

Plan Commission Summary Minutes – December 12, 2022 - 5:30 pm
City of Bloomington Council Chambers – Room #115

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The City of Bloomington Plan Commission (PC) met on December 12, 2022 at 5:30 p.m., a hybrid meeting was held both in the Council Chambers, located in Room 115, at 401 N. Morton Street, City Hall Bloomington, IN 47404 and remotely via Zoom. Members present in Chambers: Tim Ballard, Flavia Burrell, Chris Cockerham, Trohn Enright-Randolph, Israel Herrera, Neil Kopper (Alt), Ron Smith and Karin St. John. Andrew Cibor, Jillian Kinzie and Brad Wisler were not present.

ROLL CALL

APPROVAL OF MINUTES: November 2020, December 2020 and January 2021

****Smith moved to approve the November 2020, December 2020 and January 2021 minutes. Ballard seconded the motion. Motion carried by roll call vote 7:0 - Approved.**

November 14, 2022 and November 21, 2022 (Special Session)

****Smith moved to approve the November 14, 2022 and November 21, 2022 minutes. Ballard seconded the motion. Motion carried by roll call vote 7:0 - Approved.**

REPORTS, RESOLUTIONS AND COMMUNICATIONS:

Jackie Scanlan, Development Services Manager, reported the 2023 meeting calendar has been completed and posted on the Planning and Transportation website. She noted that the Board of Zoning Appeals meeting for December 2023 will be on December 20, 2023, electing not to move the meeting up because of Hanukkah.

PETITIONS CONTINUED TO: January 9, 2023

SP-24-22 Cutters Kirkwood 123 LLC
115 E Kirkwood Ave
Request: Major site plan approval to construct a 4-story building with 3 floors of residential units over a ground floor parking garage and retail space in the MD-CS zoning district. The upper floors will consist of 15 dwelling units for a total of 38 beds.
Case Manager: Karina Pazos

CONSENT AGENDA:

SP-54-22 Warren Witt, Hamburg Place (Chipotle)
3151 W 3rd Street
Request: Site plan approval to allow the construction of a 2,411 sq. ft. restaurant in the Mixed-Use Corridor (MC) zoning district.
Case Manager: Eric Greulich

Commissioners: No Comments

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Public Comments: None

****Ballard motioned to approve Consent Agenda item SP-54-22 with the three conditions included staff report. Burrell seconded the motion. Motion carried by roll call vote 7:0.**

PETITIONS:

PUD/DP-24-21 Robert V Shaw

N Prow Road: 3500 block of N Hackberry Street
Request: Petitioner requests Final Plan and Preliminary Plat amendment for Ridgefield PUD and Subdivision Section V.
Case Manager: Jackie Scanlan

Jackie Scanlan, Development Services Manager, presented the staff report. You may remember from last year discussing this petition when it was first filed. We have been working with the petitioner since that time to have the petition materials revised and to present them to you. Ridgefield originally is a plan unit development (PUD) from the early nineties and the petitioner received PUD final plan, which is basically like the site plan for this area and preliminary plat approval for section 5 in 2008. This is located off of North Prow, the remaining portion is 8.57 acres is part of the Ridgefield PUD. The comprehensive plan designation is Neighborhood Residential and the large majority of the site is vacant, but there are some existing single family dwelling units in phase 5 that are part of this petition. This is a new final plan, there was a final plan approved for this area in 2008 and some of Section 5 has been built but not all. The final plan has expired and they can't technically do any work until this petition is resolved. Because this development has not been completed to the City's standards residents in the PUD do not have city services.

The petitioners are here to talk about those final plan issues and then also to re-plate the portion that only received primary plat approval and not secondary plat approval. The secondary plat actually creates the lots, and that is what gets recorded. The petitioner wants to make a few changes to what they originally got approval for in 2008, one is amending the tree preservation area, amending the landscaping plan and have them finish installing the detention basin that was originally planned in the lots that already platted and at least one of the conditions that was approved in 2008 they would like to change. By doing the primary plat here tonight allows for them to be able to go through the second part of the process to create those lots so they can build upon and to be sold. They would like to reduce the number of lots by 8, they have done some reconfiguration from the original plat of 2008.

