

CITY OF BLOOMINGTON
PLAN COMMISSION
April 17, 2017 @ 5:30 p.m.

City Council Chambers – Room 115

Roll Call: Cibor, Stewart Gulyas, Hoffmann, Kappas, Kinzie, Maritano, Neher, Piedmont-Smith, Wisler.

MINUTES TO BE APPROVED: None.

REPORTS, RESOLUTIONS and COMMUNICATIONS:

James Roach reported there is no administrative help at the table so he will be doing double duty. Angie Porter has been hired for this role but unfortunately she has been sick.

James Roach, Development Services, Manager, said Susie Johnson is expected to join the meeting. She is a member of the Monroe County Plan Commission. State law allows for a member of the Monroe County Plan Commission to sit on the City Plan Commission with all the rights, duties and responsibilities as a City Plan Commission member, except for the right to vote. She will be here to give insight into rural and county issues, but again, will not have the right to vote on petitions.

RS-13-17 – Resolution appointing Terri Porter Director of Planning and Transportation
CATS Recording 1:46 to 8:40

Terri Porter introduced herself.

Piedmont-Smith asked Hoffmann to speak to the process of choosing the director as he was a member of the team.

Hoffmann said he participated in a series of interviews with several candidates. The process took place about a month ago. He was not part of any meetings that took place after the interviews.

Piedmont-Smith asked if anyone could speak as to why Ms. Porter was selected.

Hoffmann said he has Ms. Porter's credentials and CV but cannot speak to the Mayor's decision making process.

Piedmont-Smith said the reason she asked is because it's unusual to have a Planning Director who doesn't have credentials as an urban planner. Nothing personal against Ms. Porter. However, she is very impressed by the other credentials Ms. Porter brings. Piedmont-Smith hoped to gain some perspective on the hiring.

Porter said she doesn't have the AICP certification, but she was Director of Community Planning and Development (Region 7 office in Kansas City) in Housing and Urban Development (HUD). There are only 10 HUD regions in the United States. Her jurisdiction was the State of Missouri,

Kansas, as well as all of the communities within those states. These are communities that develop their own comprehensive plans, the State's comprehensive plan, as well as the rural area comprehensive plans and the plans for the individual grantees for homeless funding. From this position she went to the Deputy Regional Administrator position which is the Chief Operating Officer in a four state region of Missouri, Iowa, Nebraska and Kansas. She was responsible for the day-to-day operations as well as the additional planning of those communities and states. In addition to those duties, she was responsible for the Region 7 Plan which is part of the National Plan for HUD.

Neher asked if the Plan Commission had questions in terms of any of the projects moving forward. Should they be directed through her or can the Board reach out directly to Planning staff for clarification questions, answers, etc.?

Porter responded by saying however the Board feels most comfortable.

No public comment.

A motion was made to approve RS-13-17. Motion seconded. Motion was approved through unanimous voice vote.

Report from Anahit Behjou, Legal Department – Impending Legislation from the Statehouse

CATS recording 9:07 – 10:09

SB558 – This bill passed by the Senate and is waiting for the Governor's signature. If signed by the Governor it will impact how a municipality can have affordable housing.

Piedmont-Smith asked for more information on this bill. Behjou said staff is still researching and studying so there were not complete details.

REMARKS FROM MAYOR HAMILTON

CATS recording 10:30 – 14:14

Mayor Hamilton said we're proud to have Terri joining the team. He thanked the Board for their support and said she is an outstanding public administrator. He is very pleased to have her working with him, the administration, with the Board and with the public.

Mayor Hamilton said he appreciated the Board engaging with the Comprehensive Master Plan. This is obviously a very important document that has been in the works since 2011, and he believes this is an improved draft that is more integrated, one that is balanced chapter to chapter, and open to more improvements. He appreciates the Board taking on this schedule. This is a document where the values of this community are embodied and embedded in an essential way. There are certain statutory elements as well, including the land use chapter and map. He encouraged a close look at the goals and policies, the programs, the outcomes and indicators that help staff chapter by chapter and area by area, to make sure it says what the community wants.

Mayor Hamilton said the Comprehensive Master Plan is not meant to be a master strategic plan on the whole for the City. This is a plan for the built environment of the City, the physical environment of the City. This touches many things through the physical environment. It's not meant to be a plan that defines the fundamental health plan for the City, or the education plan for our City, or the economic development plan for the City as a whole. It touches all of those things because the built environment affects all of that. It's important to remember what is being asked of you and the City Council. On behalf of all of us, is to plan for the physical built environment of our City, and do that well, without feeling that we have to plan for every other component of future culture of our City.

The Mayor also asked for support of the Unified Development Ordinance—the (UDO) update. This is also a very important step for the community. He asked that the Board try a couple of these things that have been outlined and presented. These things are only pilots and limited in scope and impact. These are very important as a first step leading to the ultimate change of the UDO after the Comprehensive Master Plan. This is a really important first step. Being very careful to focus on owner-occupied properties of a certain number, and diverse locations to try a couple of things out. The Mayor thanked the Board for their attention on that. He also thanked the Board for their support of Terri Porter and all their work on behalf of the citizens.

Roach said the Plan Commission agenda has a list of special meetings and adoption hearings for the Comprehensive Master Plan. It's very important that there is a quorum at these meetings. The first one is on April 20, 2017 at 5:30 p.m. in the City Utilities Board Room.

No further Reports, Resolutions, and Communications from the Planning staff.

No further Reports, Resolution, and Communications from the Board.

PETITIONS CONTINUED TO: 5/8/17

SP-06-17 **Mara Jade Holdings, LLC**
318 E. 3rd St.
Site plan approval for a 4-story mixed-use building
Case Manager: Eric Greulich

SP-07-17 **Annex Student Living (Kyle Bach)**
313, 317, 325, 403 & 409 E. 3rd St., and 213 S. Grant St.
Site plan approval for a 4-story mixed-use building and a 5-story mixed-use building
Case Manager: Amelia Lewis

PUD-08-17 **Mecca companies (Kyle Bach)**
1100 N. Crescent Dr.
Rezone 8 acres from Residential Single-family (RS) to Planned Unit Development (PUD) and to approve a PUD District Ordinance. Also requested is preliminary plan approval to allow a new affordable housing multi-family apartment complex.
Case Manager: Eric Greulich

PETITIONS:

CATS 16:34 – 34:02

MP-12-17 City of Bloomington
2040 Comprehensive Master Plan
Case Manager: Scott Robinson

Josh Desmond, Assistant Planning and Transportation Director, explained this is the kick off of the review and adoption process for the new City of Bloomington Comprehensive Plan. Presented was an overview of the procedural and logistical presentation, the plan development process, Plan Commission hearings, and then what the amendment process will look like. Imagine Bloomington was used as the platform to development the vision statement that will be the foundation of the new plan document. The draft plan was delivered in 2016 to the public for input. Ratio Architects helped with this presentation. After this Staff went to a wide variety of different community groups and organizations. There is now a final draft of the comprehensive plan that came about by all the input received, all the research done, and everything heard from the Board and other folks in the community. We have put together what we feel is the best roadmap for the future for the City of Bloomington.

Desmond outlined the hearing process and how folks can participate. The dates for these hearings are as follows:

- 4-20-17 – City of Bloomington Utilities – Board room, 5:30 p.m.
- 4-24-17 – Council Chambers – City Hall, 5:30 p.m.
- 4-25-17 – Council Chambers – City Hall, 6:00 p.m.
- 5-1-17 – Nat U Hill Meeting Room (3rd Floor) – Monroe Co Courthouse 5:30 p.m.
- 5-4-17 (ADOPTION HEARING) – Nat U Hill Meeting Room (3rd floor) Monroe Co Courthouse
- 5-8-17 (regular Plan Commission Meeting) – Council Chamber – City Hall, 5:30 p.m.
**Only if needed for continued adoption discussion

Desmond explained the amendment process. The deadline for submitting amendments is Friday, April 21, 2017. Any amendment being heard will be posted.

There was discussion on procedure if the plan is adopted and goes to the Common Council.

Hoffmann asked that all Plan Commission members pay close attention to their email accounts.

No action on this petition was needed, discussion item only.

SP/UV-05-17 Lewis Development Company (2nd Hearing)

200 S. Washington St., 114 E. 4th St., 121 E. 3rd St.

Site plan approval for two, 4-story mixed-use buildings and use variance recommendation for the use “drive through” in the Commercial Downtown (CD) zoning district

Case manager: Jackie Scanlan

CATS 34:03-1:03

Jackie Scanlan, Senior Zoning Planner, said the Plan Commission saw this at the last meeting. Items altered to meet code requirements. 1) Height 2) Building façade modulation 3) Non-residential uses on the first floor 4) Bicycle parking location 5) Secondary architectural materials 6) Window design. Scanlan summarized the staff report. The code compliance issues that remain are the building heights step back issue, the vehicular entrance on 3rd St., and the drive through use. The vehicular entrance on 3rd St. they have requested development standards variance and also requested a use variance to be able to use the drive through use in the commercial downtown. They have requested a development standards variance as well as the use variance to be able to use the drive through in the commercial downtown. The building height step back is a code compliance issue to be addressed. She reminded the commission that the development standards variance is not in this Plan Commission’s purview and will go to the Board of Zoning Appeals. The vehicular entrance use variance; this Board will be asked to make a recommendation based on the GPP for the BZA. The code states if a building is taller than 45 feet it will be set back 15 feet above 45. The issue is this building is not in compliance with the Step Back Standard code. The second item is the use variance recommendation required for the Board of Zoning Appeals. The drive through use is not a permitted in the CD district. In order to keep the use on this site a use variance is required. There is a drive through and building already on site. As the building is remaining, they would like to keep the drive through in the same location. The drive through will be located indoors, inside the building which could improve the aesthetics for the pedestrian along 4th Street. The commission will need to make a recommendation about whether or not the drive through use substantially interferes with the GPP.

Roach explained how the format of staff reports have been changed. The Plan Commission should be looking at State law as well as local ordinances. Indiana code has been included. This code is followed through in the UDO which mirrors the same language. He summarized what can be found in the packet under CRITERIA AND FINDINGS FOR SITE PLAN. He explained this project is a high density, mixed-use development, it does intensify underutilized properties, it does have appropriate pedestrian scale with the commercial uses and store fronts, but one of the intents of the district is to promote a diversification of residential housing for all income groups and ages. There is not a clear understanding of how this project fulfills those standards. Also, there is another part of Chapter 20.02 this project does not meet, and that is the drive through standard. This project meets all applicable requirements of Chapter 5 except 20.05.035(g) Entrances and Drives. The code states that non-residential uses on corner lots should have their access from the lower classified street. This will be an action for the BZA. There is a lot about this project to like but it’s not consistent with the provisions of the GPP. The Downtown Plan which is a sub set of the Comprehensive Plan talks about promoting multiple housing products, including both high amenity products as well as affordable and senior housing.

