

The Special/Study Meeting of the Troy City Planning Commission was called to order by Chair Waller at 7:30 p.m. on August 24, 2004, in the Council Board Room of the Troy City Hall.

1. ROLL CALL

Present:

Gary Chamberlain
Lynn Drake-Batts
Fazal Khan
Lawrence Littman
Robert Schultz
Thomas Strat
Mark J. Vleck (arrived 7:32 p.m.)
David T. Waller

Absent:

Wayne Wright

Also Present:

Mark F. Miller, Planning Director
Brent Savidant, Principal Planner
Allan Motzny, Assistant City Attorney
Richard K. Carlisle, Carlisle/Wortman Associates
Howard Wu, Student Representative
Kathy Czarnecki, Recording Secretary

Resolution # PC-2004-08-094

Moved by: Chamberlain
Seconded by: Schultz

RESOLVED, That Member Wright be excused from attendance at this meeting for personal reasons.

Yes: Chamberlain, Drake-Batts, Khan, Littman, Schultz, Strat, Waller
No: None
Absent: Vleck, Wright

2. MINUTES

Resolution # PC-2004-08-095

Moved by: Schultz
Seconded by: Khan

RESOLVED, To approve the August 3, 2004 Special/Study Meeting minutes as published.

Yes: Drake-Batts, Khan, Littman, Schultz, Strat, Vleck
 No: None
 Abstain: Chamberlain, Waller
 Absent: Wright

MOTION CARRIED

Chair Waller requested that the August 10, 2004 Regular Meeting minutes, Resolution #PC-2004-08-085, reflect that Mr. Littman was excused from the meeting for personal reasons.

Resolution # PC-2004-08-096

Moved by: Schultz
 Seconded by: Strat

RESOLVED, To approve the August 10, 2004 Regular Meeting minutes as amended.

Yes: Chamberlain, Drake-Batts, Khan, Schultz, Strat, Vleck, Waller
 No: None
 Abstain: Littman
 Absent: Wright

MOTION CARRIED

3. PUBLIC COMMENTS

There was no one present who wished to speak.

4. PUBLIC HEARING – SPECIAL USE REQUEST (SU 326) – Square Lake Marathon Station, Southwest corner of Livernois and Square Lake (5991 Livernois), Section 9 – H-S

Mr. Miller presented a summary of the Special Use Request, the H-S rezoning and the difficulties the site presents with respect to meeting City requirements. Mr. Miller reported that the petitioner submitted a new site plan design following the August 10, 2004 Regular Meeting. He noted that the Planning Department has not yet reviewed that plan. Mr. Miller said the purpose of discussion tonight is to consider the various site plan options and provide an overall direction to the petitioner.

Alternate site plans A and B and an alternate design locating the building to the southwest corner of the site that provides a substantial green space on the northeast corner were prepared by the Planning Department. The designs prepared by the Planning Department and the petitioner's recently submitted site plan were discussed.

Mr. Khan favored the Planning Department design that showed the expanse of green space.

Mr. Chamberlain asked that the Planning Department provide the building and parking layouts for the sites immediately west and south of the subject property so the relationship between the sites could be reviewed. He also noted that consideration should be given to potential future widening of Livernois.

Mr. Strat suggested a consolidation of the Marathon station and the property directly to the south [Peppy's Pizza] so it becomes a one-building concept rather than two separate buildings, applying the zero lot line concept. Mr. Strat also noted the historic intersection at this location has its own character. Mr. Strat reported he was in attendance at the Board of Zoning Appeals (BZA) meeting in which the petitioner requested variances, and said patrons of the service station spoke in favor of the petitioner and the requested variances.

Mr. Khan asked if there was a cross access easement to the west of the site.

Mr. Miller replied that a cross access easement to the west was considered and the connection proved to be problematic and more difficult. He noted that a cross access easement to the south physically exists but it is not a legal cross access easement. Mr. Miller stated that the economic viability of the petitioner should also be a consideration in the site plan review.

Mr. Schultz stated that the latest design allowing the cross access to remain and become a legal cross access allows that synergy and relationship between the two buildings to remain. Mr. Schultz said the latest site plan design has substantial merit.

