

MINUTES
PLANNING COMMISSION REGULAR MEETING
Tuesday, February 10, 2015

I. PLANNING COMMISSION PRE-MEETING (Beginning at 4:30 p.m.)

Location: NDS Conference Room, Charlottesville City Hall, 2nd Floor

Members Present: Chair Rosensweig; Commissioners Lisa Green, Kurt Keesecker, Genevieve Keller, Jody Lahendro, and John Santoski; UVA representative Bill Palmer

Call to Order: the meeting was called to order by Chair Rosensweig at 5:00 p.m.

Chairman Rosensweig asked the Commission if there were any questions about the agenda. The Commission noted several changes to the draft minutes.

Commissioner Green asked about the proposed changes to the Flood Plain Ordinance. Tony Edwards, Development Services Manager, provided some background on the nature of the changes. Ms. Green also asked about a request from the public related to the Flood Insurance Rate Maps (FIRM). Mr. Edwards indicated that the concerns raised by the public regarding the rate maps was not related to the proposed changes the Commission was reviewing this evening.

Commissioner Lahendro asked if the scope of review on the Lochlyn Hill item was limited to block 2B, or could the Commission comment on concerns outside of Block 2B. Brian Haluska, Senior Planner indicated that the question in the memo was from the applicant, but that if the Commission had concerns about the preliminary site plan outside of block 2B, that they could forward those concerns to staff for inclusion in the comments on the site plan as a whole.

Commissioner Keller asked what made staff bring the item to the Planning Commission. Mr. Haluska stated that staff was not sure about whether or not the preliminary site plan met the approved concept plan, and wanted the Commission's input on the matter so they could come to consensus on the appropriate next step.

Commissioner Keesecker asked if there was any construction underway on the City side of the Lochlyn Hill property. Mr. Haluska said there was not except for some earth moving activity associated with the approved Erosion and Sediment Control plan for the portion of the project in Albemarle County.

The meeting ended at 5:22.

Votes: No Vote or other action was taken by the Commission.

Adjournment: At 5:22 p.m. the Chair adjourned the meeting in order to reconvene in City Council Chambers at 5:30 to continue with the Commission's regular monthly agenda.

II. ADMINISTRATIVE AGENDA (Beginning at 5:30 p.m.)

Location: City Council Chambers, Charlottesville City Hall, 2nd Floor

Members Present: Chair Rosensweig; Commissioners Tanea Dowell, Lisa Green, Kurt Keesecker, Genevieve Keller, Jody Lahendro, and John Santoski; UVA representative Bill Palmer

Call to Order: the meeting was called to order by Chair Rosensweig at 5:30 p.m.

A. Commissioner's Reports:

Commissioner Lahendro reported the Parks and Rec Advisory Board met on January 21st. The board discussed the McIntire Park Master Plan Design update. The AE Design was revised after the last City Council meeting to show reduced north pond. The south pond remains the same for public reaction. 100% Construction Documents for the pedestrian bridge over the railroad have been completed and they are now being reviewed by the railroad. The Botanical Garden fundraising will start soon. The McIntire Design Review Open House will be held on February 19th from 6:00 -8:00 pm in the Parks and Rec office. The design for the park will return to City Council in March. The Advisory Board also received an update on the skate park. An open house was held for the public on January 22nd, and finished documents are scheduled to be completed in early May. Lastly, there was a presentation by Sara Bleach, the manager of the City's therapeutic recreation program. The program is for the disabled over 3 years old and the elderly. It is city and county collaboration and from July to January it served 9,000 people.

The Tree Commission met on January 28th. The Commission generally approved the skate park tree plan but will have a site visit before the March City Council meeting and look at again. The first two nominations under the tree conservation ordinance were presented at the second City Council meeting in February. The Jefferson Park Avenue Arboretum project plans to have signage installed before Arbor Day. The Commission has stated the opinion that the Water Street trail has too few trees along the trail. The Commission believes it is due to the City's resistance to convert parking places to tree planting beds. The Commission is going to approach the City to try and get two more parking spaces assigned for more trees to create a canopy along the trail.

Commissioner Keller reported the Thomas Jefferson Planning District Commission was scheduled to meet last week. The meeting is rescheduled for later date. She did not attend Place Task force meeting on January 27. The Place Task Force will meet this Thursday, February 12, and the West Main Street subcommittee will meet on Friday, February 13th.

