In the Council Chambers of the Showers City Hall on Wednesday, March 27, 2013 at 7:30 pm with Council President Darryl Neher presiding over a Special Session of the Common Council.

COMMON COUNCIL
SPECIAL SESSION
March 27, 2013

Roll Call: Mayer, Neher, Rollo, Ruff, Sandberg, Spechler, Volan, Granger, Sturbaum
Absent: None

ROLL CALL

Council President Neher gave the Agenda Summation.

AGENDA SUMMATION

It was moved and seconded that Ordinance 13-04 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of Do Pass 7-0-0.
It was moved and seconded that Ordinance 13-04 be adopted.

LEGISLATION FOR SECOND READING AND RESOLUTIONS
Ordinance 13-04 Revising Participation Fees for Businesses Located Within the Bloomington Urban Enterprise Zone and a Tax Increment Finance Area That Receive an Enterprise Zone Investment Deduction

Doris Sims, Assistant Director of Housing and Neighborhood Development, explained that an Enterprise Zone Investment Deduction (EZID) allowed a business located within an enterprise zone to take a deduction on taxes for a ten year period. She explained that an EZID within a Tax Increment Finance district (TIF) cancelled each other out because both deductions created an increase in assessed value on the property. She explained that the ordinance would increase the participation fee to the Bloomington Urban Enterprise Association (BUEA) if the property was within a TIF district in order to offset the funds lost for the TIF.

Council Questions:
Volan asked for clarification on who would be affected by the ordinance. Sims explained that businesses that sought an EZID within a TIF would need to go to the council for approval first.

Spechler asked what the BUEA did with the participation funds. Sims explained the programs the BUEA implemented: historic frontage, business reconstruction loans, and resident scholarships to attend local colleges. She said that grants were also given to local schools such as Tri-North Middle School and Fairview Elementary School.

Spechler asked who determined how the funds would be distributed. Sims said that a board of directors appointed by business owners, residents, a city council representative, and state representatives.

There were no public comments on this ordinance.
There were no council comments on this ordinance.

Ordinance 13-04 received a roll call vote of Ayes: 9, Nays: 0

It was moved and seconded that Ordinance 13-06 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of do pass 3-0-4.

It was moved and seconded that Ordinance 13-06 be adopted.

Ordinance 13-06 To Amend the Bloomington Zoning Maps from Commercial Arterial (CA) to a Planned Unit Development (PUD) to be Known as Patterson Park As Well As to Approve a Preliminary Plan and District Ordinance - Re: 445 S. Patterson Drive (Trinitas Ventures, LLC, Petitioner)

It was moved and seconded that Reasonable Condition #1 be adopted.

Reasonable Condition #1 This Reasonable Condition is sponsored by Councilmember Sturbaum. It provides for parallel parking on the internal "curvy" street that runs through Areas B and C as set forth on Page 22 of the Outline Plan for this PUD.

Sturbaum explained that the Reasonable Condition (RC) altered the primary street through the development to have parallel parking instead of perpendicular parking. He said he was concerned that without this condition the main thoroughfare would look like a parking lot.
Tom Micuda, Planning Director, said the administration supported RC#1.

Travis Vencel, petitioner, said the developers would accept the condition.

Council Questions:
Mayer asked how this change would affect ingress and egress onto old Third Street. Patrick Shay, Development Review Manager said the intersection would be realigned to fit the development, and it would create three entrances.

Reasonable Condition #1 *(cont'd)*

Mayer asked if people leaving and entering the site would be able to go east or west. Shay said they could go either direction.

Rollo asked if RC#1 would increase the amount of impermeable surfaces in the development. Shay explained that the condition would increase impervious surfaces but the amount would still not exceed the standard set by the PUD. Rollo asked what would happen to runoff water. Shay explained that it would be filtered into a retention pond on site.

Volan asked if parking would be lost through RC#1. Vencel said that parking would increase by at least six spaces.