Mr. Strat suggested further review of the site plan design by the Planning Department and emphasized the criteria of the design would be (1) cross access easements, (2) maximization of the intersection as relates to landscaping, and (3) reduction in the number of gas pumps.

Mr. Chamberlain said that parking should also be a criterion of the site plan design.

The petitioner, Mike Elias of 5991 Livernois, Troy, was present. Mr. Elias said he has been in business at this site for three years. He reported the business has grown to the point that the 1960's design of the building cannot handle the current flow of business. Mr. Elias said he wants a design that serves his needs as well as those of his customers. He reported the building exterior and interior are in need of improvements. His cost estimation for the proposed project is between \$500,000 to \$800,000. Mr. Elias said he would not get a profitable return on his investment should the number of gas pumps be decreased to two or three. Mr. Elias said he would like four gas pumps, five parking spaces, landscaping and a new building. Mr. Elias said service station patrons use the pump space as parking spaces, but the City does not count the pump space as a parking space.

PUBLIC HEARING OPENED

David Misovski of 5965 Livernois, Troy, owner of Peppy's Pizza, was present. Peppy's Pizza is the site directly south of the Marathon service station. Mr. Misovski voiced concerns with the proposed site plan that was originally submitted. His concerns relate to (1) the cross access easement, (2) the required parking spaces, and (3) the building size in relation to the lot size. Mr. Misovski said the two businesses complement each other and a cross access has been shared over the years to minimize the traffic flow and accidents. He is in favor of keeping the cross access. Mr. Misovski is opposed to allowing only four parking spaces on the site. He said that would leave only two parking spaces for customers because employees would most likely use one or two spaces. Mr. Misovski suggested a reduction in the building size to accommodate more pumps. Mr. Misovski said there are two parking spaces in front of Peppy's and an approximate 50-foot section at the rear of the store where cars can park. He said the building size of Peppy's is approximately 1,200 square feet and the rear parking provides ample parking for the building size.

Mr. Littman expressed concern that customers for Peppy's would park in the service station parking lot if the two parking spaces in the front of Peppy's were taken during peak restaurant times.

Mr. Misovski said it works both ways.

Mr. Elias said the cross access easement is not working for him because of its location on the site, and it has become dangerous for customers because cars cut through at high speeds. Mr. Elias said the only difference between retail products sold at both sites is gasoline and cigarettes, which can be purchased only at the service station. Mr. Elias said there is not an equal sharing of customer base and parking problems do arise during peak restaurant hours.

Chair Waller announced the Public Hearing would remain open until the September 28, 2004 Special/Study Meeting.

Resolution # PC-2004-08-097

Moved by: Chamberlain

Seconded by: Schultz

RESOLVED, That the Special Use Approval Request (SU 326) for the Square Lake Marathon Station, located on the southwest corner of Square Lake Road and Livernois Road, Section 9, within the H-S Zoning District, Public Hearing be continued to the September 28, 2004 Special/Study Meeting.

Discussion on the motion.

Mr. Khan questioned if the petitioner was given enough direction to go forward with the site plan design and if the motion should include design criteria that the Planning Commission is looking for.

Mr. Chamberlain stated that he purposely omitted the design criteria from the motion. He said the petitioner knows what the Planning Commission is looking for and the Planning Commission should not be the designer of the site plan on record.

Chair Waller proposed that any thoughts or suggestions on the site plan design be forwarded to the Planning Department.

Yes: All present (8)
No: None
Absent: Wright

MOTION CARRIED

Mr. Chamberlain asked that the Planning Department provide in the next meeting packet the current size of the service station building so a comparison could be made between the current building size and the proposed building size.

5. PLANNED UNIT DEVELOPMENT – Discuss conceptual design of potential mixed-use development, located on the north side of Big Beaver, east of Alpine, west of McClure, Section 20 – O-1, P-1 and R-1B

Mr. Miller provided a brief background on the initial stages of the proposed Planned Unit Development project. Mr. Miller said the development team is here tonight to present the idea in concept only. He said the development team would like the Commission's input of its vision at the proposed location. Mr. Miller encouraged the Commission to also consider its future vision of the Big Beaver Road corridor.

Mr. Savidant stated it is refreshing that the development team has started at the ground level before submitting construction drawings.

