

Planning Commission Work Session

September 24, 2024 5:00 PM to 7:00 PM

Hybrid Meeting – NDS Conference Room

Commissioners Present: Chairman Mitchell, Commissioner d’Oronzio, Commissioner Stolzenberg, Commissioner Schwarz, Commissioner Roettger, Commissioner Yoder, Commissioner Joy

Staff Present: Patrick Cory, Missy Creasy, Kellie Brown, Matt Alfele, Remy Trail, Jeff Werner

Chairman Mitchell called the Planning Commission Work Session to order at 5:02 PM.

1. Capital Improvement Program

Staff Presentation and Planning Commission Discussion & Questions

Missy Creasy, Deputy Director of NDS – We need a little clarity about what we are discussing tonight. I will start with the Capital Improvement Program. Typically, we have a work session in November on the CIP. It will have been developed. The city manager will be ready to forward it for review and comment through the Planning Commission. This year, to try to keep the discussion going throughout the entire CIP development process, Council had a budget introduction. They were getting on track for the budget season. These are the things that will be involved. Here are the priorities. Those have been included in your packet. We were asked to have an early conversation about the CIP at this phase. Staff is working through their CIP applications. CIP Applications from departments are due at the beginning of October. This is an opportunity to hear from commissioners about your CIP thoughts and ideas at an early phase of things. In your packet, you had last year’s November work session packet. You will get a similar one at the November work session with updated information. That was an example of what we have had in the past. I gave you guys a copy of the memo that you all provided to Council last year. After we hold the CIP work session in November, we hold the public hearing either in December or January. You provide recommendations to City Council for the CIP portion of the budget. Typically, that is more broad-based. You are providing comments on concepts that will implement the Comprehensive Plan. If you remember from the memo from last year, there was a big interest in making sure that we had adequate sidewalk funding. That is something that has been very important for a long time. You reiterated the library project that was under discussion last Fall. We will go through that normal process. This is an opportunity to get some early feedback while the process is just starting. We expect it to be not too long of a discussion. We did receive a public comment and able to provide some background on it from Ms. Hammill. If you have line-item specific questions, we will get those down and get answers out to you.

There were a couple of thought questions in the memo.

- Given the broad areas of the CIP (which include Education, Facilities, Public Safety, Transportation, Parks and Recreation, Affordable Housing, Technology Infrastructure), what areas should receive consideration in the upcoming budget?
- Which priorities from the Comprehensive Plan should be highlighted during this budget cycle?

Commissioner Yoder – This is my first time going through this process. My first thought in reading through the CIP is that the Comprehensive Plan talks a lot about transportation, managing our roadway network, and parking facilities. It is really focusing on transit and cycling improvements. There is maybe \$700,000 total between new sidewalks, sidewalk repair, and bicycle infrastructure. It does not strike me as very much. That is my first thought. Aside from the Stribling Avenue sidewalk, the \$4.2 million is a lot of money. I know Public Works has gone out and done these asphalt sidewalk little gaps. Is that a capital expense? Are they paying for that out of their operational budget? I am wondering if that is accounted for here.

Ms. Creasy – We have had ebbs and flows of that. There was an internal effort several years ago to do that. They found that most of the gaps that are left require more engineering work than possible. Generally, the funds are coming from the CIP.

Commissioner Yoder – I did not know if there was more money being spent on these kinds of things that are not reflected in the CIP. What does SIA mean?

Commissioner Stolzenberg – Strategic Investment Area. It is the area of Friendship Court and IX Park. There was a small area plan for it several years ago. That is now going to become the small area plan implementation account.

Commissioner Yoder – The Urban Transportation improvements, do you know what that is?

Commissioner Stolzenberg – Those are your temporary or quick-build things.

Ms. Creasy – We have been talking with Ben Chambers, our transportation planner, about this. He has been giving us some early descriptions as we have been working through this. The quick build is what is coming from that category.