Commissioner Dowell reported attending the Community Development Block Grant meeting on February 4th. She said the CBDG delegated funds for the 2015 fiscal year. They awarded AHIP \$40,000, Habitat for Humanity \$23,000, PHA \$23,000. The following programs will tentatively be denoted for \$7,500 based on if they can use the funding because they were not fully funded for what they asked for: The OAR, DSS View Place, and GO Can. GO Can's funding would be to benefit the City of Promise Families. The United Way was also awarded 30,000 to benefit the City of Promise Families. She stated a special meeting is being held on February 23, at 2 pm. This is for CDBG

funds that are coming back into the program from an uncompleted project for \$430,000. This money has to be drawn down before April 1, 2016.

She also attended the Planning Commissioners certification program in Richmond, where she learned a lot of information and is looking forward to the closing session in April.

Commissioner Keesecker reported on the meeting with the Board of Architectural Review on January 20th. Two projects bear mentioning to the Commission. The first is 1000 West Main Street, which came back with a less tall building and they received initial certificate of appropriateness for some changes they had made to the design. They will still look at a few detailed issues with the staff. He said the project approval will be moving ahead.

The second project was the Market Plaza project. This is for the new city market location at 1st and Waters Street. The submission reviewed by the BAR did not receive its certificate of appropriateness. There are some questions remaining related to the materials at the top two floors, the 1st street stairs and some of the edges around the 1st street Plaza side. The applicant's architectural team is coming back with some additional design work for the February 17th meeting.

Commissioner Santoski reported he attended MPO Technical Committee meeting. The Committee had four items on their agenda. The primary item was a discussion on House Bill Two. The bill would create a new state process of identifying projects for transportation funding. There was discussion and feedback to be given to the MPO policy board on safety, congestion, mitigation, accessibility, environmental quality and economic development. The Committee was looking at the bill in terms of how it would affect our MPO. The Committee was trying to be very careful to make sure that they could make recommendations that benefit the MPO in the future as opposed to some of the other sections in the state. The other three issues talked about were the unified planning work program for fiscal year 2016, the Long Range Transportation Planning Process and what lessons were learned, and the unallocated funding in the Long Range Transportation Plan.

Commissioner Green reported the Charlottesville Transportation Advisory Commission did not meet in February. The next meeting will be March 5, at 7:00 pm at the Water Street Center.

B. University Report

Bill Palmer reported on the installation of the column capitals on the Rotunda. He also reported on a University wide effort that the Office of the Architect and the Office for Sustainability are working on, their Triennial Stars submission that gives the University recognition and catalogs their sustainability efforts around grounds. It is a comprehensive look at academics and research, operations, public engagement, as well as governance and policy. He reported they will be going out into all parts of the University and getting the information needed, and that the last time they did well and are hoping to build on that result.

C. Chair's Report Chair Rosensweig reported that the Housing Advisory Committee did not meet this month. He announced the upcoming Planning Commission Work Session. The discussion will include the ordinance to allow/regulate Transient Lodging Facility February 24, 2015 at 5:00 pm in

the NDS conference room. Additionally, there will be discussion on the Unified Development Ordinance which might be carried over to March.

2015 Planning Awards – Given to individuals who have made a difference in the future for our City

The Eldon Fields Wood Design Professional – Mr. Mike Osteen

Citizen Planner of the Year – Ms. Bitsy Waters

Herman Key Jr. Access to the Disabled Award – AHIP, Ms. Jennifer Jacobs

Development Neighborhood Effort –Venable-Rugby Neighborhood, Ms. Rachel Lloyd

Neighborhood of the Year –Fifeville Neighborhood, Mr. Michael Signer

Outstanding Sustainable Development - The Southern Environmental Law Center, Mr. Morgan Butler, Mr. Travis Pietila,

Neighborhood Development Services Staff Member of the Year – Ms. Amanda Poncy, Bicycle and Pedestrian Coordinator

D. NDS Department Report: Missy Creasy thanked Heather Poole, Planner for putting together the planning awards, and stated that she did a wonderful job. The department is in the process of transitioning after losing Mr. Tolbert and that the department will miss him. She said NDS is working through the many pending projects. Brian Haluska will be working directly with the Planning Commission and will transition to the dais for the next meeting. He has taken care of much of this meeting.