Mr. Carlisle, the City's Planning Consultant, said he sensed frustration from the Commission during the approval process for the last planned unit development project, in that the emergence of the Commission's vision was not being realized. Mr. Carlisle said he is very interested in seeing the Commission's reaction to tonight's PUD presentation, and he deferred further comment until after the presentation.

Candace Casey, Vice President of Development for Joseph Freed and Associates, provided a brief background of the full-service real estate development company and introduced her associates working on the project. She highlighted projects that Joseph Freed and Associates worked on within the Michigan vicinity. Ms. Casey said she is happy to be in partnership with Tadian Homes and Whitehall Real Estate on the project and briefly reviewed their company backgrounds. Ms. Casey introduced members of the project development team.

- Ron Phillips, Tadian Homes
- Gary Jonna, Whitehall Real Estate Interests
- Charles Hewlett, Robert Charles Lesser & Company
- Don Sandy, SB Architects

- Scott Lee, SB Architects
- Lise Newman, Landry & Newman Architecture
- Paul Landry, Landry & Newman Architecture
- Ed Connell, Joseph Freed and Associates
- Bryan Pritchard, Joseph Freed and Associates

Ms. Casey said the goal of this evening's meeting is to engage the Planning Commission in a conversation about the possibilities of what can be done on the proposed site.

Charles Hewlett of Robert Charles Lesser & Company presented the supply and demand conditions for both residential and retail at the proposed site. The market analysis and foundation research was extensive in terms of demographics, economic trends, development trends, residential market overview, competitive market overview, market comparables, market opportunities in relation to the Somerset Collection and Royal Oak, critical success factors, product program, retail development strategy, etc.

Don Sandy and Scott Lee of SB Architects provided a brief background of the architectural firm and their business format. Messrs. Sandy and Lee displayed slides of completed projects similar to the proposed PUD and provided details of the projects. The proposed PUD at the Big Beaver location was displayed in a three-dimensional sketch, as well as cross sections. Messrs. Sandy and Lee provided particulars of the proposed project (Scheme A) that encompasses a mixed use of townhouses, condominiums and retail; i.e., dramatic and appropriately scaled building, two to three story icon retail, 22-story tower of condominiums, 12-story condominiums, penthouse features, screened parking garage, workout facility, pedestrian access to residential and retail, etc. Mr. Lee announced that the development team would employ as many aspects of green design as possible.

Lise Newman of Landry Newman Architecture provided an "apples-to-apples" comparison of the height of the proposed building to existing buildings along the Big Beaver Road corridor. Ms. Newman noted the 24-story office building known as the Top of Troy equates to 340 feet. The proposed 22-story residential tower equates to 235 feet. Ms. Newman said the proposed residential mixed-use project is very similar in height to the existing building located at 888 W. Big Beaver and the recently approved 14-story Sterling Corporate Center PUD. Ms. Newman explained that the height differences relate to the office floor-to-ceiling height at 14 to 15 feet and residential floor-to-ceiling height at 9.5 to 10 feet. Ms. Newman also talked about the bulkiness of existing buildings and pointed out that the podium level of the proposed retail and fitness center is similar in height to the Somerset Collection. Ms. Newman said the proposed elegant tower rising from a 5-story base would create a signature and high-end development for the City. Ms. Newman also addressed the relationship of the proposed project to the existing developments across Big Beaver Road and to the north.

The development team discussed "Scheme B", an alternate design and concept plan should height restrictions be a concern of the City. Mr. Hewlett reported the differences from a marketing perspective, and Mr. Lee presented an architectural view of the project from an economic perspective. It was suggested that "Scheme B" would

most likely not be as attractive, nor would it get the same return on investment as "Scheme A".

In closing, Ms. Casey stated that Joseph Freed and Associates and Whitehall Real Estate would continue to be present as owners in Troy with residual ownership of the retail and parking structure and overall operation of the condominiums. Ms. Casey said the development team would conduct a full traffic study. She also indicated that the tax impact to the City of Troy is estimated at \$500,000 annually.