The petition does not further those goals. The plan also talks about a need to redirect housing markets so it is not totally directed to the student market. This plan probably does not further those goals. The term “waiver” will no longer be used. While this proposal does satisfy some guidelines in the Downtown Core overlay, it does not completely satisfy guidelines 3.24. There is a question as to whether the parking plan and entrance plan meet the guidelines on how to address the streets, how best to design downtown buildings so they are pedestrian focused, and not negatively impacting the pedestrian realm. There are two additional items the Plan Commission is encouraged to consider when looking at projects in the Downtown Overlays that do not meet the strict standards of the particular overlay. The first concerns architectural character. This proposal does not add substantial innovation or unique design to the downtown. Lastly, the Plan Commission is encourage to consider the degree to while the site plan incorporates sustainable development design features. The proposal does not utilize substantial sustainable development design features. The UDO gives the Plan Commission the ability to approve buildings that do not meet the strict letter of the Overlay. In this case, it does not meet one strict element of the overlay which is the step back of over 45 feet. This design has not satisfied all requirements of the UDO. There are many positive aspects of this building related to many City goals but not all of those goals. The recommendation is to deny the site plan, but staff recommends a positive recommendation to the BZA on the use variance to permit a drive through in the CD zoning district.

Presentation by Petitioner – Tim Culver Studio 3 Design:
CATS 103.02 – 1:12.04

Tim Culver of Studio 3 Design is representing City Side Projects Team. He outlined two concerns from the last hearing and brought back significant changes. Basically taking 6 out of the 7 waivers off the table. They would put this project up against any project that has been reviewed and approved by staff and the commission, provided those projects are held to the same level of scrutiny and the same standards that have been presented tonight. A floor has been removed, removed the architectural feature at the corner of 3rd & Washington to get the height under 50 feet. Non-residential areas were addressed by increasing commercial space and following the typical practices on how to calculate the non-residential space. Bike parking was increased by adding a bike room to the north. Twenty-five spaces were required and this has 36 spaces. The secondary architectural materials were modified to meet the standards, modulation was added on one façade where it needed to go to be in compliance, and window proportions were adjusted across all elevations to make sure the project was in compliance. This leaves the step back at 45 feet. This waiver has routinely been granted in every hearing that he has been a part of over the last ten years. In previous meetings, staff has taken a different approach in pointing out the intent of this waiver and step back standard was to be applied to structures over four stories, with the idea being that the perceived elevation at street level was a three to four story building, and if you had a five or six-story building that it would be step that fifth level back from the street 15 feet. Staff’s recommendation for denial is also tied to the GPP and downtown vision. Both provide guiding principles that were used to form the UDO. The opening statements of the GPP clearly state it’s not the intent of GPP to have one principle take precedents over others. From this staff has drawn two primary comments. The project does not address innovative and unique building design and significant sustainable development, and that we do not broaden the mix of housing types in the downtown. From a unique building design

standpoint this is subjective. There are no guidelines providing a measurement stick from which to base denial, nor are there specific items noted or presented by staff to support denial based on unique design. It also speaks of sustainability. This project is salvaging a building. It could have been torn down and had tons of demolished materials to landfill. We could've put people out of work by taking this building down. Additionally, recycling is being provided at all of the buildings and collecting. The project will have living walls with plantings in the sky lounge, providing green building material practices with recycled contents, harvested and manufactured within 500 miles. LED lighting is being used, energy efficient furnaces, energy efficient windows, white reflective roofing, larger windows for natural daylighting within the units, covered bike parking beyond requirements, and the creation of better walkable sidewalks inclusive of native vegetation, trees and lighting, all of which are sustainable practices. The second point was the project was not broadening the mix of housing types within the downtown. This goal is pulled from the Downtown Vision Plan which says diverse housing options in the downtown should be available not must be available. In a range of product types and prices including market rate, affordable, artist's lofts, and senior housing, nowhere does it say that there is a requirement to provide every project type, nor does it say that you have to have a mix within your development; we provide market rate. This project also includes a mix of housing types from studio, 1, 2, 3, 4 and 5 bedroom units at all range of prices. The GPP has 7 general categories. Developer has added 5 pages as a supplement to the report explaining how each of the 7 categories are met. The developer asked for support in providing a positive recommendation on two variances; the use variance for a drive through, which has received support from staff. The second is for a development standard variance for a drive entrance on 3rd Street. Taking an existing curb-cut onto 3rd Street, retaining and putting an entrance in for the garage that will serve the retail at this spot. This will improve traffic flow by extending the median on 3rd Street so that entrance is a right in, right out only. This will also enhance the viability of the retail at this location, making it easier for customers.

Tim Culver concluded by stating the GPP, the Vision Plan, and the Infill Strategy Plan as well as the UDO (580 pages of guidelines), have all been used to help develop the downtown of Bloomington. Out of this there are three items that were brought up: set back and two items relating to guiding principles, not requirements, as part of the commission's decision making. He believes the decision should be based on the overall value that this project brings and the simple fact that it hits on the vast majority of the goals outlined by each of these documents.

Attorney Representing Petitioner – Mike Carmin:
CATS 1:11.24 – 1:21:11

Carmin said this would be a different meeting and this would be a different staff report, had Mr. Lewis been willing to make a commitment for affordable housing. There is no such commitment in this petition, and because he didn't make that commitment the staff report asked for things to be done that have never been asked to do. Mr. Hoffmann is the only person who has been on this commission for a number of years. Tonight, this commission is being asked to do something that it has never been asked to do in the history of the UDO and GPP. You're being asked to subject this petition to review and standards that have never happened before. He believes this was because Mr. Lewis said he was not interested in putting affordable housing in this project. Mr. Lewis is being punished by a staff report that recommends denial on things that have routinely

been recommended and wholeheartedly supported. When looking back at past projects, he felt this project was being subjected to a degree of scrutiny that has never been opposed before. He asked for an explanation of how other projects, similar to this one, had support but this project does not. He asked to be shown a difference between those projects. Further, this issue has been addressed by the courts. He read excerpts from a similar case, *Kroger Company vs City of Plainfield* that was heard by the Court of Appeals. Carmin said this is a very important meeting. A precedent is being set. The commission is being asked to take a petition and scrap it because you need a reason to. What's being presented to you from the administration, through the staff report, is a request to deny this petition because there is no housing commitment. In fact, it's not part of the ordinance and it's not a requirement.

Petitioner Elliot Lewis:

CATS 1:21:12 – 1:23:19

Lewis stated that the State Legislature has voted very favorably to pass this. In total it's 106 in favor and 39 against which is overwhelming. This is on the Governor's desk and the people have spoken. Lewis said all were here last month when waivers were talked about and now there is a new rule book. You are to look at this from a waiver standpoint. This project has one waiver and 95% of all the waivers in the last several years, and last five years, have been granted. The commission's record of passing waivers is 116 out of 122. Tonight is about an attempt to illegally enforce a non-existent affordable housing requirement via rent control. It's not about architecture. If this job rolls forward there will be 5 to 6 million dollars of wages paid to approximately 250 people. And over the 99-year period 54 million in taxes for this City. Lewis said they have gone the extra mile and will not be subject to the unwritten rules by the man upstairs. He added that they do a lot for this community. They have been in business for 45 years and will not have their philanthropy prescribed by one entity. He said offers have been made and all of them have received a no. Over the last 15 years, a step back waiver has always been approved.

Commission Questions:

CATS 1:25:29 – 2:05:27

Neher asked staff based on commission feedback from last week's meeting, how the petitioner performed on what was requested by the commission on this petition.

Roach said they addressed those concerns in the way the building was redesigned. They took a fourth floor off the building at the southwest corner of 4th & Washington, and lowered the building heights to get the building to 50 feet. They also increased some of the non-residential area in both buildings and addressed some specific code concerns. Also, they provided some additional context images. Two items they did not address are the upper story step back and the drive entrance on 3rd St. The petitioner is now proposing a median in the street.

Neher said two issues are being brought forward. The issue of denial and issues regarding design innovation and not meeting guidelines of sustainability. While these were questions of them last week, they were not defined as concerns necessarily by staff. In what way could this project

meet, or should meet, the guideline of innovation and specifically what is the hurdle for sustainability?

Roach said these are difficult questions to answer as there are no hard or fast rules associated with them—they are aspirational goals. These are goals that exist, not just in the Comprehensive Plan, GPP, but in the overlay itself. They are specifically called out as things the Plan Commission should think about when being asked to approve buildings.

Neher said if a certain threshold hasn't been met what is the threshold for staff? What is the Plan Commission supposed to expect from any petitioner? He said these are very important issues that he's supportive of, but how are they supposed to make that judgement when those specific issues can't be articulated?

Roach understood. He asked that the Plan Commission look at the overall package of the project. The only finding is that the project does not meet the step back. The commission should look at innovative design, green development issues, and the overall policies of the Comprehensive Plan and Downtown Plan, including the policies concerning broadening the diversity of housing types altogether. What is a broad mix? How much should one project provide? What is appropriate for affordability versus student housing, versus senior housing, versus market rate housing? You as a commission are free to disagree with the finding staff put forward.

Neher stated there have been strong accusations made tonight by the petitioner concerning issues of affordable housing requests. This is a decision that is not grounded in any *Finding of Fact*. He felt that it was fair for staff to be given a chance to respond to those accusations.

Roach said it wasn't a secret that Mayor Hamilton is very much an advocate for affordable housing, and an advocate for increasing the diversity of housing across the City for all incomes and for all age groups. That is something that was taken into consideration when the department put together this recommendation for this building. Is it moving forward the goals of increasing the diversity of housing types for all incomes and ages in the downtown? We find it does not.

Wisler stated he was a little surprised when he heard the recommendation for denial. It seemed like the feedback given at the last meeting was addressed pretty thoroughly. Wisler asked if the change here in the new format is a new approach or new level of scrutiny. Is this a function of the change in leadership in the department or is this just a coincidence?

Porter explained there is a gap between our Comprehensive Plan and the UDO under which we have been operating, and where we would like to move to with the new Comprehensive Plan and subsequent UDO. She said her personal feelings haven't been put in place as it is her 5th day as Planning Director. She asked the Plan Commission to consider the direction that we're moving to, what you are being asked to do, and what you will be asked to do is to establish new precedents. This will happen as a result of the direction we're trying to move towards. Monroe County is one of maybe three counties in the entire State of Indiana that is realizing growth. The developable areas of our downtown are becoming scarce. This needs to be thought through very carefully. With this scarce resource, she believes the City (with its plans and ordinances), shouldn't be held hostage to a project that it doesn't want. She added that she's not making a

judgement on this project but rather making a statement of fact. We are working with scarce resources and there will be very careful decisions that need to be made and precedents will be set. The City is moving in a new direction in which the Comprehensive Plan and the UDO will specifically address those questions being asked this evening.