E. Public Comment (Items Not Scheduled for a Public Hearing on the Regular Agenda):

Rebecca Quinn of 104 4th Street said while an email about this meeting was distributed some time ago, today's meeting was not on the City's web page calendar. She said there is a Public Hearing tonight and she wants clarification that notice was published or a statement. Apparently some hearings do not need to be noticed. (City Council had one recently). She said Mr. Chairman you mentioned unified development code. She said there are a lot of codes "kicked around" and wanted to know if that is the same as form based code. She said it would be nice if we all used the same terms. If it is not, she would like to know how it is different.

Bill Emory of 1604 East Market Street said he spoke during Matters from the Public at the December 9th meeting. The minutes taken at that meeting captured his comments very well. As you remember the Woolen Mills Neighborhood Association was on pins and needles regarding your January 27, 2015 work session on Small Area Plans.

On January 8, 2015 he said he heard a few very heartening few words from Mr. Tolbert who indicated optimism regarding tackling Woolen Mills zoning in advance of the full Small Area Plan process. On January 9th, he heard Jim was leaving.

On January 10th, he wrote Jim and asked for his thoughts and insights on how their neighborhood might best advance toward a solution on our long unresolved zoning and land-use issues. He stated that he has not heard back.

Mr. Emory stated that the Commission's Small Area Plan work session on January 27th was a hearty meal, and he is still working to digest all he heard about planning the city. In the interim, he sat in on City Council's February 15th budget work session. It sounds like the Capital Improvement Plan funds for Small Area Plans are in danger and experiencing shrinkage. He stated that there are so many balls up in the air: the West Main plan, the Strategic Investment Area, Bike-Pedestrian Master Plan, the Green Infrastructure plan, and the small area plans.

He stated that he was here tonight to underscore the community engagement piece. The Woolen Mills has striven to engage productively, to work in partnership with the Commission, on what is described in the Planning Commission By-Laws section 3.5 paragraph 3 as a non-routine Major Planning Item.

He stated that the Woolen Mills Neighborhood has made formal requests in writing in 2008 and 2012 to amend the Comprehensive Plan to get these changes done.

He said that he has been left wondering what Jim Tolbert's action-idea was, what sort of tactical/surgical zoning code process he envisioned, short of a small area plan, to allow the Woolen Mills to bloom, and thereby enable us to secure the quiet enjoyment of our own homes and the health, safety and welfare of our neighborhood.

Alex Cannon owner of Hearthwood Apartments at 211 Michie Dr. stated that they own 200 affordable housing units in the city of Charlottesville and the proposed critical slope waiver for the Kroger at Seminole Square would basically be in the front yards of about 30 of these houses. She said that when you picture the back of the shopping center, it is actually the front yard of all of these homes. She said she has been talking with Heather Poole who has been very helpful. She said that they are very concerned about the buffer and the slope coming down the hill. There is a dry creek or a swale that is on the Kroger property and they are concerned about what is going to happen with the swale. They are concerned about run off on their property. She said that they were thrilled to see a landscape buffer shown on the plan, but they are concerned about the vertical difference where the tractor-trailers will be turning around above the buildings and that the trees are shown at the bottom of the toe of the slope. The last concern they have is what kind of demolition and compaction will be going on. She said they took some damage when Whole Foods went in. They would appreciate more details.

Ms. Creasy answered several of the questions asked by the Public. She stated that the required notification for the public hearing was published in the newspaper on two different dates. Because the Flood Plain Ordinance changes are an ordinance and not dealing with a specific property, there is not a specific mailing as part of noticing the meeting. She stated that the City sent out the agenda to various parties, neighborhood associations, interested citizens and the media. She stated that the department has a list of hundreds of people who receive notification of activities that are going on. She said that the department does post the agenda and packet materials on the web. She said it sounds like the meeting maybe did not make it onto the main calendar, and that she will look into that.

Ms. Creasy stated that the unified development code is not the same as form based code. There is an effort that the Planning Commission is working on right now in work sessions to merge the subdivision regulations and the site plan regulations into a unified code because most of the regulations overlap one another. She said that this would allow for potentially a more streamlining of applications. The commission is still discussing the potential change and it will come forward at a later date. Ms. Creasy stated that the form based code is a little bit different in that there is a discussion about a specific form based code for the West Main Street area. As part of the West Main study, it will look at the form of the specific sites in that area. These are two different things with a lot of unfamiliar words, and it is a good thing to clarify for those who do not speak the Planners language.