Ms. Casey believes the proposed development's proximity to the Somerset Collection and the scale of architecture represents a first-class, world-class residential address for a luxury buyer and a retail building. She believes a first-class project team has been created, and the market data supports the proposed product. She said the project would contribute to the City's vision of the Big Beaver Road corridor as a world-class thoroughfare and streetscape, and also contribute to the long-term health and future of the City. Ms. Casey distributed an informational package to the Commission members.

Mr. Carlisle said the proposed project has been in the making for quite some time, and complimented Landry & Newman Architecture and Tadian Homes in their approach, presentation and evaluation of alternatives of the project. Mr. Carlisle said the depth of analysis affirms his gut reactions and is evidence that someone is willing to risk a significant amount of money on an investment that the Planning Commission and Planning Department intuitively felt was possible.

Mr. Carlisle highlighted his observations of the project in terms of concept.

- Truly a mixed-use project.
- Demonstrates a residential market on Big Beaver; market evaluation is on target.
- Parking can be integrated within a building; parking is virtually hidden but highly functional.
- Provides examples wherein the City's world-class corridor attracts world-class developers who are willing to hire world-class architects who are willing to insist upon architectural excellence and the use of materials that are rich, creative in design, and draw upon the best site elements.
- Offers an opportunity for true interface with surrounding area.
- Proximity to Somerset Collection creates great opportunity for pedestrian activity.

Mr. Carlisle addressed the height of the building and density of the proposed project. He said the step design of the tower and variations in building heights do not create an overall imposing or bulky building. Mr. Carlisle said the proposed 140 to 150 residential units equate to a density of 250 people at the most; and in comparison to an office building of similar size, the project is not a dense project. Mr. Carlisle said that traffic will be a perceived concern but it is not a real issue.

Chair Waller said the proposal created a high level of interest and energy from the Planning Department. He said the approach of the development team is refreshing

and he is personally energized by the professionalism and interest from people near and far. Chair Waller asked for comments from around the table.

Mr. Chamberlain said he is in favor of the first alternative of the plan and agrees with the comments of the City's Planning Consultant. Mr. Chamberlain said he is disappointed with the City and referenced the aerial photograph of the subject site. He commented that the office development jugged with residential development places restrictions on future development, and noted there are several pockets of this type of development in the City. Mr. Chamberlain said he would like to see similar development continue to the north of the subject site. He also said that the City should start counting green building as part of the landscape.

Mr. Wu said he really likes the first plan and commended the time spent on the building height comparison. He believes the project will be successful. Mr. Wu asked the projected completion date.

Ms. Casey briefly provided an estimated timetable of development stages. She projected an approximate 2.5 years for delivery of a final product.

Mr. Khan said this is a great opportunity for the City and he agrees with the Planning Consultant's comments. Mr. Khan said the traffic impact would not be visible along the Big Beaver corridor. He expressed that the green elements with respect to the architecture are very important. Mr. Khan said he is not concerned about the building height or density.

Mr. Strat is impressed with the project and commended the group on an excellent presentation. Mr. Strat made the following comments/suggestions:

- Provide a list of goals as relates to the development team and the City.
- Present in written form the constraints that might be encountered so the City can assist.
- Demographic information is appreciated and will be helpful in the future.
- Consider a restaurant at the top.
- Mixed-use retail will generate lots of foot traffic and will meet the 5-minute walking distance criteria.
- Vehicular traffic should not pose a problem.

Ms. Casey said site constraints have not been uncovered yet because it is so early in the planning and development process. She said they would keep the City informed of its progress and identify any constraints or concerns.

Mr. Carlisle clarified setting goals, as suggested by Mr. Strat, and suggested to translate what the market analysis is in terms of what the project goals are.

Mr. Schultz thanked the team for coming in with a conceptual presentation. He said the greatest possible thing that could happen is to have the proposed project become the catalyst for redevelopment of some of the more aging buildings along the Big Beaver Road corridor. Mr. Schultz is also in favor of Scheme A. Mr. Schultz shared his concern that the proposed townhomes would be constructed as first-class townhomes.

Mr. Sandy responded that the project is considered one project and the continuity of design would be carried through the whole project.

Mr. Vleck said he almost fell out of his chair when he heard the project was a 22- story development. He said the presentation was great and he is in favor of the idea. Mr. Vleck believes the biggest hurdle the development team might come across is the surrounding residents, and strongly encouraged the development team to make the residents aware of the development from its early stages.