As mentioned there are a few issues, they have been in enforcement for a while. A site inspection was done in 2020 by members of the Planning and Transportation staff, they basically went out with the approved plan to see what was built and what wasn't. This original plan is similar to the landscape plan the petitioner has submitted with this petition which is part of the final plan and there are some issues. This plan indicates some areas where trees are missing that hasn't been brought forward onto the new plan, and we want to present to you with what actually will be preserved and planted.

There shouldn't be any work happening because they don't have a grading permit, they don't have a public improvements bond, however we have been working with the developer in the last couple of months because there are a number of public improvement issues related to the sidewalks and ramps that exist on the site. The petitioner was made aware of those when this report was done and they decided to start working on those and ripped out a bunch of ramps in this neighborhood. So you can imagine that we have been getting a number of complaints because those sidewalks are not navigable for everyone who lives in this area now. The Engineering Department has been working

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with them, some plans were submitted on November 28th and comments were returned to him last week so we are working with him to improve those plans so that work can be finished as soon as possible so those public facilities can be brought up to standards that would then could be brought into the city street network at some time in the future. These are all parallel paths where we are working toward making this site useable, not only to meet our standards for the city, but usable for those people who are already living there.

The landscape drawing that was submitted shows trees along the north and east and if the petitioner can submit those will stay in perpetuity that is fine but otherwise we need those type of things to come out. Those are required for a reason when the development was first built, but there may not be anything we can do at this point to make sure those are done. Additionally, some of the free standing trees that were supposed to be kept as specimen trees are gone, just wanted to verify that is all accurate. The other issue is the tree preservation area at the south end of those lots, some things have changed since this was first approved in 2008. We asked the petitioner to survey the southern line so we could see how much of this area, north of the high school, is their property and would it be part of the preservation area. The petitioner can confirm the actual square footage or acreage of that preservation area is actually being preserved, the shape is being changed. Instead of those properties along the southern end having large preserved backyards they will be slightly smaller and then there will be the preservation area. There is also a pedestrian easement that goes from the proposed road to the school property that was discussed at Development Review Committee (DRC) with the petitioner about what safety measures that are going to be put in place, to make sure that it is okay since it right on the edge of the preservation. For safety for the pedestrians and also for the preservation of the trees.

The reason for the grayed out portion (from drawing) is included is because we do need to clarify what some of the landscaping actually is, and it needs an approved final plan in order for the work in the right-of-way to actually be done and the city can take that in at some time in the future. We are asking the petitioner to make those landscaping corrections, removing some previous conditions (on street parking), road design waivers (cul-de-sacs) and the tree preservation change. Cul-de-sacs are no longer allowed via the UDO with a waiver, the reason to leave that out as a design element would be to increase connectivity. Whether you put in a cul-de-sac here or not there is nowhere to connect to if you turn this into a through street. The other issue with cul-de-sacs is maintenance, it is difficult to maintain snow removal. There is also a small island “eyebrow” on the southwest portion that is not allowed by code.

The department has been working with the petitioner for some time to address the issues at the site, so that the development can be completed and the residents can receive City services. While completing the roadway connection is important the petition was created under a previous code, the Department wants to encourage code-compliant design for any new public facilities being built, and therefore has discouraged the use of the new cul-de-sac and eyebrow design. Compliance would require reconfiguration that deviates from the design desired by the petitioner. Our recommendation is to discuss tonight and then continue the petition to a required second hearing in January 2023.

PETITIONER REPRESENTATIVE:

Bill Riggert with Bledsoe Riggert Cooper James is representing the petitioner. The subdivision plans that were presented are similar to the plans that were presented in 2008 before the housing market crash, which is part of the reason why it was never build out the way it was original designed. To make the subdivision work the way it was designed they really need to have a couple of waivers in order to continue the development. Our revised plans has a reduction in the number of single-family