Wisler asked if these means the commission will be asked to deny petitions that don't include affordable housing specifically set aside.

Porter said she couldn't say yes for sure without knowing the future and what the particular zoning is going to be, or what the particular ordinance is going to be, but could say it might be a possibility. Bloomington has the highest housing costs in the state. Is this something the City wants to continue to perpetuate or do we look for a balance? This is what the City is looking at and what the Plan Commission will be asked to look at.

Kinzie said she's new to the commission as this is her fourth meeting. She asked if staff could help her understand how we consider the totality of a project, particularly around this issue of innovation, design, and sustainability, and whether it's suitable for the Downtown Core Overlay.

Scanlan referred to the UDO saying it states that, *"The Plan Commission is encouraged to consider building design which may deviate in character from the architectural standards of this sections which staff as identified, one, deviation, but add innovation and unique design to the building environment of this overlay area."* When this was written, this was the guidance given to the Plan Commission that the UDO wants certain things in different overlays, heights, density, architectural characteristics, but the UDO is encouraging consideration of other options if they bring innovation. Looking for this to be a very set rubric is not what our UDO lays out.

Neher said it seems like the Planning staff is actually applying that very strict rubric concept to this project with two very specific considerations for denial.

Scanlan stated the denial is based on not furthering specific goals from the Downtown Plan and then also staff not finding those innovative or unique features to this development that might warrant not needing the architectural standards.

Neher asked if the other considerations that have been met by this proposal, and issues that have been changed moving forward since the last meeting; these factors in staff's mind outweigh those changes in determining whether this is a viable project?

Scanlan stated considering the total facts of this petition led the department to this recommendation.

Maritano said she's hearing affordable housing but what she heard from James was mixed-use, a variety of housing, which seems different than just that narrow perspective of affordable housing that we are to consider.

Roach said housing diversity is what the Downtown Plan talks about. It talks about encouraging the downtown to have a wide mix, whether it be senior housing, student housing, with a balance

of owner-occupied. It's not just affordable or low-income housing. It's a mix of housing downtown.

Maritano: So denial is not based on affordability alone?

Roach: No.

Maritano's next question was addressed to Mr. Lewis. At the last meeting this project was actually targeted for student housing.

Lewis stated he had mentioned focusing on the law school because it was in close proximity which would be grad students. It could be professors, visiting professors, employees of the law school or optometry school. There are several different employees of various schools as well as professionals that are not affiliated with the university.

Maritano asked if they would consider changing the interior structure to not have four or five bedroom units, but to change the interior design so that it's more attractive to a non-student population. In doing so, it would meet the criteria of "quality of life" and marketing it for a wider range of people who might choose to live there.

Lewis said they have reduced the number of larger units and purposely put them in certain places to allow the most fruitful diversity of housing. You never know what the diversity of housing will be until it's built. They took into consideration what the commission was talking about and got rid of one of the five bedrooms, and also got rid of larger bedrooms, including paying close attention to putting other units of lesser bedrooms in various places. Careful consideration was also given to the layout of this to promote what you're saying. Our experience has been that what we've done promotes that.

Cibor had a question regarding one of the design changes in terms of the access on 3rd St. and showing the median to try and restrict access to a right in-right out. Has there has been any coordination with the properties that might be impacted by the extension of this median?

Scanlan said staff hasn't heard anything about that type of coordination.

Hoffmann asked if the median now allows for a turn into the alley. Would the extension cut off not only the access eastbound 3rd St. to this property's garage but also to the alley?

Cibor said the alley which impacts all properties to the west side, but there is also a driveway on the south side of 3rd St. between the alley and Washington that could potentially be impacted.

There was a brief discussion about the right-in and right-out. Lewis said he did consent to having the right-in, right-out and added the median was designed as it was requested. He's happy to do whatever is requested with regard to the median.

Hoffmann asked if anyone talked to any of the property owners who currently have access to the alley.

Lewis said there are two and they've talked to one of them but thought going to the other for input would be premature.

Steve Brehob, Smith Brehob and Associates, said there are two businesses to the west that potentially could receive deliveries in the alley. If the median is extended, the last 14 to 18 feet could be left off the west end of the median. The alley could still stay open. Hoffmann clarified there would be a gap in the middle to get to the alley.

Cibor asked how this would impact the drive south of 3rd Street. Could there be a gap for that and restrict access to right-in and right-out?

Brehob said the concern with this drive was limiting a left-out because of its proximity to the intersection. The existing drive to the south is an exit only. Maybe we can limit that drive to a right-out.

Piedmont-Smith asked why the number of automobile lanes need to be decreased from three to two.

Brehob explained there is currently parallel parking in front of the Fifth 3rd Bank. As you travel south of the alley there is no on-street parking. On Washington there is a dedicated left turn lane, dedicated through lane, a bike lane, and a dedicated right. Immediately to the south, Washington is a one lane road. When it was looked at adding parallel parking just over the south half of that block, it eliminated the dedicated right turn lane. From a traffic impact stand point, there was no impact to the functionality of the intersection.

Piedmont-Smith asked if they had looked at traffic counts.

Behob: Absolutely.

Piedmont-Smith asked why there was no landscape plan submitted.

Behob said typically at this stage there isn't a complete landscape plan prepared. There are landscape areas shown all around the site, and there are many landscape areas in the public right-of-way. Many of them to force pedestrians out and away from the building to eliminate potential conflicts with pedestrian and vehicles exiting the parking garages. Before the building can receive a grading permit to begin, a compliant landscape plan would need to be submitted.

Piedmont-Smith: What is the procedure for a landscape plan?

Roach explained there is usually a complete landscaping plan at this stage. The difference here is that this property is filled up property line to property line with building. There is no required landscaping except for street trees. The street trees are fine, the public realm could be 100 percent concrete. For a landscape plan for a project like this staff reviews two things, 1) that they are not planting invasive species, and they are not planting a species that will get tall and block vision for pedestrians or cars. This is not a typical landscaping plan where staff is looking at numbers and spacing and that sort of thing.

Piedmont-Smith asked if this were approved tonight what is the assurance there would be an adequate landscape plan.

Roach said there would still be permits that would need to be issued and with those permits the species would be reviewed.

Piedmont-Smith stated she found very little detail given about green building practices. She asked what the SRI of the roofing material is.

Zack Brody, architect for the petitioner, said the SRI would be a white membrane. The SRI would be 102 which is 25% over the required 78% to meet a LEED standard.

Piedmont-Smith asked if the SRI rating was still 14.

Brody: Correct.

Piedmont-Smith thought this rating was low considering the Energy Star minimum for central air is 14.5.

Brody said he would assume that was a rounding error and didn't believe anything below that would be able to be put in.

Piedmont-Smith asked if they would meet the 14.5 minimum.

Brody: Yes.

Piedmont-Smith asked if there are other details that could be provided about materials or recycled materials for carpeting or other elements of the building.

Brody said its general because similar to the question about the landscape plan, it hasn't gone to that level of detail. As far as selecting a carpet or selecting certain things like that, if there were any specific questions, he would be happy to answer.

Piedmont-Smith stated she was trying to get some commitments.

The Petitioner added as the design develops there will be more specific information available. From the standpoint of green building materials or practices; when talking about brick or concrete block, these items will be harvested within the 500 mile radius. These are being pulled from plants, pulling products from areas within our locale or that 500 mile radius. One of the guidelines within LEED talks about reducing carbon emissions from vehicles transporting materials as well as production. Many of the interior materials we talked about such as low VOC paints and carpeting are incorporating recycled material. He said more information can be provided as the product is selected.

Kinzie asked the petitioner if they could respond to the questions about innovative/unique design.

Lewis said when he looks at this project he looks at four different buildings. They will be designed to look like four different buildings. He talked about innovation and how they will use colored mullions, and the buildings will not mimic each other. Also they will use the topography in an innovative way. There will be a green wall which no one else in town has. For convenience there will be many different entrances and recycling will take place on-site for all tenants. The Fifth 3rd Bank building will be redone. There will be different things to look at both from height, material, etc.

Piedmont-Smith asked for clarification about the developer's claim that the First Financial Building on N. College has the drive through for the bank being on a primary street.

Roach said both buildings mentioned are now called 10 North and 9 North and they have the primary entry on College and exits on the side streets of 9th & 10th St. He said Mr. Carmin is correct in that when those petitions were discussed the entries were not discussed nor the petitions to receive variances. Since that time, there has been a change in the interpretation of the code. Roach said he looks at the code differently than Patrick Shay and Tom Micuda did; he interprets it differently. Moving forward, it will continue to be interpreted this way unless the Plan Commission tells us we're interpreting it wrong.

Public Comment:

CATS 2:05 – 2:15:37

Chad (last name inaudible) with Fifth 3rd Bank explained his office is based in Chicago but he handles the Bloomington market. He voiced support for the proposed mixed-use development being considered. This will enhance Fifth 3rd's presence, and provide a 1st class building for customers and employees. The bank supports the efforts of the developer to reuse the existing building which aligns with Fifth 3rd sustainable initiatives. The building is currently underutilized and this development will allow it to be repurposed to its full capacity. The bank is committed to the Bloomington market and hopes to serve customers for many years to come in this proposed development. This location will be the anchor to the Bloomington market.

Steve Volan, City Council member, said he has mixed feelings about this project. His belief is that waivers have gone on for too long. It's the constant refrain from citizens he speaks to all the time about how the downtown has changed, how it's getting too tall, how the Plan Commission approved the building on Kirkwood to go a couple of stories higher than the UDO called for. The idea that automatic waivers are being reigned in is perfectly fine and part of the evolution of the City. He isn't sure why the petitioner feels the City shouldn't evolve, or that the decisions made by a collective staff and commissioners, not to mention everyone else in the public, and other petitioners will always hue to consistent outcomes. The petitioner feels they should be rewarded for not asking for more than the UDO allows, or asking for a little bit extra than the UDO allows. There is nothing special about the architecture here, or the reduction of a floor, or other changes, and thinks its par for Bloomington. He didn't feel there was anything particularly wrong with the project and he thinks the changes are going in the right direction. He believes what staff is saying is these are the kinds of ideas that should have been their first impulse, following the guidelines of the UDO. He added that he and Piedmont-Smith had negotiated the tax abatement for Urban Station in exchange for affordable housing. We've learned there is

nothing we can do to make developers provide affordable housing. We can only negotiate it in a contract. It is Mr. Lewis' privilege not to want to engage in that type of negotiation, but doesn't feel that he or his staff should be resentful that Planning is less inclined to recommend exceptions to the UDO as a result. The reduction of multi-unit bedrooms is not the greatest. Because this is south of 4th St. and in the UDO, buildings south of 4th St. are allowed to build zero parking. The developer could have reduced or eliminated parking and added affordable housing. The assumption that we have to have cars not only induces traffic but is unnecessary under existing code. Volan said doesn't have a recommendation, but would have opposed it had it been a floor higher.