Commissioner Stolzenberg – What we found from the Comp Plan process and the zoning process is that the thing a lot of people are concerned about is the city's ability to build the infrastructure that is needed to make this denser city work. Our execution has not quite hit the mark over the last several years. We are really turning things around. My big priority in the CIP is that we fully fund those efforts. Council had their long discussion about the sidewalk priority list and the budget associated with that and gave their advice to the budget associated with that. I certainly expect to see that in there. I would also like to make sure that all our other pending transportation projects make it through. I know, having seen this year's smart-scale budgets, there have been budget increases in everything having to do with construction. We have all these smart-scale projects from earlier rounds that we haven't gotten over the finish line. We have already cancelled all 4 phases of West Main and the Grady Project to get some of that money back to fund some of those budget overruns. At this rate, it is looking like we may never get a smart-scale award again. It is critical that we make sure that all our Smart-Scale projects are completed. I don't want to see another round of cancellations of Smart-Scale to pare the list. We need to spend the money to top it off.

Commissioner d'Oronzio – You are speaking of hitting the mark. It would be helpful before we start laying down markers for future money and how we are going to do this that we get a human capital strategy update from the city on how we are going to staff these positions. Do we have the supervisors? Do we have the project managers? Are we going to get them? I know that in certain areas we have a pure body problem. It would be malpractice in several aspects to assign money, either knowing we are not going to have the personnel and the organizational capacity to do them in the timeframe we are talking about, or we don't know whether we have the capacity on the human capital side. What is our strategy? If we are looking 3 years out, what is our throughput going to look like on these?

Chairman Mitchell – The City Manager is focused on being certain that we have the support infrastructure to spend all the money. For example, Parks & Recreation has a lot of money that has been approved. We have people to help us.

Commissioner d'Oronzio – On that side, even in terms of getting contracts to get things done, we have had this conversation about how we are spending more money than we would have. We 'cobbled' these nine smaller projects together. We are paying a premium because we now have a performing contractor who is willing and

able to do it. My concern about putting money into these slots is that let's make sure we can 'land the plane before we launch it.'

Chairman Mitchell – The direction that the City Manager has given staff is not to bring anything you can't complete in the year.

Commissioner d'Oronzio – What about 3 years from now when we are supposed to start on X?

Commissioner Stolzenberg – One thing we found in the 'dark years' is that we weren't accomplishing anything. For example, they cut the sidewalk budget to effectively nothing based on 'we don't have the staff or the ability to produce these sidewalks.' With those projects, those are bondable dollars. We are not issuing the bonds until we need them. We could have been building up this reserve in that account of authorized but not issued bonds. Since we now have a lot of sidewalks and ability in projects and ability to execute on them, we would not have to say, 'there is all this money that we need to allocate that you hadn't thought of before because you got all the money originally.' We could have had a couple million dollars in that account.

Commissioner d'Oronzio – I am not making any pretense that we have a pat solution for any of this. I feel that in some respects that we are 'flying blind.' Are we throwing money in this direction? It is all desirable to be done. Can we do this? A few years ago, we were talking about where there was an effort to try to place project by project affordable housing. I made the argument that, '3 years from now we do not know how we are going to do this, what we will be doing, and in what order.' If we are going to be assigning these large chunks of money, we need to put them in broader categories and clean it up later. I don't know if we have a pat solution for that. I know the CIP is an aspirational document, a planning document. It is not an operations document. I wonder what we can do to try to match our capacity to the rollout of these things in the timeline of a 5-year CIP. I don't have a suggestion for how to do that.

Chairman Mitchell – It is a good reminder for staff. As they are bringing the budget forward, to ask Ashley, James, and Sam to make sure.

Commissioner d'Oronzio – We have a better understanding of that. We might be able to say that we would like to do that. We need to punt on all of that right now. We know that in 18 months we are not going to get anything to do whatever it is.

Commissioner Joy – I want to reiterate Commissioner Stolzenberg's point about the smart-scale. We need to complete those. It is important. It is a fair amount of investment and promise. I agree with that sentiment. It would be great knowing that getting future smart-scale might be limited. Seeing those through will have benefits for driving economic positivity and positive outcomes. In the ones worth considering, this idea of homelessness and housing insecurity strategy, I am not sure what that is. There is not a lot of clarity on that. Is there any additional information on that? With the Pre-K center at Walker, I am confused how that was tabled when in 3 years, they are all going to be pulled out of their school. I don't understand how that is not happening. Is the city going to stop offering Pre-K? I was surprised that they were not all one capital item.