- F. (Items removed from the consent agenda will be considered at the end of the regular agenda)
1. Minutes - January 13, 2015 – Pre meeting& Regular meeting
 2. Minutes - December 9, 2014 – Regular meeting
 3. Zoning Text Initiation –Flood Plain

Commissioner Keesecker had some changes to the minutes on January 13th regarding the 201 Garrett Street SUP and a couple of changes to the minutes regarding motions.

Motion: to accept the Consent Agenda and to Approve the Remaining Item on the Consent Agenda with necessary correction.

Motion by: Commissioner Ms. Keller

Seconded: Commissioner Santoski

VOTE: 7-0

“Aye”: Commissioners Dowell, Green, Keesecker, Keller, Lahendro, Rosensweig, Santoski

“Nay”: None

Abstentions: None

Disqualifications: None

III. JOINT PUBLIC HEARINGS (Beginning at 6:00 P.M.)

G. JOINT PUBLIC HEARINGS

1. ZT-15-01-01 – Flood Plain Ordinance Amendment

Tony Edwards, Development Services Manager presented the staff report. Requirement was to update the ordinance. The request to update the ordinance came through the Virginia Department of Conservation of Resources at the behest of the Federal Emergency Management Agency.

Mr. Rosensweig opened the Public Hearing

Rebecca Quinn of 104 4th Street said she has been a consultant for 15 years and reviewed hundreds of ordinances. She wrote models for Maryland, Virginia, Florida, and the model that FEMA headquarters just put out that is coordinated with the building code. When she reviewed the City’s ordinance, there are a couple of unique things that are not in the model. She asked has staff identified the significant differences between the two. She said it is pretty laborious to do a

side by side comparison and she doesn't expect Council to wade through all the changes. There are some things in the current ordinance that were removed and she feels they should be deliberate decisions to remove them not simply they're just not in the model. One in particular was added about a year ago by City Council at her suggestion. It had to do with fill in the flood plain and making sure that the applicant specified it was a minimum necessary to achieve the stated purpose. Shortly before the change, someone had placed fill apparently for simply the purpose of getting rid of the fill, perhaps who knows what they will do with it in the future. She said there are some problems with the state model; it defines some terms that are not used. She stated the existing Section #34 does not have definitions. They are in a different part of the zoning ordinance. You may end up with duplicate definitions if you don't delete them elsewhere. She said there are a lot of requirements for buildings that are also in the uniform state building code. She understands that the Commission modified the code to specifically allow local ordinances to prevail but that puts a burden on the public, community, and officials to figure out what those differences are. Two big problems, it defines two terms that are not required by the NIFP. These are terms like repetitive lost structure and the other is severe repetitive lost structure. These are insured properties that have received multiple claims and she was not able to check quickly to see if Charlottesville actually has any. The terms are used in the definition of substantial improvement. She asked if the Commission fully appreciated what that does and if they didn't, then she urged that they really explore it before they adopt it. It is a higher standard and there are complications. The ordinance is written with what FEMA calls "auto-adopt language". FEMA does not recognize Virginia as an auto-adopt state. Her question is "Is this an overlay district in the zoning code, so is it legal to adopt changes as amended without taking specific action."

Closed Public Hearing

Mayor Huja asked if all persons affected by this ordinance were notified.

Commissioner Green asked why the Commission didn't see a red-lined copy of the current ordinance. She stated she doesn't understand what was there before and what changes are being made. She understands the flood plain ordinance is what we need for protection, and for residents to be able to have FEMA insurance for our community. She said that the City doesn't want to put people in a hardship by adopting something that they don't know, and that may be more than what is required.

Commissioner Keller said that the City is reviewing the document because of actions of the general assembly affect what the City must do by law, but that she would really like to get guidance in the form of a line by line statement so the Commission knows what they are reviewing. She asked if staff had a copy of Ms. Quinn's remarks and were there any external reviewer or advisors that informed the draft that they have or that staff looked to for guidance.

Ms. Creasy said staff will have a copy of Ms. Quinn's remarks.