Mr. Littman said this is the right project in the right place at the right time, and believes it will do very well for the City. Mr. Littman said this type of development is what the Planning Commission had in mind when the PUD ordinance was written. He thinks the market force will redo the Big Beaver Road corridor, and it will change very quickly for the better. Mr. Littman also said the new fire station in this location may have more business very soon.

Ms. Drake-Batts said she is not excited about the project going into the neighborhood to the north because it is one of the few areas in Troy where homes are priced under \$300,000. Ms. Drake-Batts is concerned with blocking the vehicular access for the residents to the north. She expressed concern with the lighting of the project and the height of the building. Due to height and closing off of their street, she would side with the neighbors.

Ms. Casey responded that feedback on the proposed cul de sacs is encouraged, as is any other design aspect of the conceptual plan. She said the intent of the cul de sacs is to provide a protective measure for the residents to the north. Ms. Casey said the interests of the neighbors are most important, and noted there are other means of working with the matter. Ms. Casey clarified that the price range for the proposed residential in Scheme A would be significantly higher than \$200,000.

Mr. Lee said any lighting of the project would be subtle and indirect.

Chair Waller said it is a wonderful project that will set the tone in Troy, in the sense of the City's motto. He pointed out that the City has a very active group of naysayers who go from issue to issue. Chair Waller suggested that the number of stories in the building always be referenced as "residential" and the explanation, possibly in chart form, of how the number of stories of residential relate to the same number of stories in office be readily available. Chair Waller hopes the development project will be the first of many things to happen on Big Beaver Road and will set the baseline for what can be done in the City.

Mr. Miller agrees with the comments and general observations of the City's Planning Consultant. Mr. Miller said the City's zoning ordinance has dictated what the community looks like, and the proposed project shows what could occur and what higher quality urban design achieves. He stated that one of the elements of the Big Beaver Corridor RFQ is to explore the form and mass of buildings in relation to the street. Mr. Miller said density could help redevelopment, increase quality, and achieve long-term goals in the community. He said the project obstacles (i.e., traffic impact; development of the PUD's public benefit, future land use plan) would be addressed by management, City staff and the City's Planning Consultant in tandem with the

development team. Mr. Miller said a process should be developed in setting up meetings with staff, the development team, and the Planning Commission. He also said the format and contents of the PUD package should be established by staff and the Planning Consultant.

Ms. Casey said she is appreciative of the opportunity to meet and receive the feedback of the Planning Commissioners.

Chair Waller requested a recess at 9:55 p.m.

The meeting reconvened at 10:05 p.m.

6. DOWNTOWN CLAWSON FRAMEWORK URBAN DESIGN PLAN – Discussion and consideration of Resolution of Support

Chair Waller requested comments from around the table. All members were in support of the City of Clawson's urban design plan.

Resolution # PC-2004-08-098

Moved by: Waller

Seconded by: Schultz

WHEREAS, the City of Clawson Downtown Development Authority has prepared the Draft Downtown Clawson Framework Urban Design Plan; and,

WHEREAS, the Draft Downtown Clawson Framework Urban Design Plan includes recommendations for the physical redevelopment of the downtown area, including Goals, Recommendations and an Implementation Strategy; and,

WHEREAS, the boundary of the City of Troy is contiguous with the boundary of the City of Clawson; and,

WHEREAS, the City of Clawson has provided a copy of the Draft Downtown Clawson Framework Urban Design Plan to the City of Troy for the Planning Commission's review and comment; and,

WHEREAS, the City of Troy Planning Commission has determined that the Draft Plan is consistent with the Future Land Use Plan of the City of Troy.

NOW THEREFORE BE IT RESOLVED, the City of Troy Planning Commission hereby supports the efforts of the City of Clawson Downtown Development Authority, Planning Commission and City Council in preparing the Draft Downtown Clawson Framework Urban Design Plan.