Commissioner Roettger – They were separate. I don't know why Walker was tabled.

Commissioner Joy – The plan they had was to demolish the gymnasium to build a Pre-K center. They must do the documentation, the permitting, and site prep. I am worried there is not enough time.

Commissioner Schwarz sent the Paul Josey Tree Plan. That was a well put together report. It feels actionable. It does not seem like it is something that we don't have the people in place to do it. It feels like it is something

that, with some smart investment, we could get in front of that because that was the second-to-last page when you see all the trees that are going to come. That could have unforeseen economic impacts. It feels that the money you put in will get back by being good stewards of the Downtown Mall.

Commissioner Schwarz – I need to start with the disclosure that I work or consult for a firm that is doing a lot of PHA projects. I am not going to talk about affordable housing. I don't have anything to add. I want to reiterate the Mall plan that is planned for the next couple of years.

Commissioner Roettger – I looked at it. It seemed well thought out for what we have. What can we take from?

Commissioner Joy – I feel the Downtown Mall was easily chunkable. We could do it over the course of 5 years. We could say that we were going to do Central Place. I thought that they should take the proceeds from the corral rentals and help direct them, in the near term, for 5 years. The first thing is to maybe reevaluate the layout of the corrals and increase the rental rate.

Commissioner Stolzenberg – Those are already considered. They are a revenue item in the CIP. They go to Mall maintenance.

Commissioner Joy – Just like we had with the sidewalks with a set amount. They had the oversight to say we can replace 15 trees this year. They could have it planned out for 5 years. It seems logical to me. It does not seem the tree replacement lends itself to doing them all at once.

Commissioner Schwarz – Are we done paying for the Middle School other than debt service?

Ms. Creasy – They have enough funding to cover that.

Commissioner Roettger – I don't know what is going on with the homelessness discussion. I feel that I can't really say that this should have more money. I would say that goes in the Council priorities.

Chairman Mitchell – It is a top priority of the city manager.

Commissioner d'Oronzio – We are leaning forward on Premier Circle. It is still going to require more funding from the city. The county has stepped up. You are right on the homeless strategy. You stumble backward into affordable housing on that.

Commissioner Roettger – In reading some of the articles, it seems like there has been a lot of spinning around what the next steps are.

Commissioner Stolzenberg – I heard that PACEM and the Salvation Army are working together to establish a low barrier shelter by winter 2025. Is that 2 months? Is that a year and 2 months? I don't know any details beyond that.

Ms. Creasy – We have not had any activity on that SUP from a planning standpoint.

Commissioner Stolzenberg – I heard them say that they were still in fundraising, and they needed to get to some phase of that.

Chairman Mitchell – One thing I wanted to add is to make certain that we get the infrastructure to support the Comp Plan in place. As we go higher, do we need to make sure the fire department is thinking about the

apparatuses that allow us to support tall buildings? They have at least one apparatus. We may want to ask them to check to be certain that is going to be enough to support.

Commissioner Joy – That is a good comment. They have also plane change. There is a whole geometry associated having had conversations. As a building gets taller, you need to set the equipment further back to be at the right angle. It is a good comment about the equipment if we suddenly are having a shift in the number of midrise buildings. I don't know if they have an abundance of tall ladders.

Chairman Mitchell – As we have deliberated the last 5 years and made a recommendation, the recommendations have not been detailed to the point of recommending dollar amounts. We typically don't try to micromanage the number. We just try to help the Council understand what our priorities are. If we want to add something, we usually recommend that we take something out so we can make sure that we end up with a balanced budget. As you begin thinking about this and you begin thinking about what we need to add, what are you willing to give up?

Ms. Creasy – This is not an exercise where we would take a spreadsheet and add & subtract things. It is definitely a higher level: more here, less here, some here. The Budget Office puts together different scenarios that can address those priorities for consideration.

Commissioner d'Oronzio – As a process matter, do we have a way of outcome measurement on the CIP?

Ms. Creasy – Attached to the CIP, there are measurements that are part of that. If you get into the 'weeds' of the budget work page, it will note different outcomes that come through that. It will note how many of this or how many square footages of this or how many linear feet of this.

Commissioner d'Oronzio – I am interested in the money assigned and money spent timeframe. Did we meet it?