Mr. Edwards stated that DCR and FEMA did review the ordinance in its current state.

Commissioner Green asked if there were duplicate definitions somewhere else.

Commissioner Rosensweig said that he was noticing that this is pretty dense work and without a side by side comparison there are some apprehensions by some commissioners to move it forward with a recommendation. He asked if that was the consensus. He said he was sensing that there were substantive items that people have noticed that they have issues with.

Commissioner Lahendro stated he would like to see staff's response to the remarks during the public hearing.

Commissioner Rosensweig asked if the consensus was to send the item back to get more research.

Mayor Huja added that these are crucial issues.

Ms. Creasy stated that this ordinance would not add or delete any properties that are currently under review.

Commissioner Green stated that she would like to see a side by side comparison.

Commissioner Rosensweig stated that he felt that the Commission was moving towards deferring the item to answer some of the questions in the public hearing or to get a summary side by side analysis. He stated he did not want to get into a word by word review because it would be kind of irrelevant because the proposed code is a completely different code section. He asked if the Commission would like to see a summary of all the changes that could come back to the Commission or that they could send it forward with this information provided to Council.

Commissioner Green move to defer the Flood Plain Ordinance Amendment for a more comprehensive review, specifically in the following areas:

1. Clarifying language
2. How would changes be triggered in the district?
3. Side by side comparison (not quickly)
4. What changes are proposed?
5. Enhance noticing – a very clear letter to the 270 addresses in the floodplain zone stating you are not required to do anything.

Motion by: Commissioner Green

Seconded: Commissioner Keller

VOTE: 7-0

“Aye”: Commissioners Dowell, Green, Keesecker, Keller, Lahendro, Rosensweig, Santoski

“Nay”: None

Abstentions: None

Disqualifications: None

IV. REGULAR MEETING – (continued)

H. Critical Slope Waiver Request – Kroger at Seminole Square

Presentation: Heather Poole, Planner made a verbal presentation to the Commission, summarizing the information set forth within her written report.

Commissioner Keller said the nature addressing the property concerns the other side of the adjacent property a little more sustainable and would help with adjacent property concerns.

Commissioner Green asked what the vertical difference is between the store and the adjacent residential property, how close is the store to the property line, and how far from the parking lot from the store to the parking lot.

Ms. Poole stated between 20 and 39 feet, between 100-120 and 170 feet.

Commissioner Green questioned how far the building would be from the property line. She asked if there would be disturbance across the property line.

Ms. Poole said no.

Commissioner Green asked if there will be gas pumps at this Kroger.

Ms. Poole said that the applicant is not moving the gas pumps from the Hydraulic location.

Commissioner Keesecker asked what the longevity of the existing stormwater pond structure was.

Marty Silman, City Engineer said that the pond was past the point of usefulness.

Applicant Toby Locher, Chesterfield, Va., said he brought forth this application in an effort to build an updated Kroger facility to meet the demands of the community.

Commissioner Rosensweig said that he noted from his fellow commissioners that the primary impact they have discussed is the visual impact on the neighbors.

Commissioner Green said it would probably be more than a visual impact with the trucks pulling in and out of that area, and that typically deliveries are not made during business hours.

Commissioner Rosensweig stated the standards for a review for a critical slope ordinance is fairly simple, whether the disturbance outweighs the public benefits of the undisturbed slope. He asked the Commissioners how they felt in terms of acting on the application.

Commissioner Lahendro stated that he did not feel there was enough information from Kroger and that the apartment complex deserves respect. This development needs to respond to this.

Commissioner Keller asked if there are any ideas of conditions that would protect the adjacent property in a fashion other than the way it was presented to us.

Ms. Poole stated that a condition that increased the amount of screening adjacent to the residential property may be beneficial.

Ms. Creasy said the applicant might want to add to the application, having heard the conversation so far. She noted that the site plan conference for the application was scheduled for next week, and that the conference would be an opportunity for additional input on the plan. She stated that the concerns that had been raised so far were issues that could be addressed in a critical slope waiver process.

Commissioner Keller said she was in favor of a deferral so the applicant can amend the site plan to work out some of these issues.

Commissioner Green asked if there was there any consideration at all to putting the expansion in the front.

Ms. Creasy answered saying the zoning setback does limit the use of the property. Further, the project is an expansion and there were some limitations regarding expansions in the zoning ordinance.

