

Volcano Heights Sector Plan Sent Back to Council

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lawsuit.

The city is in the process of getting the air quality impact analysis for the area, Cadigan said.

In an e-mail news release, Dave Heil, Volcano Cliffs Property Owners Association president wrote that:

"Citizens and taxpayers should be highly suspect of the pattern of behavior that this City Council demonstrates on this dictatorial new urbanist Volcano Heights Sector Development Plan and similar actions ... or we shall find ourselves saddled with high densities, high traffic congestion and increased taxes to pay for plans and designs that the normal market won't sup-

port while our individual freedoms are denied."

In a separate lawsuit, the sector plan is being challenged by the same property owners over designation of areas for open space. The lawsuit claims breach of contract, a violation of the Fifth Amendment which prohibits taking private property for public use without compensation and violations of 14th Amendment rights to equal protection and due process.

Opponents of the plan also contend they bought the land based on 1960s planning they had expected to develop under.

Heil in his e-mail claims "that such rezoning to be public uses constitutes inverse condemnation. The ruling by Judge Huling may subject the City to

damages for ... the period of time that the plan was in effect."

The land in the area itself is, for the most part, undeveloped with no supporting infrastructure such as roads or utilities.

But Cadigan has been vocal about the area's potential for economic development.

Cadigan has said he envisions the area — northwest of Unser and Montañó near Petroglyph National Monument — as "the next Mesa del Sol," eventually sporting "ABQ Uptown-like" amenities.

Aside from clearing up the legal issues with the sector plan, he has said, several things need to happen before it can become a reality: Unser needs to be built out, essentially all

the way to Rio Rancho, and the area needs to be wired for telecommunications, sewers and electronics, and the "soft infrastructure" needed for building needs to be put into place.

Cadigan has been criticized by some of the property owners involved in the lawsuits for having a possible conflict of interest in the sector plan.

Cadigan, a lawyer, disclosed that his firm represented clients who had financial interests in the Volcano Heights area before he voted to approve the new sector plan, of which he was an architect. He has said his firm's representation did not include anything regarding the Volcano Heights land and he stopped working with city staff on the sector plan

when he learned the clients owned shares in a company that plans to develop near Unser and Paseo del Norte.

Critics contend he is using his influence on the council to benefit the clients.

In his e-mail news release, Heil wrote that: "The Volcano Cliffs Property Owners are willing to work with the city to draft a plan that is fair to all property owners and will actually result in marketable properties when the plan is implemented."



CADIGAN:
Critics claim he has conflict of interest

WEST SIDE JOURNAL

January 6, 2009

Tuesday

TRAFFIC WATCH

Twelfth between Indian School and Menaul: Southbound double lane closure with traffic split 9 a.m. to 3 p.m. today.



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SPORTS

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High 41
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Cold breezes

WEATHER
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Volcano Heights Plan Back With Council

BY JEFF PROCTOR
Journal Staff Writer

A state district judge has ruled that the City Council will, to some extent, have to go back to the drawing board before moving forward with development plans for a swath of the northwestern part of the city.

On Dec. 18, Judge Valerie Huling issued an opinion remanding the Volcano Heights Sector Development Plan to the council, which must get a recommendation from the city's

Environmental Planning Commission before it can consider zoning changes in the area.

The sector plan, brought to the city by Councilor Michael Cadigan in 2006, highlights certain plots of land around Petroglyph National Monument as being suitable for open space.

After the council approved the sector plan, the Volcano Cliffs Property Owners Association, in the area, sued the city alleging:

- The council's application to change the sector plan of the area was invalid because the council itself put forth the application, which is not under their purview.

- Passing the sector plan without approval from the Environmental Planning Commission — the city's panel to review land use issues.

- The city should have provided a quasi-judicial process — rather than a legislative process — to rezone the area.

- The city needed to get a preliminary air quality impact analysis before moving forward with the sector plan.

- That deed restrictions are beyond the city's authority.

Huling ruled that the city does need an EPC recommendation and that the air quality analysis must be completed. She also wrote in her opinion that a legislative process was sufficient for potential rezoning and that deed restrictions, in this case, are within

the city's authority.

She did not render a decision on whether the council violated the city's zoning code by filing the application to amend the sector plan.

Cadigan said in an interview Monday that the city "won a few and lost a few."

He said Huling found in favor of the city on the "most important issue," the legislative process portion of the