Commissioner Stolzenberg – Are you familiar with the budget explorer?

Commissioner d'Oronzio – I am looking for something that is more of a presentational outcome.

Chairman Mitchell – We will have a chance to meet with the Finance Director.

Commissioner Stolzenberg – One of the things in our affordable housing plan was this idea that we would have a committee oversight and a competitive process for affordable housing fund awards. We established the CAHF Committee to govern the CAHF. We put a small amount (less than 10 percent of our affordable housing commitment each year into the CAHF). We then give much larger commitments to individual projects on an ad-hoc basis. If they got their SUP approved, we fund them. I don't know if there are other pending projects we have effectively committed to. By putting them into the CIP, there are several incentives. It would be nice to say that this \$10 million commitment that we are making goes into the CAHF. We want to make large commitments. It could be a different process than the CAHF Committee to oversee that than for the annual HOPS commitments.

Ms. Creasy – The commitment provided by the city was to provide \$10 million per year for affordable housing efforts. Are you saying \$10 million 'here,' and anything else is 'cake?'

Commissioner Stolzenberg – For future planning, it would be nice to say \$10 million 'in a bucket,' and to have some process to go from that to \$3 million is going to the Park Street Church project and \$2 million is going to the MACAA project rather than they asked for \$2 million. We approved their SUP. I guess we are

giving them the \$2 million without so much as proforma of the economics on the project. How does it compare to other potential projects?

Commissioner d’Oronzio – What you are suggesting is someone who sits on the CDBG, CAHF, and the HAC. I have commented on this as well. It probably does belong somewhere in the Office of Community Solutions. If we are spending this kind of money on affordable housing, some of it is CIP and some of it is straight out of the budget. Do we have one organizational review process to determine if we are prioritizing in the right order? Is this the ‘best bang’ we can get for money on all of these things as they unfold? Speaking as somebody who wants something like that, we need to be smart about how we structure that and how it works and who sits on that. Some of that is going to get ‘into the weeds’ of numbers in a way that is somewhat sophisticated. I am not saying the CAHF isn’t the right place for it. I am saying we must set up a system that works for that. We have an experienced retired senior budget official on the CAHF. He understands these things and the processes. It is very ambitious. We say that these are CAHF funds for affordable housing. It is in the affordable housing fund. Let’s talk about distribution. Instead of the Planning Commission and City Council cobble together what they think is going to happen. I agree. I am not sure that is part of the CIP planning process.

Commissioner Roettger – We are serving different income levels with all these projects and different populations. There is the long-term stuff. West Haven is probably going to be done in 3 phases. You must know that stuff when you go in. We have \$5 million 5 years from now versus the smaller projects. Maybe there is a distinction between Friendship Court or West Haven.

Commissioner Stolzenberg – The distinction was made. We have these more near-term projects, and they are going to go through this competitive process. We need to know further out. There is an RFP that goes out. Tell us about these things you have coming out. At some point in the middle, a decision is made. It comes that the CIP has X amount for it. It probably needs to be done looking more into the future.

2. Development Code Discussion

Staff Presentation and Planning Commission Discussion and Questions

Ms. Creasy – Chairman Mitchell just signed the first subplot. We have had at least 40 formal pre-application meetings. We have those meetings every Wednesday morning. We have a series of 3 meetings slots. We have regularly filled them. We have had lots of less formal meetings. We have had a lot of people trying to find creative ways to make things work. Zoning limitations was one barrier to progress. For the most part, once people heard that they cannot have more than x number of units, most of the time they had moved on. We have taken that barrier away. They now must work through harder things. Some of those include infrastructure related, having proper water sewer access. It depends on the situation. With fire access, making sure there is enough support for that. There are several considerations on that end. Someone will bring in a small obscure lot and want to put things on it. The realities of what it would take from an infrastructure standpoint have caused a little hesitation. Several of them have worked through those. We are slowly getting applications formally being turned in. It is very incremental. This is what we predicted. There was a lot of angst in the community that we were going to be overrun with chaos. It has generally worked out as we predicted. People are figuring things out. With the subplot concept, that was one where we were assured that was something happening in a lot of places. It is not. We had to build a relationship with the surveyors in the community to talk through the concept to get from them what they felt they could do professionally and work through the logistics of what could go on a plat to memorialize that. We will still be working through bits and pieces over time on that. We have made some progress. People are looking at development in different ways. I will note a permit that I saw today that was for an existing structure. It is in an area where before they would have just the 1 unit. They are considering an internal change to have 2 units within an existing structure. It is something that we are hopeful to see with preservation of structures and additional structures. We have a few cute 6-development unit situations. It is still

a work in progress. The first ones have been signed off on. We know that we will have some built from the subplot situation. We have several development plans that are under review.