Commissioner's Discussion & Vote:

Cats 2:15:32 -3:22

Hoffmann ask for clarification regarding staff's recommendations. Is the positive recommendation to the Board of Zoning Appeals one that becomes moot, or should this be voted on anyway no matter what happens on the other part of the recommendation?

Roach said both should be voted on.

A motion was made to recommend approval of the recommendation for the use of the drive-through in the commercial downtown (CD) zoning district. The motion was seconded.

No comments regarding the motion. Roll call vote. Motion passed unanimously.

Motion was made to deny the petition SP/UV-05-17. Motion seconded.

Plan Commission Comments:

Piedmont-Smith voted no for the following: The developer is asking for an exception to our UDO in two respects. She does not have an issue with the step back over 45 feet. She had an issue with the vehicular access being off of a primary arterial rather than a secondary street. Also, she doesn't see the greater benefits to the community with regard to this development and feels no need to approve a waiver.

Cibor thanked the petitioner and his team for taking into consideration many of the comments heard from the previous meeting; improvements have been made. There are many good things associated with the development and plan as it's laid out. However, he has some concerns with the proposal with regard to the sheer number of drive-cuts which remains the same. This does affect the pedestrian environment of the development. He will vote yes on the motion.

Maritano concurred with Cibor that the petitioner addressed many concerns from the last meeting. She appreciated James (Roach) and the way he interpreted the Comprehensive Plan and not just building by building waiver, but also how we're shaping the vision of our City through these meetings and process. This is an important meeting and it's an important change of direction. She appreciates the changes that have been made and also appreciates the opportunity

to change how we may have done business in the last 12–15 years. The comments from our community are that there is too much of the same type of development in the downtown area.

Wisler stated there is much truth on both sides of this tonight. He appreciates what the petitioner has done and the changes that were made. He does not disagree that we ought to just enforce the rules that we have, we have the right to do that. We also have the right to change the rules. He didn't like changes to the rules in the middle of the game. The petitioner has been in process now under two seemingly different standards which is difficult to wrestle with. He's concerned that this seems to be the first time that we, as a commission, are hearing about this. This is the type of thing that staff and the commission need to be working together on—on the same page. He did not feel this was presented to the commission as something that was going to be happening so this is quite a surprise. He isn't in love with this project, and as others have said, would love to see this be more transit oriented. However, it does seem to meet the standard and it certainly meets the standard we have put towards other projects. They have done everything, if not more than required of the H.M. Mac project, which is probably the most recent comparable project we've considered. He concluded that he's not comfortable denying this when essentially they have done everything asked, with the exception of one request which was not made by this body. As a matter of procedure the fair thing to do is to send this on. If new standards need to apply to new projects, then let's talk about it and get on the same page but not make one project a political football. It's just not the right way to go about this.

Kappas said he's of the same opinion as Wisler. He's having a hard time with this because he doesn't view this petition other than reincorporating Fifth/3rd. There is a lot in this that he didn't feel was beneficial for this area, especially being right next to the downtown transit center. However, he has a hard time with the fact that the game has changed in the middle, and that the petitioner did what was asked of them last time. Height was a big issue for him last time and they have brought that down. He's all for changing and feels change must happen in the appropriate way. He does not see this as the appropriate way. He will vote against the motion.

Kinzie said as a new commissioner she considers it her duty to bring a fresh perspective to this body and to think about what we want for our community. She has been privy to a lot of comments from my community members about their concerns; about the cavernous development that seems to be happening in our downtown, and the fact it seems like there is a lack of sunlight downtown because of tall buildings and spaces that were once easier to navigate are changing. She appreciates the concerns that Steve Volan brought in about the need for a variation in housing which is something else she has heard from folks in town about. There is a concern about a lack of variation in downtown housing. She is concerned about the downtown becoming the purview of student housing. She wants it to be a broader community and sees it as her duty as a new commissioner to bring that perspective. She appreciates the developer addressing many of the concerns that were raised at the last meeting. She, too, had concerns about the height proximity to the transit station and lack of consideration for what that proximity could bring to this project. She raised this point in the last meeting and it was not addressed in this view. She would like to think through some additional innovative design and more sustainable development. It's on the agenda to be responsive to the community, to be responsive to what this administration seems to want, and she will be pushing for more of that. She appreciates the staff coming in with a perspective that might allow for this. She also has concerns about this

being changed in the middle. Maybe there is never a good time. She did not appreciate some of the bullying tactics she felt were being invoked by the developer and petitioners.

Neher stated he has been an advocate for staff to come in and set a clear sense of direction for the project from the beginning. This project, in particular, is a clear example of why we're in such a position where we need a new comprehensive plan and why we need our UDO redeveloped. With this situation there is a gap. But to ask the Plan Commission to predict what is coming forward is unfair to this body. All of a sudden we have every commissioner with a different perspective as to what that future might be and that is problematic. The step back is a great example. We can say the step back is a problem, but we continually approve it, and staff didn't make a compelling case against it just as a reason to deny it. Meanwhile when you look at projects that exceed the height limit, it's granted. In this situation, there has been an effort to scale back the height which is a fair consideration. Even more problematic is to state there are concerns we have, and concerns that he did not hear staff bring forward at the beginning of this project but brought forward tonight. Considering issues of sustainability and innovation, and not being able to define what that is, and then saying it needs to be considered—it's a problematic consideration. We need to look at how to provide clarity and direction for everybody in this process. It may never be completely clear but where we are now is muddy water. With the issue of affordable housing, there are two ways to deal with it. Either start to legislate it and figure out how we want to do it as a community, or you build our way out of it with capacity or a combination of both. His vote will be to deny the petition based on the specs.

Roll Call Vote: (Yes vote is a denial of site plan)

Cibor –yes

Stewart Gulyas – yes

Hoffmann – no

Kappas – no

Kinzie – yes

Maritano yes

Neher – no

Piedmont-Smith – yes

Wisler – no

Motion passed to deny site plan for SP/UV-05-17 by a vote of 5-4.

SP/UV-41-16 Naples, LLC (Doug Duncan)

1610 N. Kinser Pike

Site plan approval for a 3-story, 39-unit multifamily building. Also requested is a use variance to allow first floor residential use

Case Manager: Amelia Lewis

Staff Report

CATS 2:41.52-2:54:53

Amelia Lewis, Zoning and Long Range Planner presented the staff report. The petitioner is requesting a use variance to allow for 1st floor residential. The Plan Commission must review the use variance request to determine consistency with the GPP, and make a recommendation to the Board of Zoning Appeals. The petitioner is also requesting site plan approval from the Plan Commission. The petition is for a 3-story multi-family building, 39 units, and 13 units on each floor. The site plan meets all of the standards of the UDO, including parking, height, materials, bike parking, sidewalks and access, and impervious surface coverage. The site is not required to meet the architectural standards of the UDO, as the site is located more than 500 feet from a freeway and is not located along an arterial street. However, it does still incorporate a variety of the UDO architectural features, including materials, facade variation, and raised entrances, repeating windows across the length of the building and color variations. Planning staff recommends the addition of architectural features on the north and south elevations. There are some environmental considerations along the southern portion of the site, including a dense amount of existing trees. The petitioner has agreed to retain 70% of the existing trees on-site. Steep slopes do prohibit development. There is also a creek which requires a 75-foot buffer which takes up a large portion of the lot. The Commercial General (CG) zoning district prohibits ground floor residential units. The petitioner is proposing all residential units on the first floor. The Plan Commission must determine if the petition interferes with the Growth Policies Plan (GPP). Staff finds that it's consistent with the GPP as it serves as a transition between the existing commercial to the north and the residential to the south. There is a small developable area due to the environmental constraints on the southern portion of the site, and would likely not support commercial as there is no street parking. The GPP states that residential uses may be developed and encouraged on upper floors but does not directly address lower floors. This is the last vacant area in this area. Staff has gone through five standards for a site plan. It's consistent with the GPP. Staff finds that the site plan meets the CG district intent and Plan Commission recommended guidance, except for the first floor residential which is what the variance is for. The proposed site plan meets all standards of the UDO including parking, impervious surface, environmental, architectural and access in Chapter 20.50 Development Standards. Chapter 20.07, Design Standards – there is no subdivision proposed. Site plan approval is conditioned upon the southern portion of the lot affected by steep slopes and the riparian buffer being placed in a conservancy easement. Lastly, no other provision apply. Staff recommends that the commission forward a positive recommendation for the use variance to the BZA and also approve the site plan with the following conditions. 1) It goes to the BZA and gets approval 2) Putting the southern portion of the lot in a conservancy easement and submit a revised landscaping plan which petitioner is currently working with staff to develop this plan. 3) The petitioner should record a zoning commitment detailing the proposed affordable housing units as a part of this proposal.

Petitioner Comments:

CATS 2:54:28 – 2:54:45

Jeff Fanyo, Bynum Fanyo Associates, is representing the petitioner. Also present is Joe Raper with CSO Architects, architect on the project, and Doug Duncan representing the developer. They have worked over the last several months to iron out the technical details. They are in compliance with the ordinance with the exception of the first floor retail which a variance has been applied for. Conditions from staff have been agreed to as represented in the recommendations for approval. The north and south end architecture of the building will be worked on; the petitioner agreed they need to be dressed up.

Plan Commission Questions:

CATS 2:54:45 – 3:24:50

Maritano asked if these were 39 one-bedroom units.

Fanyo: Yes.

Cibor asked if there were any ideas on what the changes in the north and south facades might look like.

Joe Raper, CSO Architects and project manager, stated they would introduce some vertical elements that would come off like bay type windows, making the end units more special, and break up the façade so there is not a flat plane.

Cibor asked staff if the architecture changes is that something staff approves.

Roach said if there was a dramatic change that would change the essential elements of the project, we would have the option of bringing that to the Plan Commission. In this case, some of the tweaks staff does not anticipate that being the case, especially since there are very few architectural standards here in this particular zoning district.

Cibor said condition #2 talks about the conservancy easement and #4 talks about working with staff on the sidewalk. It looks like the existing right-of-way may go to the center line of some of these roads. Will there be an easement or right-of-way donation or what that process would be to get the sidewalk facility?

Fanyo said what's been talked about was dedicating an easement for the sidewalk. There was a recommendation received this morning about moving the sidewalk forward and a few other minor changes. Those changes are being done now so all are in agreement with those conditions.

Roach explained this is a standard code requirement and wouldn't necessarily have to be a condition; however, it can be added to one of the exiting conditions so everyone remembers.