Volan asked why the amount of impervious surface could not be reduced along with parking in order to match the original design. Shay said the condition changed the layout and opened up more surface area for parking. Micuda said the developer could drop parking spaces in favor of greenspace. Vencel explained that available parking was still below the standard set by the PUD.

Volan asked Sturbaum if he realized the consequence of RC#1 on impermeable surfaces and parking. Sturbaum said that the extra parking would serve the commercial component of the development.

Rollo asked how parking would affect bicycle traffic. Micuda said that either option would be hazardous for bicyclists, but he considered parallel spaces safer for them. Sturbaum said that the additional connectivity would be positive for bicycle and pedestrian traffic.

Rollo asked if parallel parking could be included in the rest of the development. Micuda said that there were too many constraints to require parallel parking throughout the entire development.

Volan asked how emergency services would recognize private streets within the development. Micuda said that the developer could name private streets if they chose to, but the code did not require it. He added that a separate committee would address the streets for 911 service. Vencel said the developer would be happy to name the private streets.

Volan asked the developer if addresses would reflect their location on a private street. Vencel said that addresses reflected the private streets they were on.

There was no public comment on Reasonable Condition #1.

Council Comments:
Rollo said that he thought this condition was an improvement on the development. He said he would support the condition.

Volan said the condition was the best solution to make the project more traditional. He said naming private streets and addressing buildings to reflect those street names would enhance the sense of place.

Reasonable Condition #1 to Ordinance 13-06 received a roll call vote of Ayes: 9, Nays: 0.

Reasonable Condition #3 This Reasonable Condition is sponsored by Councilmember Sturbaum. It requires that: 1) Building 1 and 9 have a commercial design character; 2) Building 1 line up with Building 2 along Patterson Drive; and 3) Building 9 be oriented parallel to Patterson Drive to the maximum extent possible

It was moved and seconded that Reasonable Condition #3 be adopted.

Sturbaum said this condition would move the commercial building back from Patterson Avenue to allow for a larger pedestrian sidewalk. He said that the Growth Policies Plan (GPP) set the area as a community activity center, and this would keep the buildings viable as commercial space.

Micuda explained this proposal would maximize sidewalk width between the building and parking. He said that the increased space would be inviting for pedestrians and the administration supported the condition.

Vencel said the developers were happy with the condition.

Council Questions:
Volan asked what the buildings would look like. Vencel said that the buildings would have entrances in the front and back and would mimic the design standards of the rest of the development.

Reasonable Condition #3 *(cont'd)*

Volan asked if the extra space created from moving the buildings back

would allow for a different building footprint. Vencel said that the developers were not ready to answer that question. Shay said that one of the buildings affected would have to be redesigned to have a more commercial feel, and the footprint did not have to be a rectangle. Sturbaum said that the most important change from this condition was the distance from Patterson Avenue, and he was less concerned about the shape of the building.

Spechler asked how deliveries would be made to the commercial space. Vencel said that the street design would allow lots of opportunity for delivery, and he made the comparison with downtown businesses that received deliveries easily.

Spechler asked if an alley would be added for a loading dock. Vencel said that he did not think that would be included in the design. Micuda said that a special truck delivery area would only be necessary if several buildings were combined into a single commercial space.

Spechler asked if buildings would be combined. Micuda said that it was an option as the development moved forward.

Public Comment:
Jennifer Mickel said that recent developments in the city were not creative, and she wanted developments to feel more like a small town. She expressed concern over delivery truck traffic on Patterson Drive.

Mark Cornett said he liked the wide sidewalk, but he was concerned that student housing on the ground floor would not be in demand. He said that no space south of the intersection would sell as retail. He said having public street life was not enough to create the community activity center that was desired.

Karen Knight, Prospect Hill Neighborhood Association, said that they felt the development would be an asset to the neighborhood. She praised the commercial space and the added parking.

Council Comment:
Volan asked about the specific use of Building 2. Vencel said that it would be office space for the developer initially, but it could be used by other retail businesses later. He said that the first floor of the building was larger than the floors above it.