Commissioner d’Oronzio – Have you and staff started to see that this is a pain point for understanding or this is a pain point for clarity? Are there things that you are starting with bullet points on?

Ms. Creasy – That will not be a part of your conversation today. I will note that some of the issues that came up towards the end of our code review process as we were finishing up with the draft, some of the changes and things that were made have become hurdles. We predicted that they would. We will see what the appetite is for revisiting now that we have some examples of that. I will not detail that. I want you guys to share what you have. We have been keeping an annotated version of our new code.

Commissioner Stolzenberg – I have been following the permit portal.

Ms. Creasy – There is an effort to work towards an interactive map. The goal is to feed those plans into that. You will be able to click in. It is in progress now. We realize that is a concern. The point of this was to be able to allow people to find what they needed.

Commissioner Stolzenberg – It seems the build-to seems to have been something of a problem where there is an existing building if it is not in that build-to setback zone. You can do a rear attachment to the building. You cannot have a rear detached building. Otherwise, you must build in front. Most people don’t want to build in front of their existing house, especially all they are trying to do is add an extra thing. We maybe need to look again at how the non-conforming for build-to allowances work. The other thing that concerns me is that I have only seen one application come in an x zone. None of the other non-RA, RB, RC zones have gotten anything. That one application was 9 units.

Ms. Creasy – I would not be concerned about the timing of that. We have a lot of legacy projects. We are deep in site plan finalization and probably working into construction next year for some of these big ones that you dealt with at the end of last year. When we passed a new ordinance in 2003, it took 10 years before we started to see parts and pieces be implemented in large numbers. Until you have the words on the paper, people are not putting a whole lot into that.

Commissioner Stolzenberg – I am not in ‘freakout’ mode about it yet. I am starting to get a little concerned. There are larger projects that take longer to plan and submit. When you see things like the Martha Jefferson Hospital building, where they lobbied hard for Council to change that cutoff date. The new ordinance allows them to build twice as tall. They don’t want to, presumably because of that inclusionary zoning requirement. The purpose of the inclusionary zoning was to get affordable units. I think there was some talk and hope that we would defray that cost, so it is not just a tax on the new renters. The HAC was supposed to review a tax strategy. It seems like that has not come to fruition. I don’t know what the status is. I know it is out of the Planning Commission’s purview. Maybe it should be in the Planning Commission’s purview.

Commissioner d’Oronzio – We have put a good amount of work product on that. It went into the ether. We are circling back to that in a more determined way. There is more of an interest at OCS (Office of Community Solutions).

Ms. Creasy – There is work being done with tax abatement ideas with Economic Development and OCS.

Commissioner d’Oronzio – They are working on it. That is a future HAC conversation.

Ms. Creasy – We have this document. It is pretty much following a similar path that we expected. With so much legacy still occurring, there is a lot that the development community must see in how that pans out to determine their next step. There are all those things that come into play. We are still going at ‘150 miles an hour.’ It may not be large things that are not legacy.

Commissioner Stolzenberg – It is not alarm bells ringing. Let’s keep an eye on that.

Ms. Creasy – We have provided for a lot of flexibility through this code. The flexibility is there. There is a lot of opportunity for people to do a lot of different things. The one thing that is nice about the flexibility of the code is the fact that some of these things that we talked about have a ‘relief valve,’ such as West Main. There will be 1 or 2 others. We are working with something that is new. We are going to find that as we go.

Commissioner Stolzenberg – That is true. A lot of it, in terms of what we are thinking about, should be special exceptions that have been submitted.