Maritano asked for an explanation of multi-family, as these are all one bedroom she wasn't clear of the definition.

Roach said multi-family is anything more than one dwelling unit in a structure.

Maritano asked if a traffic study had been done in terms of Kinser as it's a fairly important thoroughfare.

Amelia (Lewis) stated no traffic study had been done.

Roach added for clarification that staff would have the option of requesting a traffic study and analysis. Typically those are only done when there is a belief that results of that would influence the decision on whether or not a project was approved or denied such as a re-zoning case, or when there are questions about the capacity of intersections or other public facilities. Those results would not be used to approve or deny a plan, but to help plan better for the future.

Piedmont-Smith asked if the sidewalk on Gourley Pike would be new and connect to anything.

Amelia (Lewis) said yes.

Piedmont-Smith referred to the commitment. Is that for an explanation of what kind of affordable housing, HUD, Workforce, etc.?

Fanyo said this is a workforce housing commitment.

Piedmont-Smith wondered if this was the same as other proposals.

Fanyo said he didn't work on that agreement. This is a workforce housing agreement with a 50-year duration.

Piedmont-Smith asked if anyone could explain workforce housing in this case.

Fanyo said the way he understands it, it's a certain percentage of the medium wage and cannot exceed 25 percent of that annual salary. There is a formula but he doesn't know what it is.

Doug Duncan said the petitioner has worked for three or four months with the City administration and agreed to the City's program. The petitioner has fully embraced it.

Piedmont-Smith was concerned that this was a very long horizontal building and asked if the stairs toward the end kind of breaks that up.

Fanyo said there is a significant amount of articulation in this building. There is very flat plane space. The stair towers are hidden along Kinser Pike and more visible on the east side. There are a lot of color variations and varied materials. The building steps down the hillside so there is a broken roof line.

Piedmont-Smith asked if the stair towers set back from the Kinser Pike frontage.

Fanyo: Yes.

Piedmont-Smith asked if any green building practices are being incorporated.

Fanyo said they're doing many things the petitioner mentioned. This is 1.8 acre site and a significant portion of it is being preserved because of the steep slopes and riparian buffers.

Raper stated the easiest way to quantify what is being asked would be to do a LEED similar check sheet. This would quantify SEER levels, windows, materials, etc. They could submit that as a commitment with the approval. If the commission felt that strongly about it, it would also be a condition that we provide proof at the conclusion of construction to staff.

Piedmont-Smith appreciated that but this is being presented for approval tonight. She asked for a few highlights of what would be on that checklist.

Raper said everything from materials, finishes, carpets, low VOC, mechanical, lighting. It would be the whole litany of the nuts and bolts of the project (the petitioner didn't have the list available).

Piedmont-Smith asked if they were saying they would do the basic LEED certification without paying for the certification.

Raper stated that is exactly right, and they are asked to do that a lot for clients these days since the certifications have become really expensive.

Piedmont-Smith asked if the development was geared toward students.

Fanyo said the location of this site is probably not conducive to students but there may be some. Parking has not been provided for 100 percent but its close. This is on a bus route that is well connected. These are one bedrooms with full kitchens and bath, very much like the one bedroom projects on Hillside and Henderson. Those projects typically don't get students. They typically get in the Hillside and Henderson site; there is faculty, graduate students, and retirees. This is the demographic that this project is going after. It's not marketed to the student group.

(Inaudible) asked in reference to the 70 percent tree preservation if there was a requirement.

Amelia (Lewis) said there is.

Roach added it's based on the percentage of trees that cover the property. For instance, if there were between 40 & 49 percent trees then 70% of that coverage would need to be preserved. He guessed that this site is much less than 40% covered so it's a higher percentage. There was a visual presented to where the tree line will be.

Kappas asked the petitioner since the parking lot butts up to the riparian buffer and the 18% grade dip, would the run off from the parking lot be angled.

Fanyo explained the water flow with a visual. There are several inlets that are piped into a water quality and retention pond that would be discharged into the roadside swale along Kinser Pike.

Kappas asked if there were a 100 year storm were to come would it be able to withstand that much water.

Fanyo said yes and added those calculations have been sent to CBU for review and approval.

Kappas asked staff what the structure was directly to the east. It's a two-story office building. Will the tree line be between those two buildings?

Staff explained where the tree line would be from a visual. They will remain on the south and east side.

Fanyo said these two lots used to be owned by the same person. The petitioner bought this lot in the late 90's. However, when the building was added onto, it made it so the building now encroaches into the petitioner's property. The petitioner is providing the Tri-County owner with an easement so he can retain ownership of where he encroaches in the property. The goal is to try and retain all vegetation that is there with the construction of the retaining wall, but will also add new landscaping. It's shown on the landscape where additional landscaping is added in the buffer between the two properties.

Kappas asked about privacy.

Fanyo explained they are 10 to 15 feet higher with the retaining wall, so they will not be able to see what is on the other side of the wall. Also, the building is being built forward to Kinser so it will be another 65 feet beyond.

Kinzie said the original design proposed the sidewalk closer to the building. What's the purpose?

Fanyo said it's probably an arbitrary decision. There was no design guideline. Door connects to that sidewalk so they can get out to the right of way, and it does make the runs shorter which may have been a thought. If staff wants it closer to the road that is okay with the petitioner.

Kinzie stated she knows there are no requirements for lighting but is there any concern about darkness in the back parking lot area.

Fanyo said he's pretty sure there will be site lighting that will meet the City's ordinance where no light can bleed off of the site.

Wisler thought this was a pretty tricky area and not pedestrian friendly. Many of the buildings to the south are set way back off of the street. The City has worked hard to make this area to be better for pedestrians with the sidewalk to the south. He agreed first floor retail is probably not viable here. Wisler asked the petitioner how the architecture would address the sidewalk. He asked about stoops by the front doors.

Fanyo stated the doors will have stoops and some will have one large stoop that will be shared. The building could also be moved forward closer to Kinser Pike but there are some complications with the right-of-way. The setbacks are based off of the Thoroughfare Plan

proposed right-of-way which is 100 feet in this area and 50 feet on either side—it pushes the building back. If Kinser Pike is ever widened, it will be good to have that additional right-of-way.

Wisler said he's more concerned about what the space between the front door and sidewalk feels like. Will there be grass there? Any kind of front porch? Are people going to want to sit on the front step and gather there?

Fanyo said there is a certain landscaping requirement that will be in front.

Raper added that all of the first floor units will have a stoop that is fairly good size. There will be lawn in front. He said they were designed to look and feel like a row house but with a green area out front.

(Name inaudible) asked why there are only one bedroom units. Is there a possibility for some two bedroom units?

Fanyo stated he has worked on this project since 1994 and there have been so many iterations of different things. In this area, there are many multi bedroom units and the thought is the area doesn't need anymore. There seems to be a strong market for the young professional for a real one-bedroom unit, not an efficiency. It's been found that one-bedroom units get multi-year leases instead of having a bunch of kids come in for one year who want to live together and then don't. Anytime there is not that turnover it's an economic plus and is a good market.

(Name inaudible) stated she was thinking of multi-use, multi-populations, sometimes married couples want a second bedroom for an office, or a single parent that would need an extra bedroom.

Public Comment:

CATS 3:24:50 – 3:31:47

Elliot Lewis said he's intimately familiar with this particular property and talked to Mr. Hartung about it. His comments are not directed at the petitioner. He knows they have worked very hard on what they have presented tonight. His comments were 1) When there is a tree coverage issue, there is typically a pretty detailed schematic that is offered so everyone is able to see what the tree coverage is, and what the end result would be by a detailed site inspection and marking of certain areas. He noted he did not see that tonight. 2) On this particular petition some concern about architectural requirements, yet somehow certain requirement details have been communicated to the petitioner, unlike in the petition heard just before. It's interesting how the petition before you can somehow work after the fact. If you approve the petition tonight they're able to go back and work with Planning. He noted he did not see that going on in the petition presented before; he heard nothing about innovative design. Since they do need a variance and if you strictly apply the rule. First floor retail has always been enforced in all the petitions he has been involved in. There was a pretty strict one in the petition in the petition just before where percentages had to increase which, he heard, they did that, but it looks like in this one they are going to get a variance from the BZA and supported by the Planning Department. Lewis added

when environmental concerns and issues and LEED just filling out the sheet doesn't really do much, and doesn't know if there's any difference in what was heard before, and what was heard now, other than a checkbox. In this particular case with the architectural dimensional shingle, he heard no evidence that it has a better environmental rating than the TPO that was heard before, in fact, he heard more before than he heard about this one. What is unique about this one is its affordable unit design, and Isabel, there is no formal promulgated way to calculate. It's normally off of the workforce housing or what the median wage would be, but he doesn't know if anyone, including Doris, has come up with the exact calculation, which he knows because he has had several meetings with them. This building isn't in California, there was some reference to LEED standards being silver in California, but obviously this building is not in California. Elliott Lewis stated he sees nothing that is a higher LEED standard than the petition previously. Again, he stated he is not here to say anything negative about the project, he is simply here, to make sure apples are to apples, and oranges are to oranges; and he truly hopes that is not found offensive.

Steve Volan said he wanted to make the same point about this petition as he made about the previous petition. If the problem is that there is no room to put commercial it would seem to him the buildings are set back enough that instead of considering nothing but green space in front, there is plenty of room between Gourley Pike and the sidewalk to have included a row of parallel parking. This would have served a small coffee shop and therefore fulfilled the expectation of commercial. It could have also supplemented the need for as much parking in the back which might have allowed the developer to add a couple of units. There was a comment about if Kinser Pike were ever widened there would be a place; however, putting trees there implies there are no plans to widen. If you want people to feel comfortable sitting in front, then parallel is the way to make that traffic slow down and to make people feel safer to sit on the porch in front. He concluded by saying he doesn't know if it can happen with this project, but the best kind of parking is parallel parking; parking can be used to make streets safer and to enable commercial.

Rebuttal:

CATS 3:31:47 – 3:33:57

Fanyo referred the detailed schematic on the tree preservation. He stated they actually went out and did a tree survey in either late December or early January. The schematic does show where the existing drip line is, which an inaccurate depiction is. Fanyo says the UDO stated *“Architectural guidelines are not required in this case, as the site is located more than 500 feet from a freeway, expressway, and not along an arterial.”* While CSO did make an effort to meet the design guidelines of the UDO it was not a requirement. He commended USO on doing a great job.

Fanyo explained the sidewalk was located where it is because of noted “future right-of-way dedication” on the plan. The sidewalk was placed so if there was ever a widening of Kinser Pike the sidewalk would not need to be taken out, however, it will be moved forward.