Volan said that it was difficult to find space for a pub in Bloomington. Vencel detailed the buildings that could house a pub throughout the development, and he said there was potential in each of the buildings for a variety of uses.

Volan asked how committed the petitioner was to creating commercial space. Vencel used the example of Kirkwood and South Walnut that were designed as residential and later converted to retail, and he said that was what he hoped would happen with this development.

Sturbaum urged the council to be cautious when considering what Cornett had said, and that space could be remodeled easily as commercial needs were found. He said that the current economy was hard for commercial retail, but hoped that as it improved the buildings in the development could be remodeled to work for retail in the future.

Volan said that he was supportive of the effort behind the reasonable conditions. He said that his experience in retail made him aware of a lack of faith in commercial and retail investment. He said that the development would be dominated by several commercial retailers rather than numerous individual small businesses. He said he wanted to see Building 9 expanded to allow for more retail potential, and he encouraged the city to target a specific type of retail and pursue it.

Spechler said he supported the condition, but he felt that the commercial space was too small for the retail needs of the development. He said that the developer was creating demand for a specific kind of retail.

<u>Reasonable Condition #3</u> to <u>Ordinance 13-06</u> received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded that Reasonable Condition #4 be adopted.

Sturbaum explained that the condition would limit the number of five bedroom units allowed. He said the original PUD allowed up to 40 five bedroom units, and he praised the developer for working to include more one and two bedroom units. He said the condition also allowed two areas within the development to be combined when counting units per acre.

Shay explained that the two areas mentioned in the condition were originally considered as two separate areas. He said the condition would not change the number of units in the buildings, but it would allow the petitioner to have more flexibility in design between them.

Vencel said that current zoning allowed the developer to put any variety of multi-bedroom units on the parcel. He said they hoped to have a variety of units in order to avoid shortages in parking and greenspace. He said all the units would be capped at one person per bedroom. He said he was not sure that this condition improved the project, but he understood the concern of the council and community.

Council Questions:
Sandberg asked who would be most likely to be in a five bedroom apartment. Vencel said that some graduate students would live in the larger units, but they would be more likely to gravitate to the one and two bedroom units. Sandberg asked if the fewer five bedroom units would attract more graduate students. Vencel said he didn't know.

Ruff asked if the one person per bedroom commitment would be binding. Shay said that one, two and three bedroom units were capped at three people, four bedroom units were capped at four, and five bedroom units were capped at five by city code.

Public Comment:
Richard Lewis, Prospect Hill Neighborhood Association, said that the association conducted a survey of their neighborhood. He said that the majority of respondents felt that three bedrooms should be the maximum. He said no respondents supported five bedroom units, and he added that he was personally against large units.

Jennifer Mickel spoke about students staying at one another's homes. She said that it would be hard to keep track of visitors staying overnight. She said she wished more limestone would be included in the development, and she hoped that enough room in greenspace would be left for tree roots.

Council Comment:
Spechler said he supported the condition, and he questioned the validity of the Prospect Hill survey. He said that allowing 20 five bedroom apartments was reasonable because it would be considerably cheaper for the students that would live there, and he said this was necessary for students that could not afford luxury apartments.

Granger said she supported the condition, and she appreciated that the developer was willing to work with the city.

Mayer thanked Sturbaum for bringing the condition forward.

Volan said that five bedroom units were a problem in his district. He said that the residents in his district despised five bedroom units and that they were the number one source of noise complaints. He said large units were a thing to be feared, and they were not cheaper than units with fewer bedrooms. He said that a five bedroom living situation encouraged students to be worse neighbors. He said that the council should amend the UDO again to prevent more five bedroom apartments from being constructed.

Ruff agreed with Volan that the UDO should be amended as long as it did not create an affordability crisis in housing. He said he would support the condition, but he felt the council should look at the larger picture of the community before moving forward with future developments.