Commissioner d’Oronzio – I am interested in the ‘pain points.’ I have been promised a couple of diatribes related to the ADU Manual. I haven’t yet received them. There is maneuvering to be done in there. I am also not sure about the data to start talking about that. To Commissioner Stolzenberg’s comment on X, what we see where and things are getting built, I think that there is a good amount of constriction in financing right now on a lot of things. Banks are not stepping forward. Their asset buckets are full. They spent a lot of money on residential apartment building construction. I would be interested to see if there are any complaints on the developer side.

Ms. Creasy – We have not been presented with those arguments.

Commissioner d’Oronzio – If somebody was to say that they would like to build a mixed-use building, that is the sort of thing that you are not going to hear about.

Ms. Creasy – With the old code, we got that. What you have in this document is not something that we think can get financed.

Commissioner d’Oronzio – This is the opposite. It is more flexible. They can say that they cannot finance it X-way but can do Y and Z with this lot. I am going to do it. I would be interested to see if there is a pain point there. I want to look closer at the ADU Manual. We are obligated to take the annual review of that. I have had one developer that has promised me some comments in detail.

Ms. Creasy – Our zoning guys are trying to transition us to additional units, so we can try and minimize the confusion there. I don’t know if we will make it.

Commissioner Joy – We have the Comp Plan and the new zoning classifications for all Charlottesville. What we are starting to get glimpses of is a densification happening in more periphery type of locations. Knowing that these developments are getting tucked into what might be for single-family zoned areas, densification is good. It may help us with the overall macro level bed count. It will drive a car dependency. It will make it harder to tie into bus lines and bicycle lines. I was curious if there was a desire to try to prioritize within this Comp Plan highlight areas of where concentrated development would benefit the quality of life. It would not add economic burden to the maintenance of our roads.

Commissioner d’Oronzio – It would be helpful if we had commercial uses in these residential areas, so you can reduce the number of people.

Commissioner Joy – I was curious if there was a mechanism to help incentivize concentration of development in our urban core. It does not disregard the Comp Plan. It says that in the next 20 years, this is the place that would be ideal to have density and instead of letting the market decide where density comes. I find that they are taking the ‘low hanging fruit’ that may be cheaper developed. They may put more of a cost burden long-term on the city having to buy cameras and mitigate traffic. If there is a way to develop our primary corridors first, I don’t know if there is a way to dangle ‘carrots’ to the development community.

Ms. Creasy – Some of it is the reality of ownership of properties. There are certain areas where they are under single ownership and there is no interest in doing anything right now. The lots are ‘wonky,’ and you need to assemble the PUD to get somewhere. You have ownership and a lot of things that are outside of our control.

Commissioner Joy – I am curious if there was feedback from the development community.

Ms. Creasy – The feedback is ‘let me do anything I want.’ That is the feedback. It is a good point.

Commissioner Roettger – Are there going to be more small area plans being done? That is maybe part of that discussion. Within neighborhoods, that could be a topic.

Kellie Brown, NDS Director – To be focusing more on small area plans is still the intention. We are looking forward to getting to a place with our staff capacity. It will be interesting how the small area plans could point to additional changes we might want to make to more tailored zoning provisions in these areas. We will have to see how that plays out over time and what the community interest is in those smaller areas. That might make that map look a little different in the future. While allowing for greater housing choices throughout the city does not necessarily mean that there is one area where we are really interested more so in having that greater opportunity, I do think there is something to be said for allowing for more ridership of our existing transit. There is more investment that could be made in our existing transit network, so that you are not necessarily assuming that all those people are going to be in cars. There are other ways we can think about that rather than just assuming we should be focusing all the density on the corridor itself.

Commissioner d’Oronzio – Part of the reasoning for the poor neighborhood and the sensitive areas zone that we put in that we were not happy with that characteristic with those criteria, we thought that was a marker for small area plans where we can develop more thoroughly and more precisely and how we are going to zone for those areas in the future. The problem is that if you go fast, a small area plan takes 2 years. Can you theoretically do it in 18 months? It takes at least 2 years to do one, and we need to do 5 of them. We are 10 years out before we have an organized plan. That may not be the way to approach this.

Ms. Creasy – Part of this is that it is incredibly open compared to what we used to have. There is so much more flexibility and options that people have where they don’t have to get a detailed process if they choose. While these other processes are being worked out, which is going to take time, we have allowed for some flexibility in the interim.