Commissioner Green asked if there was a waiver to help minimize the impact on the critical slopes by moving the building or decrease parking.

Ms. Creasy said that there are some benefits to the proposal, and that many of the operations in the back of the building do not operate as efficiently if the building would be in a different location on the site.

Commissioner Green asked the applicant if the store could limit the deliveries since they are right next to residential development, and limit how the trucks are brought in. The applicant said that they can put conditions to minimize the impact on the apartments.

Chairman Rosensweig stated that he felt the Commission was moving toward a deferral with guidance on the issues the Commission saw in the plan. He said the impacts he had heard were related to the visual impact of the retaining wall and the sound impact of delivery operations. He also said there seemed to be some concern about connectivity between the site and adjacent sites.

Ms. Poole confirmed that there was an informal trail near the site, and there have been discussions between the City and the property owners about formalizing the trail.

Commissioner Keller asked if the issues regarding connectivity could be addressed in the site plan conversation.

Ms. Creasy said that the City's Trails Planner, Chris Gensic was on the site plan review team. She said that staff felt the critical slope waiver request was ready to be brought forth, because of the public benefit of the waiver.

Commissioner Keller stated that she felt it needed to be said that intensifying the commercial use on the property and keeping a grocery store in the area are public benefits.

Commissioner Green said the improvement of the stormwater management on the site is also a public benefit.

Commissioner Santoski he thought the engineering on the critical slopes was done very well, that it is a solid project. The concern that he has is the impact on the adjacent apartments. He thinks the proposal is a real positive, but that impacts a large number of people below the shopping center, and the Commission wants to make the project as good as possible.

Commissioner Keller said that the Commission tries to avoid creating steeper slopes than were on the site initially, and opposed monolithic retaining walls.

Chairman Rosensweig re-stated the concerns the Commission had identified.

Commissioner Lahendro mentioned that the plan showed a compactor, and he wondered how much noise a compactor makes.

Commissioner Rosensweig said he was hearing consensus of a deferral.

I move to defer the steep slope waiver for Tax Map 41B, Parcel 150 and Tax Map 41C Parcel 31, 220, Zan Road.

Motion by: Commissioner Keller

Seconded: Commissioner Santoski

VOTE: 7-0

“Aye”: Commissioners Dowell, Keesecker, Keller, Lahendro, Rosensweig, Santoski, Green

“Nay”: None

Abstentions: None Disqualifications: None

The Commission recognized Alex Cannon owner of Hearthwood Apartments at 211 Michie Dr.

Commissioner Dowell asked Ms. Cannon how the previous grocery store impacted the residents of Hearthwood Apartments.

Ms. Cannon answered that it did not. She stated that they had a number of residents that work in the store. She also said that there is an informal pedestrian pathway because of the residents that shop and work at the store, but that some adjacent businesses were looking for ways to close off pedestrian access.

Commissioner Keller stated that the pedestrian connectivity on the site would be a good thing to have addressed in the site plan process.

Commissioner Keesecker mentioned that there was an overabundance of parking on the site, and only a few natural areas left in the City. He said that while it may not be possible on this site, it is something to keep in mind for the future.

I. Discussion

1. Lochlyn Hill PUD

Presentation: Brian Haluska, Senior Planner

Mr. Haluska presented the item.

Commissioner Santoski stated that the buildings on Block 2B should be small single family homes centralizing around open space. Unless the applicant can show they have met this standard, he is inclined to deny the request.

Commissioner Keller asked if you can quantify the small footprint of the cottages or the replacement houses. She stated that the term cottage is not very specific.

Mr. Haluska pointed to the lot regulations in the code of development, but said the code of development did not have regulations regarding what size of house would be a cottage.

Commissioner Green said the PUD concept plan does say small footprint. She raised the question that if these structures are not cottages and are changed to single family detached, would it be in keeping with the PUD ordinance's preference for a variety of housing types.

Commissioner Santoski said that he continues to be concerned when the Commission gets plans at a conceptual stage and the developer knows there are issues with the topography. The developer requests a change in zoning to a PUD, and when the site doesn't work out they want to come back and change it. He said he is not inclined to approve anything other than what the applicant said initially what they were going to do.