Reasonable Condition #4 This Reasonable Condition is sponsored by Councilmember Sturbaum. It imposes a maximum of 20 5-bedroom units for the entire PUD. In order to keep the project viable whiles still preserving its character, the Reasonable Condition also requires that Areas B and C may not exceed a combined 15 net units per acre and must receive final plan approval concurrently.

Reasonable Condition #4 *(cont'd)*

Neher said he supported the condition, but he was concerned about the way students were characterized that evening. He said he had many students that were in five bedroom units because of the savings.

Spechler said Indiana University was on the verge of a strike because of the cost of education. He apologized for referring to students as kids and said he would call them young scholars in the future. He said allowing five bedroom apartments would make the rent of all the units cheaper.

Ruff said that no one on the council felt that all people who lived in five bedroom units were irresponsible. He said that these units tended to be more problematic than fewer bedroom units.

Volan asked Neher if his students lived in new housing. He said that housing that was preserved was more likely to be more affordable than new developments. He said students should be treated as adults and be given the opportunity to be part of the community.

Reasonable Condition #4 on Ordinance 13-06 received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded to adopt Reasonable Condition #2.

Reasonable Condition #2 The Reasonable Condition sponsored Councilmember Sturbaum requires that, unless contradicted by traffic studies, the configuration of Patterson Drive and angled parking to be as shown on the exhibit known as "Patterson Drive Schematic 4" and the required stop light shall be located the intersection of Adams Street and Patterson Drive.

Sturbaum explained that this condition was meant to maximize the potential success of the commercial properties. He said that it aligned angled parking, eliminated a turn lane, and placed the stop light at the intersection between Adams Street and Patterson Drive that would create a clear entrance into the development. He said that this condition was dependent on pending traffic studies, and he did not want to force the condition if it would cause impeded traffic.

Micuda said that the administration supported the condition. He said it expressed the council's intent to have street parking, a clear access point with a stop light, and the desire not to create a massive intersection. He said all of this was subject to internal discussion of the pending study.

Vencel said that the developers intended to create a site that would work with the city's design of the area. He said they liked the condition because it allowed professionals to make the decision while allowing design of the development to continue.

Council Questions:
Rollo asked if staff could choose not to implement the condition if the study indicated it would not be workable. Micuda said the condition could be modified if the study indicated it needed to be. Sturbaum added that there would need to be compelling evidence from the study to allow staff to modify the condition. Rollo asked if the study would provide real-time data or projections. Micuda said that it would provide both.

Rollo asked what part of the study still needed to be completed. Micuda said that analysis of the data was not completed. He said he needed to see the analysis before making decisions on on-street parking and signalization.

Neher asked if previous developments were considered in the traffic study. Micuda said that the study began with a previous development, but the development in question created a need to extend the study to consider the growth of the whole area.

Volan asked why the intersection would need a turn lane. Micuda said that the council would declare intent through RC#2 that they did not want a turn lane, but he could not ignore the potential data from the traffic study.

Volan asked for specific criteria that would contradict the condition. Micuda said he would not cite the exact criteria for studies, he said the administration wanted to avoid being locked into a design that was proven to be detrimental.

Spechler asked if southbound emergency vehicles would be able to bypass standing traffic at the light. Micuda said that the road would shrink with the development, but would still meet the standards for emergency traffic.

Reasonable Condition #2 *(cont'd)*

Rollo asked Micuda if he would give a formal presentation on the findings of the traffic study. Micuda said the request was not common practice, but he would be happy to do it if the council asked for it.

Neher asked Dan Sherman, Council Attorney, if Rollo's request needed to be in the amendment. Sherman said that an amendment needed to be in writing, but he felt that a motion after the ordinance, at any time, would fulfill the request just as easily.

Mayer asked who paid for the traffic study, the traffic light, and intersection changes. Micuda said that it would be all paid for by the developer at first and then maintained by the city thereafter.

Mayer asked if the changes needed to be contiguous to the developer's property. Micuda said that if the changes were not contiguous it would be a separate discussion, but all the changes considered this evening were contiguous to the property.