Commissioner Stolzenberg – If there is a piece of data I would love to see beyond, what has been submitted and where. That was not allowed before. How many renovations and flips are there within those sensitive areas that probably would have been allowed before? That was the thing we were aiming to tamp down on. My impression is that it is continuing.

Ms. Creasy – I don’t think we have seen a huge change in the types of permits. There are a lot of additions and decks. There are a lot of people shoring up their foundations. There are a lot of people working through that process.

Commissioner Schwarz – With the sublots, are people forming that like a condominium when they make the use of lots? Has it been done in a different process?

Ms. Creasy – I don't know that we have a good answer yet. We just got the first one signed on. They would not necessarily have to do a traditional condo. They would have to have agreements in place for the common areas. There will be documentation that they will have to have in place on the private side to manage that. They are going to have access easements. We created a que for things to think about as you're doing that. We are trying to encourage developers as they do that to think through 10 steps down the line, so that the last person who buys a site can do something with it. We are learning and growing with this process. We had hoped there was more out there.

Commissioner Schwarz – The reason I was asking is that my firm is too small to have insurance. You must get special insurance if you do condominiums. I don't know if that would apply for this or not. If it does not apply, that would be a good thing.

Matt Alfele, City Planner – The concept was to go fee simple to get away from condominiums. What the Chair just signed was simple. It was a lot that has frontage on 6 ½ Street. Creating a sublots was done for a shared wall issue. They still have access. They don't have to do a common area. As you get into the larger condos where you are going to have common areas, you are going to do a courtyard style. You are going to have landlock parcels, but they share a courtyard. You are going to need some documentation for the easements. There is also going to be a stormwater component. You may not be going the condo route. You are probably going to be going an HOA route.

Commissioner d'Oronzio – With condos, if you are doing a small condo development, there is a big advantage doing it as attached as opposed to detached individually for financing purposes. You said that there is an insurance rider you must get to protect for Carl's liability for designing a condo building. Is there a size to that?

Commissioner Schwarz – One of the architects I consult for saw a lot in 10th & Page. One of the ideas was to find a way to get Habitat interested in it. They put 6 townhouses on it. If that is a condo, I can't do that because the insurance does not allow it. That is a concern.

Ms. Creasy – We have not heard that concern from anybody at this point. I would not even be able to speculate.

Commissioner Schwarz – Some of the big issue items include modifications to buildings that don't require a permit review but would impact zoning. I am wondering how that is handled; people changing the transparency of their facades or getting rid of openings/doorways or things like that. That may not constitute something that has to get a building permit. How would a change to their elevation get caught? How does that get processed? How does the city review it? Fences and trees are another thing. I have had some neighbors ask me. When a tree comes down, is it allowed? I told them that they had to get a permit for that. They did send an email to Craig/Read. How is that enforced? Do we have a mechanism for making sure? It seems to be based on a tattle tail system. Is it working? Did we ever do a public education component to this? Do residents know what is and is not allowed? The development community is aware of this. Do people in the neighborhoods know? Looking at some properties around town for potential development, some of the things that have been confusing me are height. There needs to be some clarifying statement that height in stories is measured from the street. Height in feet is measured from a grade plane. It does not seem that is clear. Maybe I am making that up because maybe I am wrong. I thought that was my understanding of how it works. Parking seems to be a big issue; trying to fit it on the site or fit it inside a building with active depth requirements. We don't need to get rid of active depth requirements. They are important. We may need to look at how deep they are. I am sure that we are probably getting examples from developers where the stumbling blocks are. Providing parking within a building with enough space for it to have an active exterior. Does it need to be on all frontages? That seems to keep being a

stumbling block for the projects I have looked at. A random idea, in talking about incentivizing development, we have some parcels that seem to be underutilized in our urban core. They will perpetually be that way. I am wondering if there has been any thought to hiring someone to make a workable concept for these parcels to show that this property is worth a lot. Can you sell it and do it like it is some preapproved plan or something that incentivizes development?

Commissioner Roettger – I have not heard anything major. With the Tree Commission, the tree permit issue is big and various other things that they would like to add. I don't know of anything that has come up in terms of the code.