Plan Commission Discussion and Vote:

CATS 3:33:57 – 3:42:49

Hoffmann asked for a motion about the recommendation to the Board of Zoning Appeals about the use variance.

Neher made a motion to give a positive recommendation for the use variance to the BZA for this proposal SP UV-41-16. Piedmont-Smith seconded. Roll call vote. Motion passed unanimously.

Piedmont-Smith would like to add a condition of approval.

Hoffmann advised it could be added in the motion, or wait until there is a motion on the table and then make an amendment motion.

Piedmont-Smith asked staff since the developer seemed amenable and we want to emphasize green building, she asked staff for feedback on her addition of a condition of approval for the following: *“Petitioner shall commit to fulfilling green building standards sufficient for LEED Certification via checklist prior to final site plan approval by staff, and shall verify implementation of the check listed items after construction through detailed documentation.”*

Hoffmann explained as a former parliamentarian, he thinks since the petitioner has stated that they will do exactly that, we can say that’s part of their proposal.

Piedmont-Smith was concerned that it’s not written anywhere.

Hoffmann said no but it’s on the record of this meeting that they committed to it. It is a part of their commitment they would have to fulfil as part of their petition. Putting it in the phrasing you suggested may be problematic for us to say we’re requiring it than to simply have them on the record as committing to it.

Roach said if this is a commitment that has been made and agreed to he would prefer the condition that we would contract it. He is most concerned they do not have the expertise on staff to verify what they have told us. They could give us a checklist and give documentation but there is no trained staff to verify compliance with items such as this.

Piedmont-Smith questioned whether Linda Thompson had that expertise.

Roach stated he did not believe she did.

Piedmont-Smith stated that was a problem.

There was additional discussion on wording of the LEED certification statement to be made in the motion.

Neher made a motion to approve Site Plan SP/UV-41-16 including five (5) conditions of approval as stated in the staff report and its findings and amended by Piedmont-Smith.

Piedmont-Smith stated her amendment to the motion, *“The petitioner will fulfill green building standards sufficient for LEED certification via a check list prior to final site plan approval by staff.”*

Roach said this is site approval so it would have to read “prior to occupancy.”

Piedmont-Smith modified her amendment to state the following: *“The petitioner will fulfill green building standards sufficient for LEED certification via a check list prior to final occupancy.”*

Motion with amendment was seconded.

Piedmont-Smith said this is a very different location from 3rd & Washington or even from North Morton St. This is further from downtown. It’s appropriate to waive the first floor commercial requirement in this location. She does value what Volan said about using the excuse of no parking out front, and therefore, you can’t have commercial. It really is the location why you wouldn’t have successful commercial. You could put parking out front if you wanted to. She also recognized the greater benefit to the community through workforce housing and through the green building commitment which she appreciates.

Roll Call vote was taken. Motion with amendment passed unanimously.

Hoffmann said a motion must now be made to suspend the rules because the meeting has passed 9:00 p.m., with two items left on the agenda.

A motion was made to suspend rules and extend the meeting. Hoffmann reminded new members that if they absolutely had to leave then not to vote because the vote has to be unanimous for the rest of the commission to stay. Roll Call. Motion passed unanimously. The rules have been suspended.

ZO-09-17 City of Bloomington - UDO Amendment (Accessory Dwelling Units)
Amendments to the City’s Unified Development Ordinance to permit limited numbers of Accessory Dwelling Units (ADUs) within single-family zoning districts.

*Case Manager : James Roach
CATS 3:42:49 3:52:19*

James Roach said this is the first of two proposed ordinance amendments. These are amendments to the UDO that the Planning Department is bringing forward. They both address housing options and housing affordability. The first is an issue that has been discussed many times over the years, going back to the original adoption of the UDO in 2006, and then discussed again in detail in 2009, and this is accessory dwelling units. This is ZO-09-17. Accessory dwellings are small apartments built into the context of a single family house. They can go by many names, “mother-in-law suites,” “care-taker quarters,” “granny flats,” etc. They are small apartments owned and managed by the homeowners that live on the property. They can help the house stay affordable by providing additional income, allow for people to age in place longer by having an apartment for a caretaker, or allow for an aging parent to move in with adult children. They can

allow for the gradual change and gradual increase in density in neighborhoods. This is something encouraged by the current GPP. The new proposed Comprehensive talks about the involving character of neighborhoods, allowing them to change and morph and allow for additional compatible density through things like accessory dwelling units. The proposal brought forward has been a collaboration of Planning, Legal, and HAND and instead of a conditional use approval accessory dwelling units would be permitted for single family homes in any of the single family zoning districts, RSRC and RE with several major conditions. Those conditions can be found in the Staff Memo Proposed Amendment. He said they are not proposing action be taken this evening, but if you feel it's in a form you are comfortable with you are free to forward on to the City Council.

Hoffmann asked if staff's recommendation is to forward this to a second hearing at our next meeting.

Plan Commission Questions:
CATS 3:52 – 4:20.37

Maritano asked if it's attached to the house what makes it different for an owner applying for a remodeling to add an addition to their house. What would make it qualify as an ADU?

Roach explained the primary difference would be a full unit. In these single-family zoning districts you are allowed one unit per house. If you were to apply for a building permit to portion off part of a house or add an addition there would need to be a kitchen. If you put a kitchenette into part of your basement that would be an ADU.

Hoffmann asked if the two units are segregated in the sense of being able to be one locked against the other. He asked if staff would be looking at whether it has its own external entrance. Is there is free access from one to the other inside the house? He recalled them coming up in a BZA case.

Roach said the code has a list of things to look at to determine whether something is really a unit; mailbox, separate entrances, separate kitchen, tenancy arrangement based on a lease, etc. In this case, the concern is mostly about the kitchen. For instance, he could foresee if it were a caretaker arrangement, or a disabled child that wants to live quasi independently from their parents in the same home with a kitchen and they want that door, and the door is locked most of time but they want to be able to go back and forth. In a landlord situation, having that strict separation is very important. With an ADU it may not always be quite as important.

Roach stated there was an email comment received from Councilman Chris Sturbaum. Hoffmann said the email submitted from Chris Sturbaum stated that this should be done as a conditional use (with staff's support) as opposed to by right.

Cibor wanted to confirm there was no definition of a "tiny home" in the UDO.

Roach: Yes it's more of a descriptor. Bloomington does not have any minimum home square footages so you could build a very small home on a lot now, but we did include that in the definition because it is something being talked about a lot.

Cibor asked what the process was for not including a parking requirement.

Roach explained that early drafts did include some parking requirements. Those have been removed at the request of Mayor Hamilton with the idea that many of the old neighborhoods, many of the homes have no parking now relying on street parking. Mayor Hamilton thought, and James Roach agreed that it would not necessarily be appropriate in these old neighborhoods to force new driveways to be built, or parking to be built where it really isn't necessary. Therefore, parking is not a part of the current proposal. If the Plan Commission disagrees it could be looked at again.

Cibor asked about the foundation and wondered what "securely attached" would mean.

Roach explained in many cases there may be a slab foundation, a concrete block, what is meant by foundation is a permanent structure, especially for the tiny house, because many of them are built on trailer platforms with wheels. This means a permanent structure attached to the ground.

Cibor asked in reference to habitable space if a loft would be considered habitable space.

Roach explained it was something that was debated but staff would need to look into that further and talk to the Monroe County Building Department.

Piedmont-Smith asked if a family has a kitchenette in their basement and they have a lockable door, and they have an entrance to the basement. Would that be an ADU even if it's a big family and they have a lot of room?

Roach explained this is something that needs to be debated. How much of a kitchen is a full kitchen? When does a wet bar become a kitchen? There is no clear guidance. Staff has always gone by the rule that a kitchen is a facility where you can keep food cold, cook food, and you can clean up afterwards—sink, stove, refrigerator. If you have those things it's a kitchen and you can't have two kitchens in a house. This is one of the things that makes a single-family house not a single-family house anymore but more like a duplex. However, this would allow for some of that.

Piedmont-Smith asked how the City would know if a new ADU is created.

Roach said we would know by the proper permits being applied for; pull an electrical permit, pull a remodeling permit to create a kitchen. He's sure there are times when people do not pull proper permits though.

Piedmont-Smith asked how it works. Do they get a copy of the permit from the Building Department?

Roach: Yes, and they would be red flagged for a kitchen.

Piedmont-Smith asked if, at that point, they take a look or talk to the property owner.

Roach: We would talk to the property owner.

Piedmont-Smith asked about the reaction to Councilman Sturbaum's suggestion that the best way to introduce ADU's into our community is to have them as a conditional use approval through the BZA, in order to ensure that there are no negative impacts on the neighbors.

Roach said the administration and the department believe the proposal being brought forward is the most appropriate. We have advocated for conditional use approvals in the past. If this is the route the Plan Commission and City Council want to go, we need to be sure there are clear criteria for when they're approved and when they're not approved. Many times with the conditional use process, you're inserting inner personal dynamics which could bring up issues not related to the actual details of the proposal. It adds an additional step in the process, and additional scrutiny by neighbors who may not necessarily be concerned about the actual aspect but other things. Our proposal is for "by right" permitted ADU's. Conditional use would also work but that is not what we're advocating for tonight.

Piedmont-Smith stated in the text of the UDO's introductory paragraph that does say "*The creation of legal ADU's that are compatible with residential neighborhoods.*" She asked how that compatibility shown.

Roach stated that staff feels the criteria; the standards that have been written ensure compatibility in all circumstances. The square footage limitations, the owner-occupancy, the separation between ADU's, these are the things that ensure compatibility.

Neher asked how ADU's are treated within historic districts.

Roach stated they have talked with Bethany Emenhiser, Historic Preservation Program Manager. If they are visible from the street, from the public right-of-way, then the design would be reviewed. If they're not visible from the public right-of-way, tucked back in the back of the lot where they can't be seen or incorporated into the framework of the house itself, then they would not be reviewed.

Neher asked at what level neighborhood associations have been consulted in the construction of this legislation.

Roach explained that a copy of the draft went to CONA and he has spoken to a couple of regular CONA attendees which is the extent so far.

Neher asked if there has been any consideration (regarding the issue that Sturbaum raised), as well as considering the interests of separate neighborhood associations or neighborhoods throughout the community. Has there been consideration in how we might cap the number of ADU's within a neighborhood, rather than see a concentration within a specific neighborhood?

Roach stated one of the earlier workings, in a pilot program aspect, we would find a neighborhood where a large percentage of the homeowners were okay with the idea of ADU's and use that as a pilot for the rest of the City. Ultimately, that idea was scrapped and the proposal you see before you was brought together. That would be thirty (30) across the City and then the 300 feet between two (2) ADU's to try to get at the concentration issue.

Hoffmann added for clarification. It's not between the ADU's themselves but between the lots?

Roach: Correct. Between the properties.