Sturbaum said that the light would keep motorists and pedestrians safe. Vencel shared a schematic that demonstrated the loss of parking if a left turn lane were added on Patterson Drive. Sturbaum pointed out that the sidewalk was much smaller in the turn lane schematic. Micuda said that a left turn lane would eliminate 12 parking spaces.

Ruff asked what guidelines were used for the study. Shay said that traffic studies were normally used to provide a recommendation, but this study was going to be used to determine the feasibility of the proposed plan. Vencel said that the traffic study was delayed because of Indiana University's Spring Break when traffic was significantly lower than usual. He said that the desire of the council would be included in the analysis of the study.

Sturbaum asked if the administration's concern was that RC#2 could create an unsafe environment. Micuda said that the administration wanted to get traffic staff involved in the discussion, they wanted the opportunity to review the analysis of the traffic study, and ensure public safety.

Sturbaum asked if changing the language to "safety issues" instead of "traffic study" would be amenable to the council and administration. Micuda said the administration would not object to that change.

Mayer asked why the council was addressing it this evening. Micuda said that normally the council would hear the issue after the traffic study, but he said that the administration was seeking the council's input earlier in this issue. He added that the administration typically used studies to determine the need for a signal light and not for design of a roadway. Vencel said that he needed an approved rezone before he could go to an engineer to do an accurate traffic study.

It was moved and seconded that Reasonable Condition #2 be amended.

Amendment to Reasonable Condition #2 This Reasonable Condition is sponsored by Councilmember Sturbaum. It requires that, unless contradicted by safety issues, the configuration of Patterson Drive and angled parking to be as shown in the exhibit as Patterson Drive Schematic 4 and the required stop light shall be located a the intersection of Adams Street anc Patterson Drive.

Rollo explained that the amendment would change the language of the condition to replace "traffic study" with the phrase "safety issues," and it would instruct planning staff to present the findings of the traffic study and the decisions reached from that information.

Council Questions:
Neher asked Sherman if the new language would allow more things to be considered than the traffic study. Sherman said that "safety issues" were essential in the consideration, but it would likely only allow the planning and engineering staff to determine what data was valid in the decision making.

Sturbaum said that his intent was to narrow staff decisions to safety issues indicated by the traffic study.

Micuda said that the administration had some reservations to the amendment: scheduling, the petitioner's ability to obtain a site plan review, and the possible need to return to the council if there were no changes.

Amendment to Reasonable Condition #2 *(cont'd)*

Vencel said that the developers were concerned about timing and scheduling. He said that they needed to be able to move forward with obtaining permits to build a necessary traffic light, and the presentation to council could hinder that process.

Sturbaum asked why reporting to the council would slow the process. Micuda said that other legislation on the council's agenda could make it difficult to schedule the presentation, and the council could object to the administration's decision. He said that the resulting discussion could delay the developer's ability to get necessary permits.

Rollo asked Sherman how the council could schedule the report. Sherman explained that the amendment did not establish timing of the report, and it could be given after the developer had already taken action. Sturbaum said that engineers determined safety issues, not the council. Micuda withdrew his concern when he learned it would be a report to council and not an item for consideration.

Granger asked why it was necessary to have a report on the decision. Rollo said that the condition was integral to the development, and he felt that the decision needed to be presented in a public forum.

Sturbaum asked if Micuda was comfortable with the amendment. Micuda said he was.

Public Comment:
Marc Cornett said that the development should not eliminate a turn lane in favor of more parking. He used examples from the "Complete Streets" guidelines produced by the city: easing congestion, safety for everyone, sparking economic development, creating livable communities, and lowering transportation costs to support his argument.

Council Comment:
Volan expressed his concern that neither "traffic study" nor "safety issues" were specific enough. He said the council should be discussing place making rather than just automobile traffic.