Commissioner Joy – I wonder if some of these early projects embody the new zoning. In the next couple of years, some of the biggest most high-profile developments don't reflect the new zoning. There is going to be a lot of confusion for people.

Commissioner Roettger – All I have to say is alleys. A lot can be done with more clarity. There is amazing stuff. I don't think anybody knows who owns what. There are all kinds of complications. If there was some group working on identifying alleys, that is something to put on the list.

Chairman Mitchell – I did have one thing that I had the opportunity to adjudicate a couple weeks ago. This is Development Code 3.5.2.e.9. This has to do with homestays. The rule is that you must live in the homestay for 185 days during the permit period. During the permit period, you must physically be there 185 days. The applicant was appealing a denial by the zoning administrator. The zoning administrator denied it because the applicant already had a permit in place or had a permit in place prior seeking a renewal. They could not document that they lived in that place 185 days. We voted 4 to 1 to side with the applicant. It was not because they were following the spirit of the rule, but they were compliant with the letter of the law. What I would recommend we do in situations like this, in situations where an applicant has not met the obligation in the previous year and they are asking to do it again, I would recommend that we say if you don't meet your obligation to live in the home 185 days, you get the fine. On top of the fine, you are not allowed to apply for a permit for 5 years.

Commissioner d'Oronzio – Do we have in the code a list of ways you can demonstrate you were there for 185 days?

Chairman Mitchell – No, we don't have people driving by and checking to see if your car is parked out front.

Commissioner d'Oronzio – How would you document that you were there 185 days?

Chairman Mitchell – It is difficult to do. What typically happens is someone reports that the owners were not there. We had a witness at the hearing that suggested that they had not been there. This was again in the previous year than the year they were in. I am not sure how we would document that they have been there. There are certain things that they must do to prove that they own the house. They must be registered to vote.

Ms. Creasy – There is required paperwork.

Commissioner Stolzenberg – Do we even require an affidavit?

Ms. Creasy – We did have a case where an affidavit was provided concerning living. That was something that was accepted. There is a lot of 'on your honor' with this. There are multitudes of cases of these. We can only address the complaints because we have so many of those. Even those are hard to investigate and move forward with. It is a tough issue.

Chairman Mitchell – The argument that the applicant made was not that they had been there 185 days. The rule says to apply. We could have overruled the applicant. The circuit court would read the rule.

Ms. Creasy – This is a challenging issue that is being looked at all over. The code will definitely need some kind of clarity. There were unvisited issues the last time it was updated. We will have to see what the ‘temperature’ is of the community in addressing that. As we recall from the last time, we visited this, there is a lot of passionate people on both sides.

Commissioner Stolzenberg – For the issue in that specific BZA case, can we get that in on a separate tract from a homestay rewrite? That is going to be a whole thing. It is not just forward-looking where you are promising something.

Ms. Creasy – It would be possible to bring something forward something smaller than a wholesale change. We don’t know what the discussion could go to.

Commissioner Stolzenberg – If we did a small thing and said that we are going to do a big thing, maybe we can get that fixed.

Ms. Creasy – With each one of these situations, they require research since there are so many platforms online and trying to figure out what ones they are on. What reporting has come through them has gotten complex. The providers are not very forthcoming to assist in enforcement.

Ms. Brown – This is something that Mr. Freas has shared with me. I have heard this from everybody else in the department. It is a source of major concern and something that we need to address. I am looking forward to studying the issue and looking at what some other localities are doing from a regulatory and enforcement perspective and bring forth some recommendations. There is always an opportunity to try to take care of ‘low hanging fruit,’ and then come forward with something more comprehensive. I am looking forward to getting a handle on what are the real problems and some potential options in terms of solutions.

Chairman Mitchell – This should not be that controversial.

Ms. Brown – You are saying a recommendation that if you have not met the residency requirement in the previous year. Wouldn’t we still be in a situation of having to prove that they have not met the requirement in the previous year.

Chairman Mitchell – In this case, they did not deny that they had not met the requirement. Their argument was that they got apply if they promise to be in the unit.

Staff did go over the future Planning Commission meetings and work sessions in the coming months.

Adjournment

The meeting was adjourned at 6:46 PM.

Public Comments

No Public Comments were received during this Planning Commission Work Session.