LJ Lopez of Milestone Partners, representing Lochlyn Hill Development Group said that this was the third preliminary site plan submission, and that the circumstances of this PUD and rezoning are such that

a conscious decision to come before the Commission was made due to the topography challenge of block 2B. The description of block 2B was not exclusive to cottages. It indicated that a 3rd residential use would be provided, but not that the block would be solely populated by cottages. There were engineering challenges with the site, including a slope grade down to Meadow Creek. There were a number of engineering issues related to the road grading and providing a level, flat, usable common area green space that need to be worked through in conjunction with the preliminary site plan. When the cottage block was outlined and defined, he did not recall any discussion about or concern over its layout or composition. He said that now they have a layout and composition, and are looking for direction from the commission that the intent of the PUD has been met with the preliminary plan that is currently going through staff review. He said that what had concerned the applicants throughout the period in staff review was that the preliminary site plan was being denied because of engineering and other technical comments, but also due to lack of clarity and lack of conformance with the PUD plan. The applicant was at odds with the staff and unable to come to some resolution over clarity and resolution to the PUD plan and the site plan's conformance with it. So the plan is before the Commission to have that discussion. He said the PUD plan was not proffered and the PUD flexibility is important in a development that is multi-phased to meet market conditions over time. He said they established the road network, the product types, the densities, the minimums and maximums and where they would be laid out and organized throughout the site. He said the preliminary plan before the Commission meets the intent of the narrative, that there is a flat centralized green space in Block 2B identified as the courtyard with single family and attached small footprint cottage product. The footprints before the Commission are borrowed from the Oakwood Cottages on 5th Street SW, just south of West Main Street.

Commissioner Lahendro asked if the footprints that the Commission was seeing now were definitive, or just some sort of representation of something that could go there.

Mr. Lopez said those lots will be sold and built by a third party builder. He said there will be multiple builders for the different product types.

Commissioner Santoski articulated that the code of development does not call for small square footage single family detached homes. He said he didn't see attached residential anywhere in the code of development. He confirmed that it only supports a third residential use. The concept plan did not refer back to single family homes or townhouses or anything else. The concept plan just says sub-block 2B will support the third residential use, cottages, and that they will be small footprint. Mr. Santoski said he thinks the applicant should be asking for a PUD amendment, not just for site plan approval

Commissioner Rosensweig said that he disagrees with Commissioner Santoski. He said that his reading of the concept plan is different, and maybe The Commission could talk about the semantics. He read "it will support a third residential use." He did not see the language of exclusivity there.

Commissioner Keller said she cannot get over the definition of cottages since the original plan of development did not define a cottage. She said a cottage means different things to different people. She said the Commission knew the developer had a range for single family houses. She asked the applicant to inform the Commission as to what the applicant thought the new single family houses would be.

Mr. Lopez explained that the single family large lot on the exterior ranges from 2,000 to 3,500 square feet and could be larger with a basement and 3rd story; townhouses averages from 1,600 square feet to 2,500 square feet, single footprint cottage ranges from 800 to 1,600 depending on the basement and 2 ½ story. He said there will be a mixture of attached and detached small footprint cottages. He said in the original plan the concept or language that was up for debate was an additional style of building, the single family detached small footprint cottages. What the applicant has proposed in the preliminary plan that is currently going for review is a mixture within that block: single family detached of a larger size footprint,

single family detached smaller size cottage footprint, and additional single family attached cottage size centralized around a common green

Commissioner Lahendro noted that in comparing the concept plan to the current proposal, the applicant has taken a large open space area and put it into the yards if the single detached houses.

Commissioner Keesecker asked if the Commission was clear on the criteria that it was using to evaluate whether or not the intent complies with the text as it is described in the intent. He stated that he did not have any expectations about where the parcels were going to go. He said he was focusing on the text of 2B that was identified. He asked if that was the criteria the Commission was using to understand whether or not the proposal complied or not.

Mr. Haluska said there are two issues. One is the procedural issue of the code that generates the PUD and the process applicants go through. He said that for the purposes of Lochlyn Hill there is an approved concept plan approved by Council in 2012 that governs what the site plan is going to look like. That concept plan is the zoning that staff and the Commission refer to when evaluating the preliminary site plan, in addition to the PUD ordinance. The plan has to comply with any specific regulations in that code. Those are the standards the staff and Commission are holding this site plan to.