Neher said during the conversation of this legislation one of the primary interests of many in Core Neighborhoods has been trying to flip the number of owner-occupied versus rental units to maximize the number of owner-occupied. This encourages adding a different type of rental unit into neighborhoods. Did that conversation, as an issue of priority come up, the interests of Core Neighborhoods in maintaining its owner-occupied units?

Roach said not really. Other than the idea that one of the things ADU's could do would be to allow an aging homeowner to live in that house longer if they're able to have a caretaker live there. If a property owner is having trouble paying the mortgage or what have you they might be able to get some additional income through a very small rental in their backyard or basement. In order to qualify to even build one these in the first place, it has to be an owner-occupied home. This would ensure at least that property would stay owner-occupied as long as the ADU is there.

Kinzie asked for clarification on the separation and what the intent is.

Roach explained so there is not a clustering of ADU's on one block and an influx of people and impacts in a very small concentrated area.

Wisler asked about the 440 square foot limit, and if it was for a detached structure, and if that was the footprint of the building, the habitual square footage. Does it specifically include things like porches?

Roach stated the idea is that it would be habitable living space. Crawl spaces, unfinished basements, or porches would not be included. The measurement would be interior wall to interior wall.

Wisler asked, for instance, if he had a three-car garage, could he build a 440 square foot unit on top of a portion of that garage if the footprint was larger.

Roach: Yes.

Wisler asked if there was any magic to the number thirty (30).

Roach: No.

Wisler: What if one day there were 60 people come in and apply for an ADU permit?

Roach said that was a fascinating idea. If these are popular then there may need to be a re-evaluation of the standards and maximums very quickly.

Wisler explained his concern with both the limit and with the measurement between units is that it sets up the Planning Department to be dishing out the right to increase property value for a select number of properties. Is Planning concerned about this and how you will mediate a dispute when a neighbor builds one and then another neighbor comes in can't and thinks it unfair?

Roach stated like any provision in the UDO property owners would have right to request a variance from the standards and take it up with the BZA. The cap will continually be re-evaluated.

Hoffmann stated that when staff talks about "approved" that the cap is based on no more than thirty (30) shall be approved. Hoffmann assumed this is being measured based on the issuance of these certificates of zoning compliance, and that is how the thirty (30) are being measured.

Roach: Yes. He added that it would be first come first served in terms of the question if 60 should all come in at once. If it looks like you're going to have a line of people outside the door, then you will do something such as a lottery. There will be a way to deal with that just like there is for all other situations.

Hoffmann didn't feel like they wanted the BZA to increase that number by granting variances.

Roach: Yes, but there may be a time where there is truly a peculiar condition and maybe 500.

Hoffmann clarified he was only speaking to the cap, which is not subject to a variance.

Roach agreed.

Wisler said if I built one and my neighbor wants to build one, and we are under the cap, would that be allowable by variance?

Roach explained they would have a right to apply, and the BZA would need to determine whether there was peculiar conditions and practical difficulties in meeting the standards.

Kappas asked what this does in terms of RS (Single-family Residential) and the number of individuals on that lot.

Roach stated the version that was discussed in 2006 had some provision about how best to deal with occupancy and family situations. Each unit; the main structure and the ADU could be lived in by a family. In single-family districts that family is a group of adults related by blood, marriage, or adoption, and there are dependent children, or no more than three unrelated adults. Staff believes the sheer nature of the square footage limitations will naturally limit the number of people that are living there.

Kappas said he would rather not assume in this situation in terms of what avenue there would be to prescribing how many could inhabit an Accessory Dwelling Unit (ADU). It seems there is the potential to double population based on ADU's.

Roach: It's certainly a legitimate position but that isn't the proposal. The proposal is to not further limit occupancy any more than what the UDO permits. Also anywhere there is an ADU, one of the units is going to be owner-occupied, and that in and of itself will be a natural deterrent from problems.

Piedmont-Smith asked what the current procedure is if someone would like to have an ADU.

Roach explained the current procedure is that it's not permitted at all, so they would need to request a use variance to allow for two units on the same lot in a single-family district. There have only been a handful of those approved in past history, and in all of those cases, we were dealing with public accommodation issues dealing with disabilities.

Piedmont-Smith said it was previously mentioned that a variance would only be approved by the BZA if there were peculiar conditions. She asked to be reminded what those were.

Roach explained that is the criteria for a variance that is laid out in Indiana State law for a variance to be approved by the BZA.

Hoffmann stated that it needs to be a condition peculiar to the property that makes enforcement of the zoning provision unreasonable.

Piedmont-Smith asked if the only conditions that have allowed that to be approved are accessibility issues.

Hoffmann said they're not limited to that but generally limited to property specific conditions.

Piedmont Smith asked how these others have been approved.

Roach stated they were approved at the advice of the Legal Department. Cities are required to allow for what is called "reasonable accommodations." Reasonable accommodations was to allow for a small accessory apartment.

Public Comment:
CATS 4:20:37-4:26

Volan asked if it would be allowable for someone to build two (2) tiny houses if they're under the 440 square feet under the plan that is proposed. He said the key to the potential success of ADU's is the homestead exemption. If you require a person to live on-site to use the unit that ought to be enough. He thought maybe caps would be unnecessary. The real challenge is can you make sure if someone purchases the building from an owner-occupant that unit would have to stay empty. There would be a temptation for people to fill the unit. There are cases galore of over occupancy in my district alone. This is an enforcement concern for those properties that are

no longer owner-occupied. He's very concerned about the process of considering this, not because he has a problem with the 90-day limit that Council would have to consider this issue, but in context to everything happening. President Hoffmann just announced the tight schedule for the consideration of the Comprehensive Plan. This will come to the Council if it's approved in May. The Council will have 90 days to think about it. Council has said anything that come to us from the Plan Commission have a 90-day window. If we weren't thinking about just ADU's and the Comprehensive Plan that might be enough, but this is also in the context of the annexation consideration. The Council voted before it knew all of this was coming down the pike and to stay on the schedule that the administration asked for which is June 30th. There will be a marathon meeting on May 31st to hear about the annexation. That meeting is expected to last 10 hours. As a member of the Council, he knows he has his hands full and he is concerned. He wondered if one of these could be put off. There will also be a July recess and then budgets. The Council may be limited in response to certain Plan Commission decisions over the next two or three months, and wondered if there wasn't something that could be scheduled for the fall. This discussion alone will be a very active discussion in Council because there are a lot of facets. He asked the Plan Commission to consider this; he has never seen a year with more momentous items on the agenda than this year.

Plan Commission Action & Discussion:

CATS 4:27 – 4:40

Neher asked for clarification with staff and City Legal regarding Volan's question in terms of when the clock starts and how this process plays out. Would it be possible for the Plan Commission to consider both of these tabled, return it, then pass it later in the year to Council without impact on the clock?

Hoffmann asked if the Plan Commission is binding City Council to act on this or do they have control over their schedule.

Piedmont-Smith said any adjustments to the UDO have to be acted upon by Council within 90-days. She added that Comprehensive Plan does not need to be acted upon within 90-days.

Hoffman stated there will be no action on this tonight. Staff is simply asking the Plan Commission to forward this to a second hearing. He asked for a motion.

Staff was asked when the clock would actually start.

Roach explained the clock would start from when there is a vote to either send a positive or negative recommendation on the proposed ordinance to the Council. These are important lynch pin ordinances to the administration's ongoing affordable housing plans. Mayor Hamilton believes these two codes we're looking at tonight are important first steps into expanding housing opportunities and housing choices. We will be recommending next month that the Plan Commission forward some sort of recommendation to Council.

Neher made a motion to forward ZO-09-17 to our next regular Plan Commission meeting. Motion was seconded.

Wisler stated he's very excited that this is before us. This is an issue that he has been working on and passionate about for many years. He thinks that ACU's should not only be allowed but should be encouraged. Staff outlined a few of the reasons and benefits. It provides a better option for seniors or those with disabilities who can live close to the care that they need while still living independently. Getting the care that they need from a loved one or neighbor is an entirely different scenario than other types of assisted housing. It is also a good addition to our rental stock, in that it allows a child to live independently yet close to home. It helps with tourism to the extent it can help offset demand for more hotel rooms, some of these could be Airbnb rentals that would not only bring people into our town, but get a sense for what it is to live in our neighborhoods, and the character of our community. This also encourages better behavior from our visitors when they are really living within our neighborhoods. It is necessarily affordable housing. The biggest reason being that unlike any other type of new housing the incremental land cost for an ADU is zero (0). Any other type of housing that needs to be built you first need acquire the land, which is the first component of affordability. ADU's clearly have a major advantage over any other type of new housing in terms of being affordable. Not only are they affordable to the renter or to the occupant, but they are more affordable for the City too; they are self-policing. Many of the things that we worry about with new housing are if the police are going to have to be called to enforce parking, to enforce trash cleanup, or the stereo being turned down, all of these things are self-policed even the occupancy. If I build one of these in my backyard, I don't want to rent it out, I don't want to have 10 people living in it, because we're all going to share a trash can and a mailbox. They are more affordable to the City than any other type of new housing that we can add to our inventory. They are also environmentally better because they are going to be a very small footprint, they will share existing infrastructure with the main unit, they make neighborhoods more walkable by creating more activity, and they allow people to live closer to the downtown and the amenities that they need. The most important thing to understand of why ADU's are such a critical issue is they are really the only type of new housing that is not inherently segregated in some way. Anytime we build a new neighborhood we are always hearing, well who is the target, who is this for. When we build a new apartment building or neighborhood it's marketed to people of a certain demographic; ADU's are not. ADU's are the only way we really truly have integrated housing. This is the only way to get the elderly living with young families, you get working poor living with middle and upper class families in the same neighborhood, this is what really creates neighbors. If you're living in one of one-hundred units in a new high rise, you aren't neighbors with all the other people that are living there, you don't necessarily know them. And even if you pass them in the hallway, you're not creating relationships in the way that people who live on the same property do. They not only have the benefits of being a neighborhood but to have the responsibility of being a neighbor. If we continue to say that all of our rental housing, or all of our senior housing are going to be over here, we're going to continue to deal with the repercussions of that segregation. This is really the key to, not just from a land use perspective, but from the fabric of our community to have an integrated living environment. He feels strongly that the Plan Commission pass this, but doesn't agree with capping it at 30. If we're really going to have an impact on the housing market we need hundreds, if not thousands of these. If we're going to try and keep up with the demand for housing in the way that we've done it in the past, then we're going to continue to see one after another proposal for 100, 200, 500, 700 unit complexes, this is the only way the market will keep up with the demand. Thirty units will not put a dent in the economics of housing in Bloomington. We need this to be far more prevalent than that. The cap

not only limits the impact of it, but it actually sets it up so we are creating an unfair advantage for some homeowners that others don't get, and we put the Planning staff in a difficult position to be arbitrating who gets one of these and who doesn't. It should be wide open and encouraged throughout the City. Wisler concluded by stating he will vote yes tonight to move it along and welcomes feedback. Before final passage of this he intends to offer some sort of an amendment either to increase the cap or eliminate it completely. He asked to hear feedback from the commission.