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sights by 8 and the purpose was to get wider lots. The revised shape of the tree preservation area is to allow for larger lots on the southern edge that borders the Bloomington North campus. They are proposing to change the shape and supplement the tree preservation area with additional trees that are native and are on the accepted list of trees. They have added sidewalks around the cul-de-sac and the eyebrow for added connectivity with the subdivision and they are widening the roads from 20 foot pavement to 28 to allow on street parking on one side of the current subdivision. They would like to maintain the proposed road alignment with a 50 foot right-of-way as well as the eyebrow and cul-de-sac as originally designed to maintain access to the proposed lots on the southeast which are condominiums and without the cul-de-sac we won't be able to access each of the units without extremely long driveways. He doesn't understand the issue with snow removal as a reason why a cul-de-sac shouldn't exist. He would also like to note that on Wintersweet, the road that runs from the lower eyebrow and goes up toward the northeast, there is a force main that was constructed to serve the lift station. This serves the collection of waste water for this subdivision and CBU has accepted that force main already, so if we have to have some road configuring or right-of-way rework that force main may be a problem. They have infrastructure in place that they want to preserve. In regards to the landscape plan overall they will confirm what trees have been planted, especially on the northern edge with the Meadows and any other private property areas, so they are in sync with the plans. In regards to the detention basin, that basin was built in 2008 and it was built per design and the only thing they didn't do was to plant native special mix. Phil Peden with CBU is okay with the basin that is currently in place, with the exception of restricting the flow of the discharge pipe, since it is a 15 inch pipe and he wants us to block the lower 6 inches so the first flush rainfall goes through the under drain system as opposed to running just through the all control structure. They can amend or reconstruct their outlook of the control structure to correct that, which will address Phil Peden's concerns. Another concern was the functionality of the under drain, they asked that it be monitored to make sure the basin dries within 48 hours after a storm event. In regards to lighting, there was a commitment to put in lighting in the first phase and it was never done, they will work with City Engineering and Duke Energy to come up with a street lighting plan for the subdivision.

They are asking for waivers to widen the streets to add on street parking, waiver for cul-de-sac and eyebrow and for sidewalks and ramps they will be working with City Engineering to make sure that it is compliant.

Robert Shaw, petitioner, gave a background for his experience of what he has built in Bloomington. He started this subdivision, then the housing market crashed and could no longer get loans to complete the project. He said he talked with Lee Huss for approval on the street trees, Lee agreed that he should use crab apple and oak, they used calmer oaks because the Planning staff at that time made the streets 20 feet, from 24, and the staff put in the eyebrows and cul-de-sacs, no him. The trees that have been lost in the preservation area are due to cattle that use to be pastured there. He also says that the county was responsible for some of the tree removal. He pointed out that cul-de-sacs are loved by children.

COMMISSIONER COMMENTS:

Smith asked if parking would be allow around the eyebrow and could a plow get around it. Riggert said there would not be room for parking with the center landscaped area, but a blow should be able to get around the eyebrow without a problem.

Enright-Randolph asked if the cul-de-sac was eliminated what would the redesign be. Riggert said with the elimination of the eyebrow they would lose roughly 3 lots, in the condominium area if they reoriented all the units you would have to have one long single drive to all the condominiums and

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some of those driveways could be 100 feet long and that could be a challenge, but there would have to be some reconfiguring to do that, and there would be multiple driveways along Wintersweet.

Kopper asked about the sidewalk connections at Wintersweet and Hedgeapple and how a pedestrian would walk around the corner instead of crossing the street. Riggert said they would modify the ramps that are on the radii and then have a crosswalk that would come across with a ramp on either side, one would be on the northeast corner of lot 31 and the other would be the northeast corner of the tree preservation area. Kopper is concerned about pedestrians having to enter the street at the northern corners even if they are not trying to cross the road. Scanlan clarifies that the sidewalk on Hedgeapple does not connect to the sidewalk on Wintersweet. Kopper asked Riggert to take a look at this and come up with a solution before next meeting, Riggert agreed to do so. Kopper asked about the connection to MCCSC property, Riggert said he would talk with someone from MCCSC to see if they could make that connection. Kopper understands the eyebrow and why it is there but asked who would be maintaining that central island. Riggert said the eyebrow doesn't necessarily need to have the island, but maintenance would fall on the Homeowners Association, just like the maintenance of the detention basin. Kopper asked if that intersection is a curve in the road or would it be an intersection. Riggert said he would call it a curve in the road. Kopper noted if it is curve then are different criteria that is going to need to meet. Did you consider just taking that east-west street and intersecting with Prow instead of ending it at eyebrow? Rigger pointed out there is a lift station just to the west of the area and not sure they could fit a road in there.