The amendment to Reasonable Condition #2 received a roll call vote of Ayes: 8, Nays: 1 (Mayer)

Reasonable Condition #2 as amended to be known as Reasonable Condition #2e

Public Comment:
Marc Cornett said that the area was unsafe for pedestrians. He said that traffic should be slowed and "tamed" to support the commercial aspect of the development.

Richard Lewis said he appreciated the developer engaging the neighborhood association in the process. He said the survey indicated that the majority of the neighborhood supported angled parking and safe pedestrian crossings.

Council Comment:
Sturbaum said that the conversation revolved around streets and traffic, and he felt that the review was more integrated. He said the council was asking the right questions in order to create places. He said the council should plan ahead to build infrastructure near targeted development areas.

Volan said that the nearby Landmark Road was wide enough to allow emergency vehicles to reach the hospital. He said he was concerned about the condition because he was unsure it met engineering standards, the "Complete Streets" guidelines, and the Growth Policies Plan. He thanked Sturbaum for his work on the reasonable conditions brought forward. He encouraged his colleagues to support the condition.

Rollo said the project was very important, and he expressed his appreciation that the council was focusing on creating a sense of place. He told a story about the Plan Commission making decisions based solely on how fast automobile traffic could pass through an area.

Spechler said he was in favor of slower traffic and supporting access to the commercial areas. He said he was still concerned about emergency vehicle traffic to the hospital.

Reasonable Condition #2e *(cont'd)*

Neher said that he hoped that neighbors in McDoel Gardens would be considered in the future discussion about safety and traffic.

Ruff said that the issue was really about policy and not about expert engineering data. He said that the council should not use engineering data to avoid implementing a larger community vision. He said he was more comfortable with the condition after the presentations from staff.

Sturbaum said that he wished that affordable housing and bicycle pathways were included in the development. He said he considered these issues as another reasonable condition.

Reasonable Condition #2e received a roll call vote of Ayes: 8, Nays: 0, Abstain: 1 (Mayer).

There were no questions from council regarding the ordinance as amended.

Ordinance 13-06 with attached Reasonable Conditions # 1, 2e, 3 and 4

Public Comment:
Marc Cornett said that the council could not legislate retail without setting up the framework for positive commercial development. He said the debate was not just about traffic and engineering, and the discussion needed to include all the pieces necessary to create a sense of place.

Richard Lewis thanked planning staff for their work on the project. He once again referenced the survey and said that the majority of neighborhood residents supported a mixed use development.

Council Comment:
Volan said he hoped Building 9 would be enlarged to give retail a better chance. He said that the development was a compromise. He said he would work to limit four and five bedroom apartments in the future.

Ordinance 13-06 with attached Reasonable Conditions # 1, 2e, 3 and 4 received a roll call vote of Ayes: 9, Nays: 0

It was moved and seconded that Ordinance 13-07 be introduced and read by title and synopsis in accordance with BMC 2.04.420 (b). Clerk Moore read the legislation and synopsis, giving the committee recommendation of do pass 3-0-0.

Ordinance 13-07 To Vacate Public Parcels - Re: Two Segments of a Seminary Lot Alley which are 16.5 Feet Wide and a Total of 1,180 Feet Long with One Segment Running East to West through the Patterson Pointe PUD and the Other Running in the Same Direction Through the Proposed Patterson Park PUD (Adam's Crossing, LLC and Rogers Group, Inc. Petitioners)

It was moved and seconded to postpone Ordinance 13-07 until April 3, 2013 due to an error in advertising and notice of a public hearing.

There were no questions from council on postponement.

The motion to postpone Ordinance 13-07 received a roll call vote of Ayes: 8, Nays: 0 (Volan out of the room).

Neher indicated that there would be no council and staff meeting on the coming Monday.

COUNCIL SCHEDULE

The meeting was adjourned at 10:45 pm.

ADJOURNMENT

APPROVE:

Darryl Neher, PRESIDENT
Bloomington Common Council

ATTEST:

Regina Moore, CLERK
City of Bloomington