Neher said Wisler outlined the arguments for how this becomes affordable and affordability related issues. He asked if there was any data from college driven metros that have ADU policies in place and if there is evidence that they're more affordable than market rate housing. At the next meeting, Neher asked staff to address if the goal for these types of units are indeed affordable. Why are we not putting an affordability restriction on them?

Cibor stated that some tiny homes are very similar to those things that we're excluding from this (mobile homes, campers, recreational vehicles), so he would like a clear understanding of the differences.

Maritano said if this is being done as a pilot project she would like to see more information about time frames. If you're going to have a cap of 30 then what would be the time frame for assessing the success of the project or the failure of the project and what are the criteria around which we are assessing that?

Hoffmann agreed with Cibor that even though we don't have a definition of tiny home now, we will need one. We're setting up a dichotomy between tiny home and mobile home. Hoffman feels the cap is temporary and not permanent, but the argument for it is the same one that Commissioner Sturbaum makes although he ends up in a different place. The argument for a cap is that it gives the community a little more time to get used to these. They are a good thing and not a bad thing. The criteria going forward is whether people after we have 30 of them, is there an outcry to not allow any more or to expand because people think they are okay.

Kappas asked staff to go ahead and try to assess what resources would go into this if it were to go into a conditional use before the BZA. How bogged down would we get?

Roll call vote taken. Motion passed unanimously. Gulyas absent for the vote.

ZO-11-17 **City of Bloomington**
 UDO Amendment (Pocket Neighborhoods)
 Amendments to the City's Unified Development Ordinance to permit Pocket
 Neighborhoods as conditional use within the Residential Core (RC) and Single-
 family Residential (RS) zoning districts
 Case Manager – James Roach

James Roach stated this concept is not as familiar to many people. There have been a couple of cases the Plan Commission has heard in the last few years, including the Bloomington Co-housing Project at Maxwell and Shorts approved a couple of years ago, but has yet to be

constructed, and the Dandelion Village Project on the near north west side off of 8th Street. This also has not been fully realized. Other names for these kinds of developments are bungalow courts or tiny house villages. The concept is that there is a clustering of small homes surrounding a central green, shared resources, shared parking, and shared common areas. This is an additional option for homeowners, developers, neighborhoods. This proposal would be for a conditional use in the Residential Core and Residential Single-family zoning districts. These neighborhoods can sometimes be very large. The size range being looked at is between 1 and 5 acres. There would be a little more need for public scrutiny for a proposal like this. Additional information can be found in the Staff Memo. He added this is a new concept and he is a little less confident in how this has been written. Any suggestions would be appreciated. This is part of a continuing effort to allow for increased options for housing within neighborhoods in Bloomington, other than just apartment buildings, and single-family homes on signal-family lots. Staff is not recommending the Commission take action on this tonight but rather recommending you forward it on to May.

Plan Commission Questions:

CATS 4:45:03 – 4:56:19

Piedmont-Smith asked how this is different from what is already allowed.

Roach explained through a subdivision process you need to create streets, a cul-de-sac, and individual ownership blocks. A cluster like this you would not necessarily have that. With a clustering of homes with a shared common area, shared parking areas, it's a more efficient use of space. There are no individual driveways or garages and less infrastructure heavy.

Piedmont-Smith asked if the common area has to include an enclosed structure.

Roach: It does not. It's an option.

Piedmont-Smith asked if any greenspace is required.

Roach stated the maximum lot coverages of the districts would apply. Greenspace requirement in the RC (Residential Core) is 45% and in the RS (Residential Single-family) it's 40%.

Cibor said the common space component; would the parking lot be considered common space?

Roach: I wouldn't want it to be considered common space so there would need to be a way to specify that.

Kappas asked if staff knows of any similar towns that have done this already.

Roach said he didn't know of any off the top of his head. He knows there were a couple of neighborhoods built in Hamilton County, maybe Carmel and Noblesville, where there were pocket neighborhoods. Those were different in that there were no square footage limitations and they were very large homes, but again, shared common green and shared parking area. Those were all approved through a PUD process. This would not be a PUD process, this would be a

conditional use process. This would be bringing a plan forward and taking it to the BZA, not a legislative action.

Wisler asked what the intention is or expectation is about these neighborhoods in terms of owner-occupancy and how does staff see that playing out. Do you anticipate these working much like a condo where the ground is cooperatively owned, but there is individual ownership of the units?

Roach stated that would be a way it could play out, that is how the Dandelion Village and the Co-housing project intended. Also, there could be situations where there were very small lots created where the home set on a lot just big enough for the home and the rest is owned in common. In terms of owner-occupancy expectations there is nothing written into the standard here now, just like if you were to create a subdivision there is no expectations or requirements that every home must be owner-occupied or 50 percent owner-occupied. Staff chose not to place any kind of owner-occupancy requirements. Frankly, I don't know how that could be done.

Wisler added, you could have a subdivision where each of these tiny lots are separately platted.

Roach stated the lots would be much different than what you would typically think of in a subdivision. Chapter 20.07 gives the Plan Commission and the Plat Committee the opportunity to approve what is called zero lot line developments, and common area developments where the lot is not much more than just the footprint of the home and everything else on the property is a common area, which is much different than a 7000 square foot lot with a home sitting on it. This is already built into the code.

Kinzie said her question was related to the clarification in the defined words where it indicates that the term "pocket neighborhood" shall not include a manufactured or Mobile Home Park. She would like to know what is distinct about this amendment versus a mobile home park. What makes them different or distinct?

Hoffmann stated there is a definition in the Code of both manufactured home and mobile home. The real trick will be distinguishing a tiny home from them because tiny homes are often built on trailers. The definition of a mobile home is something that is moved on a trailer without special house moving equipment.

Kinzie stated she would like to see that policy next to this one to fully understand where there are differences.

Roach said he would work on getting that information available. There is certainly a concern. There is not a whole lot of difference and we want to make sure there are differences. He believes the differences are going to be the common space, and the common green area, whereas a mobile home park or manufactured home park the units are more oriented towards an internal private street and doesn't necessarily have that common area.

Neher asked how one acre was identified as the size for the density.

Roach stated there was no rhythm or reason.

Neher asked what would be lost by reducing the lot size, pointing to other communities around the country that will put for dealing with issues of homelessness or affordability that will put multiple units on a much smaller lot size than once acre.

Hoffmann interjected you might reduce the number from five or six to two or three if it were a smaller lot, you would need something of a sliding scale based on the size of the lot.

Wisler asked if staff could identify, given the requirement of an acre, how many lots would that be available in the City.

Roach stated staff has asked the City's IT Department to do an analysis of lots and there were many, surprisingly, between one and five acres. That did not even take into account possible aggregation of lots. He agreed that dropping the lot size would open up more possibilities. Increasing the density would allow for more opportunities but might make it harder to be compatible, and harder to convince neighbors that this is an appropriate thing in their neighborhood. He said he's open to ideas from the Plan Commission.

No public comment.

Discussion & Vote:
CATS 4:57:59

Hoffmann said its staff's recommendation to forward this to a second hearing on May 8th.

Neher made a motion to forward ZO-11-17 UDO to our May 8th meeting. Motion was seconded.

Wisler said one natural use for something like this would be shipping container homes. He wondered how that would be construed in the definition of a mobile home. When you're trying to build a very small house with a small footprint shipping containers are one of the most sustainable ways to do that. There is no waste from construction of the exterior and something is being reused. They are also well suited for green roofs. He would love to see if it could fit into this without too much conflict.

Kinzie stated she thinks this is exciting to think about and a creative use of our space.

Neher wanted to encourage an investigation as to how small of a lot size could we go to for multiple units to be placed on those lots. Again, getting to the issues of affordability.

Piedmont-Smith stated like with the ADU's this is a great idea to explore. We need to be sensitive to the context. She would like to hear more from neighborhood associations, but in general she is supportive of this innovative approach to affordable housing and more sustainable housing.

Hoffmann said he also likes this concept very much. Just as he is supportive of the ADU concept, he's supportive of this as well. These are both really great ideas that we need to try and make happen. Having this one be a conditional use is the logical way to go so that neighborhoods do have more input when the proposal comes forward. On the side of making these more likely to happen and encouraging them, not only did he agree with Neher that we not impose an arbitrary limit, but think about some way of proportioning the number of houses to the lot. Hoffmann added he thinks we must be careful about lot coverage, setbacks, and side and rear yards. It isn't clear to him from the way it's written whether those setbacks and side yards were meant to apply to each house separately. He isn't sure that these would meet the 40% lot coverage, so we might want to vary that as well. The whole concept here is you get your green space in common, you don't each have your own, so varying the lot coverage requirement for this kind of development might make sense. On the flip side, the two big concerns Hoffmann mentioned were 1) How to distinguish the kind of innovative creative well built, nice, even container homes are wanted but not wanted are mobile homes. This will be very tricky but very necessary. 2) Concern about tear downs; it's wonderful to think about this going into a place where you have an acre or five of currently open space, but is concerned about people taking a preexisting lot, tearing down a home and building a whole bunch of little ones that can be rented out separately to students. We don't want to make the PRO-6 mistake. We do not want to create a loophole to give us something we don't really want to have. 3) Owner-occupied, if one of the tiny homes had to be occupied by a person that was the Petitioner, like the co-op. The co-op proposal was being brought forward by people that were all going to own it and live there. Hoffmann stated he's not saying he wants owner-occupancy as a requirement but we must deal with the possibility of tear downs, and using this as a loop hole for higher density multi-family housing where we don't think that's appropriate.

Neher interjected that there are communities that use tiny houses for people that are experiencing homelessness, which is a valid concern. We need to make sure we consider that, so if we talk about owner-occupied as being a requirement it precludes these possibilities.

Hoffmann explained he's really not pushing for owner-occupancy, but the reason that comes up is because of the concern that we're creating a loophole for savvy developers to figure out to essentially get a higher density student housing project near campus by tearing down existing homes, consolidating lots and doing a whole bunch of container homes. These are the things we need to think about with this one. This is not raised with the ADU's.

Maritano stated in terms of Airbnb's, she actually stayed in a place like this in Napa Valley where there was a beautiful central courtyard and we all made s'mores every night—it was lovely. However, they were all owned by one person and they were all little houses rented out, so it was a created vacation community but not necessarily a neighborhood. It was charming but not necessarily what we might want.

Roll call vote was taken. Motion passed unanimously.

Meeting adjourned.