Yes: All present (8)
No: None
Absent: Wright

MOTION CARRIED

7. RECONSIDERATION OF REZONING REQUEST – Northeast corner of Rochester Road and Charrington Road, Section 23 – B-1 to H-S (Z 479-B)

Mr. Miller reviewed the rezoning request that was considered and recommended for approval at the August 10, 2004 Planning Commission Regular Meeting. Mr. Miller reported that subsequent to the regular meeting, a resident brought to the City's attention that he had submitted an official protest petition and a resident petition in opposition to the proposed rezoning to the City Clerk's Office. The resident said the resident petition of opposition was specifically addressed to both the Planning Commission and City Clerk. Mr. Miller explained that the protest petition is a matter for City Council, but the intent of the resident was to get the resident petition of opposition in front of the Planning Commission at their August 10, 2004 meeting. He asked if the Planning Commission wished to consider the reconsideration of the rezoning request based upon the information that was not presented to the Commissioners at the August 10 Regular Meeting.

Mr. Miller provided an explanation of the official protest petition. Mr. Miller said the Planning Department's recommendation for approval of the proposed rezoning as submitted would not change should there be a reconsideration of the matter.

Mr. Motzny reported there is no provision for reconsideration of matters in the Planning Commission Bylaws or Zoning Ordinance. Mr. Motzny said his previous opinion has not changed; that is that Robert's Rules of Order for reconsideration would have to take place at the very same meeting in which the initial vote was taken. Mr. Motzny does not believe a reconsideration of the matter is appropriate. He noted that the only time it may be appropriate is if the Commission thought the initial Public Hearing or procedure was defective and not a valid Public Hearing. Mr. Motzny said another way a matter could be reconsidered is that the Commission decides to suspend Robert's Rules of Orders to allow the reconsideration. Mr. Motzny said the residents who signed the petition have an opportunity to voice their objections to the City Council, and City Council has an option to remand the matter back to the Planning Commission.

It was noted that the petitioner of the rezoning request was not present at tonight's meeting.

Mr. Vleck said the Commission could be opening up a can of worms and cautioned that careful consideration is given to the reconsideration of the matter.

Mr. Khan believes the Commission should not reconsider the rezoning request. He said the residents had an opportunity to speak at the scheduled Public Hearing.

Mr. Schultz said the rezoning request should not be reconsidered based on the advice given by legal counsel. He said a precedent would be set.

John Dudek of 1071 Winthrop, Troy, was present. Mr. Dudek's property is adjacent to the service station. Mr. Dudek stated the Planning Department was helpful in providing information on the rezoning request and the process to follow if residents are in opposition to a proposed rezoning. Mr. Dudek created his own petition of opposition and collected 28 signatures from residents on August 4, 2004. On August 5, Mr. Dudek submitted to the City Clerk the official protest petition obtained from the City's website and the petition of opposition he created signed by 28 residents. He said the City Clerk's office had no idea how to handle a protest petition, that it was the first time they had ever received one. Mr. Dudek said he gave the Clerk's Office both petitions, which were date stamped. The Clerk's Office inadvertently stapled his created resident petition under the official protest petition. He said the Clerk's Office informed him they would take care of it, but it was never presented to the Planning Commission at their August 10, 2004 Regular Meeting. Mr. Dudek said the 28 people who signed the petition would have been at the Public Hearing to voice their opposition, but they felt the signed petition was an adequate voice. Mr. Dudek said he understood the Commission's beliefs that a reconsideration of the rezoning would set a precedent and a can of worms might be opened, but he feels the circumstances in this matter are very unique. He said the matter was not handled appropriately; nor maliciously – it was an accident. Mr. Dudek said he believes that the rezoning should be reconsidered and he would like to voice his concerns relating to the rezoning. He was unable to attend the Public Hearing because he was out of town. Mr. Dudek said he did everything in his power to voice his concerns, and his voice was never heard because the Planning Commission never saw the petition he developed. Mr. Dudek referenced the proposed PUD previously discussed at tonight's meeting wherein it was stated that it is very important to get neighborhoods involved and voices heard on proposed developments. He said this situation is a clear example that the voices of citizens and neighborhood residents have not been heard.

Mr. Miller confirmed that the proposed rezoning has not gone before the City Council yet, and that there will be a Public Hearing at the September 27, 2004 City Council meeting.

Chair Waller said mix-ups similar to what happened in the City Clerk's office just happen. He cited the three options of City Council: approve the rezoning, deny the rezoning, or remand the matter back to the Planning Commission.