Lisa Robertson, Chief Deputy City Attorney stated that the PUD process essentially creates a new zoning district. She said that Section 34-517 requires the applicant to submit a land use plan and to show the specific land uses and locations, areas, and the type in the PUD plan. She said that Section 34-491 has a provision that states that only those uses shown shall be permitted uses. She said that what the applicant proposes must be shown in the land use plan, either within the narrative or the picture. She said that the Commission's task is to decide if the original approved land use plan -- either within the narrative or in the pictures given to the Commission -- can be interpreted as supporting the proposed site plan.

Commissioner Green replied that if the code is written to what you can do, then if the use is not in the code than the Commission cannot approve it.

Commissioner Keesecker said that he reviewed the request by looking at the component parts of the block, including the road network, green common space centrally located to the site, small footprints, and relegated parking. He said if the courtyard were flipped to be more central to the site, then it would be a proposal he could support.

Commissioner Green stated to applicant that they should have looked at the PUD concept plan before presenting it to the Commission and explained the intent of the PUD.

Commissioner Santoski stated if the applicant submitted a PUD amendment, the City does not have to approve it. The City can make the applicant stick to the original PUD design. The original plan was that the cottages will be a small footprint and a small square footage single family detached home centralized around a common green space. Parking will be relegated from the primary street as much as possible.

Ms. Creasy reminded that the applicant is within their rights to come back with an amendment. She said that instead of having this discussion in the context of a PUD amendment, staff was giving the Commission an opportunity to provide the guidance so that the staff can make sure the next step goes much more smoothly than others have.

Commissioner Lahendro spoke on his responsibility to compare what was approved on the PUD with what was being proposed. He said he could not separate the narrative from the site plan that was approved. He said that the concept plan description of Block 2B can be compared to what is discussed

under Block 2A, Lot 1, where two other types of residential buildings were discussed. He said where the concept plan referred to a third type of residential use, it was referring to the block in question. He said that in looking at the plan, there is no alley shown in Block 2B while there are alleys shown in all other blocks. He stated that a common green space does not mean it has to be flat, and in fact this land is nicely wooded. He said the developer could create woodland cottage on the block and that he would have a hard time supporting a determination that the proposed plan was in line with the approved concept plan.

Frank Stoner of Milestone Partners said it is not a wooded site. He said it was a sewage treatment plant, and that there may be some weed trees growing in this location.

Commissioner Lahendro said he begs to differ with him because he was at the site yesterday and there are some nice trees out there.

Commissioner Rosensweig said he is looking at the language in the concept plan and it says sub block 2B will support a residential use and then the concept plan defines the residential use and to him this supports a 3rd residential use.

Commissioner Santoski said his problem is with the PUD. He said the Commission lets folks come before them and then the Commission is willing to make exceptions and say the original approval does not apply any more. Some of the PUDs come back after years and two or three planning commissions ago. He said that the developer should be coming to the Commission to say what they want to do with the PUD and the Commission takes them at face value that they are giving the Commission what the developers are going to do. The applicants can always ask for amendments. The developers may say this is a much better plan than they could have ever done in the first place. He said he feels that the Commission should not say take it and go with it because it's just a PUD and a concept plan. The idea is that it is supposed to be a good concept at the time the Commission saw it two or three years ago with something we would be proud of now. Maybe they have come up with a better idea. Let them bring it back to the City and ask to amend the plan. If the City is going to have a PUD process, the City should make sure they understand and the developer understands it, so that when the applicants do submit a PUD they know that Block 2B is supposed to be fairly set in stone.

Commissioner Rosensweig said it seemed like there was no consensus from the commission to give staff the go ahead to approve the site plan. He said it sounded like there were two potential options 1) a PUD amendment specific for this block, 2) a revised site plan that may be conforming in the eyes of the commission.

Ms. Robertson said that in a site plan the applicant is allowed to show phases of development and can get a preliminary approval of a site plan that shows a proposed final for one phase but only a preliminary approval for other phases. The applicant can then come back and get final approval for different phases. The question is whether the applicant wants a phasing in the site plan and that it is somehow different than the phasing identified in the PUD. They are not required to show the level of detail that is a final site plan. They can come back and get a final site plan for individual phases.

Motion to adjourn by Commissioner Green 8:54 7-0.