Process:**

Upon submittal public notice was provided to 309 property owners within a 1000-foot buffer of the site notifying the surrounding owners of the development request. The applicant and consultant had additionally initiated conversations with the University Park Homeowners Association (HOA) prior to a formal application being submitted. After Staff had received a number of e-mails (see City Planning Commission report for emails; note the emails were provided for record, a neighborhood meeting was later held with residents addressing these questions and concerns) in opposition to the project.

A neighborhood meeting was held on February 4, 2019 at Freemont Elementary School; 32 property owners attended the meeting with a presentation from the consultant and applicant. Residents voiced the following concerns:

- That an elementary school would not be constructed on the property as originally intended;
- The loss of open space;
- Additional traffic through the neighborhood;
- Safety concerns of the visibility along Collegiate Drive;
- Price points of the homes/comparable to surrounding values;
- Disturbance of the property/vegetation removal;
- Maintenance of the stormwater pond;
- Privacy along the easterly property adjacent to existing homes;
- Access to the adjacent park and trails.

The City Planning Commission report outlines how the above concerns were either addressed by the applicant and consultant or addressed by City staff.

Staff input is outlined in the stakeholder section of the staff report. Staff sent plans to the standard internal and external review agencies for comments. Only one (1) outstanding comment remained at the time of City Planning Commission involving the location of a fire lane, that issue has since been resolved with City Fire.

**Alternatives:**

1. Uphold the action of the City Planning Commission;
2. Modify the decision of the City Planning Commission;
3. Reverse the action of the City Planning Commission; or
4. Refer the matter back to the City Planning Commission for further consideration

**Proposed Motion:**

Approve the non-use variance request to City Code Section 7.3.504.D.2 relating to slopes 25% or greater being disturbed or located within a designated building envelope, based upon the findings that the non-use variance meets the review criteria for granting a non-use variance as set forth in City Code Section 7.5.802.B.

N/A