Mr. Miller confirmed that the City Council would be provided a report similar to the one provided to the Planning Commission, along with the recommendation of the Planning Commission and City Management.

Mr. Schultz said he would like to see a communication sent to the City Council advising them that the petitions were not a part of the Planning Commission package, so that City Council will give the matter more weight. Mr. Schultz does not support reconsideration of the entire item at this point. He thinks it would be fair to the residents who signed the petition that a complete disclosure be provided to the City Council why the Planning Commission did not see the petitions relating to the proposed rezoning prior to its review and recommendation.

It was confirmed that notices would be sent to property owners adjacent to the proposed rezoning notifying them of the Public Hearing before the City Council.

Mr. Vleck said the City Council should also be advised of its option to remand the matter back to the Planning Commission.

Mr. Strat stated that the opinion of legal counsel should be incorporated in the City Council report and recommendation.

Mr. Motzny suggested the appropriate motion might be to insure that the correspondence from citizens and the action taken at tonight's meeting is delivered to the City Council.

Resolution # PC-2004-08-099

Moved by: Vleck

Seconded by: Strat

RESOLVED, That the City Council be informed that the petition originally sent to the Planning Commission was inadvertently misplaced and the Planning Commission never received it, and that information was not taken into consideration in the motion; and also that the City Council be informed that one of their options is to remand the item back to the Planning Commission.

Discussion on the motion on the floor.

Mr. Schultz requested that the motion be amended to include the recommendation of legal counsel and that the Planning Commission Bylaws do not afford the Commission the opportunity for a reconsideration other than on the exact night of the action, and based upon that, the Planning Commission asks that the City Council be thoroughly informed of the situation and the recommendation of legal counsel.

All members were in favor.

Vote on the motion as amended.

Yes: All present (8)
No: None
Absent: Wright

MOTION CARRIED

Mr. Dudek asked that the 28 residents who signed the petition be informed as to why the petition was not presented at the August 10, 2004 Regular Planning Commission Meeting.

Chair Waller replied to Mr. Dudek that his request would be taken into consideration, but that he could not provide an answer to his request tonight.

Mr. Dudek said he would stay in contact with Mr. Miller.

8. PUBLIC COMMENTS

There was no one present who wished to speak.

GOOD OF THE ORDER

Chair Waller announced that Jordan Keoleian, former Planning Commission student representative, was present at tonight's meeting.

Mr. Vleck said it would be helpful if petitions contained the date that it was signed by the residents, noting that the resident petition under discussion tonight was not dated.

Mr. Schultz said the situation with the resident petition is unfortunate, and he believes the Planning Commission addressed it in the most appropriate manner by not reconsidering it.

Mr. Strat said the PUD presentation was excellent and commended staff and the City's Planning Consultant for their efforts and involvement.

Chair Waller asked if Mr. Motzny completed the report on the history and goings-on related to development standards.

Mr. Motzny responded that a memorandum was prepared and forwarded to the Planning Department.

Mr. Miller confirmed receipt of the memorandum and said it would be placed on a future agenda.

Mr. Schultz reported on the August 17, 2004 Board of Zoning Appeals (BZA) meeting.

RWT Building LLC, 1309 Boyd

The BZA denied the request for relief of the Ordinance to divide a parcel of land.

Michael Agnetti, 1150 Woodslee

The BZA denied the request for relief of the Ordinance to divide a parcel of land.

Jonathan Sherer, 3015 Crooks

The BZA postponed the request for relief of the Ordinance to construct a new commercial building that would include a drive-up window accessory to a restaurant use.

Mr. Miller reported that the proposed coffee shop with the drive-up window located at the former Shell service station site would be discussed at a future Planning Commission study session.

Mr. Miller reported on the August 23, 2004 City Council Meeting. He said the meeting was adjourned at approximately 10:30 p.m. due to the illness of the Mayor and the lack of a quorum. The meeting was rescheduled for August 30, 2004. The Mayor's condition at this time is unknown.

ADJOURN

The Special/Study Meeting of the Planning Commission was adjourned at 10:35 p.m.

Respectfully submitted,

David T. Waller, Chair

Kathy L. Czarnecki, Recording Secretary