Burrell asked if the eyebrow could be removed. Scanlan said it was interesting to hear the petitioner didn't care to keep the eyebrow, but the Planning would like to see it removed. But they would have to reconfigure the lots in that corner because the four entrances you get there now they wouldn't be able to get. Burrell asked Riggert if he would like to see the island go. Riggert said they would like to have the eyebrow but not the island, they like the configuration of the lots as they are now. Scanlan said if the eyebrow is removed then the lots need to be reconfigured and the road design will have to change. Riggert said that would be problematic to maximize the number of lots, would like to duplicate what was done to the north.

Enright-Randolph had a comment, he believes some direction from the Plan Commission could be very valuable so petitioner knows what to anticipate and gives them something to work with.

St. John has one clarification question, is a second hearing required. Scanlan said there is a required second hearing for the subdivision, the final plan you could approve now. But because they were filed together she would recommend that you see them as one and they both go to January. If there are things you want to see, you can ask them to present those things to be ready for January. Smith is in favor of just granting the waivers since it was developed in 2008 under the previous standards. It would be a major issue to reconfigure those items.

PUBLIC COMMENTS:

Sue Sgamelluri, she is representing the HOA for Ridgefield Village just to the east of this site. The Ridgefield neighborhood has invested a great deal of money into remedying drainage issues in the area and she asked this can be designed in a way rainwater and runoff does not interfere with the work that has been done in Ridgefield Village. She also asked about construction traffic and how that is going to be managed.

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ADDITIONAL COMMISSIONER COMMENTS:

Burrell asked the petitioner to address the public questions. Riggert said construction traffic would most likely come off of Prow Road because that is where the crusher is and he is working with Mr. Shaw to limit access through the existing neighborhood to the east. To the best of his knowledge all the drainage from this development will go to the detention basin. The development to the northeast is going uphill so he doesn't anticipate any collective storm drainage to go into that subdivision.

Cockerham asked staff to clarify the Commission's options for motion. Scanlan said that the waivers could not be approved at this meeting, the waivers are associated with the subdivision and that requires a second hearing. Sometimes you can waive the second hearing but they didn't ask for that when they filed last year. The final plan can be approved in one hearing, but because it is in a PUD where they are intertwined it wouldn't make sense to approve the final plan tonight. Because if you do require changes to the subdivision next month they won't be in sync anymore. There have to be a motion to continue to the January hearing. Mike Rouker, City Attorney, confirmed that it would not make sense not to continue everything until the January hearing.

Ballard asked how feasible is it for Mr. Rigger to have plans available next month for a side by side comparison. Rigger said that may be possible because of the holiday schedule.

Burrell asked the staff what they expect to see in the next meeting. Scanlan said they would like to see a correct landscape plan, with what they are actually going to be able to do. So when enforcement staff out to do final occupancy they have the correct plans to base their inspection on. If commissioners would feel more comfortable with an exhibit to show they are meeting code and if that is not possible, you could continue to February, to know that you are making the right decision would be fine with staff.

Cockerham said the petitioner followed Planning staff as asked in 2008, and he respects that, it was incredibly unfortunate that 14 years has passed. He leans toward finish the project as it was presented 14 years ago to keep the same feel of what they have already created. He would like to see a full plan then they could possibly approve.

Kopper would like to see a drawing that matches what's proposed in order to feel comfortable. One thing that was mentioned was streets are planned to have parking on one side of the street, but we haven't seen which side of the street. That could have implications on intersection design and geometry. The plans don't have to be fully done but having an idea of what is actually proposed on that street. We talked a bit about the eyebrow and the cul-de-sac and he believes it would be helpful for the petitioner to talk about what is the benefit to the public for those items. And looking at other design options to have a compliant plan, or showing us why it's not possible to be compliant.

St. John believes that having an accurate landscape plan would be good before the next meeting, pedestrian issues and the sidewalk and what that would look like. She would like to see this move forward the petitioner since so much of it is already built out.

**** Smith motioned to continue to a second hearing in January 2023 for PUD/DP-24-21. Cockerham seconded the motion. Motion carried by roll call vote 7:0.**

Meeting adjourned at 7:05 p.m.