



**Planning Commission Regular Meeting
City Council Chambers, 2660 Civic Center Drive
Minutes – Wednesday, August 1, 2018 – 6:30 p.m.**

1. Call to Order

Chair Murphy called to order the regular meeting of the Planning Commission meeting at approximately 6:30 p.m. and reviewed the role and purpose of the Planning Commission.

2. Roll Call

At the request of Chair Murphy, City Planner Thomas Paschke called the Roll.

Members Present: Chair Robert Murphy; Vice Chair James Bull; and Commissioners, James Daire, Chuck Gitzen, Julie Kimble, Wayne Groff, and Peter Sparby

Members Absent: None

Staff Present: City Planner Thomas Paschke
Community Development Director Kari Collins

3. Approve Agenda

MOTION

Vice Chair Bull moved, seconded by Member Kimble, to approve the agenda as presented.

Ayes: 7

Nays: 0

Motion carried.

4. Review of Minutes

a. July 11, 2018 Planning Commission Regular Meeting

Chair Murphy stated the attendance was correct but on line 80 he did not open a public hearing due his absence, so he believed Vice Chair Bull opened the public hearing.

Member Kimble indicated she would abstain due to absence as well.

Member Sparby indicated on line 386 there should be a comma after “good reason” rather than a period.

MOTION

Member Groff moved, seconded by Member Sparby to approve the July 11, 2018 meeting minutes as amended.

Ayes: 5
Nays: 0
Abstain: 2 (Murphy, Kimble)
Motion carried.

5. Communications and Recognitions:

- a. From the Public:** *Public comment pertaining to general land use issues not on this agenda, including the 2040 Comprehensive Plan Update.*

None.

- b. From the Commission or Staff:** *Information about assorted business not already on this agenda, including a brief update on the 2040 Comprehensive Plan Update process.*

Member Kimble stated she has lived in the UK for a time and she wanted to make note of some friends visiting from the London area, noting they are in attendance to see what city government is like in the US. She welcomed Chris and Julie Jones. The Board also welcomed the visitors.

Vice Chair Bull asked if there was any feedback from the Council regarding their joint session. Mr. Paschke indicated there was not any feedback. Staff did take notes during the meeting and forwarded those to the City Council.

6. Unfinished Business:

MOTION

Vice Chair Bull moved, seconded by Member Daire to remove from the table PF18-102 for consideration and to allow additional discussion and comment from the public.

Further Discussion:

Vice Chair Bull wondered if they should suspend the rules on Item 6a, noting the rules and procedure declare that once the discussion is completed it cannot be reopened. He stated if they suspend the rules then anything that is pertinent brought forward on this item could welcome community comment on it. He thought it would be good to allow anybody who is here and would like to speak could have a say. Chair Murphy stated instead of suspending the entire rules they could allow comments during discussion time.

Ayes: 6
Nays: 0
Abstain: 1 (Murphy)

Motion carried.

Chair Murphy indicated he would remove himself from discussion due to a possible appearance of a conflict of interest. He asked Vice Chair Bull to take over running the meeting for this item and left the Chambers.

a. Continued Consideration Of The Request By United Properties For A Conditional Use to Increase Roof Height From 45 Feet to 55 ½ Feet (PF18-102)

Vice Chair Bull opened the public hearing for PF18-102 at approximately 6:42 p.m. and reported on the purpose and process of a public hearing.

City Planner Paschke summarized the request as detailed in the staff report dated July 11, 2018. He reported this request is to raise the roof to 55 ½ feet, which is 10 ½ feet higher than is allowed.

Member Sparby asked with the HIP roof on the new building, will that be 5' 10" shorter than the existing Cherrywood Building. Mr. Paschke indicated that was correct.

Mr. Dave Young, United Properties, indicated he was at the meeting to answer any questions the Commission had. He stated they were trying to create a building that fits in with the residential feel of the surrounding buildings.

Public Comment

No one came forward to speak for or against this request.

Commission Deliberation

There was no comment from the Commission.

MOTION

Member Gitzen moved, seconded by Member Kimble, to recommend approval of the Conditional Use Permit request pertaining to the 10 ½ foot building height increase from 45 to 55 ½ feet for the proposed senior rental building in the northeast corner of Lexington Avenue and County Road C.

Further Discussion:

Member Gitzen indicated lines 49 through 52 gives the reasoning: "Given the height of the existing Cherrywood and Parkview complexes, as well as City Hall, which is constructed on a hill, the Planning Division determined that the proposed four-story building at 55-1/2 feet will fit appropriately into the landscape and have little or no visual impact on the area. He noted he did walk around it and agreed with the staff report. Member Kimble concurred.

Member Groff thanked Mr. Paschke for the information which was very helpful. Last month he did not think the Commission felt they had enough information and the

additional staff information really clarified it with him and it helped to see the renderings, which helped to see the area the resident had concern with the appearance. He indicated he would support the motion.

Member Daire stated he also visited the site and he thought the one thing they failed to take into consideration was the screening effect of the existing foliage that is already there. Even allowing for some removal of trees the screening effect of the trees in the south end of the Cherrywood project effectively blocks out eighty percent of the building. He was also in favor of approval.

Member Sparby stated when they reviewed this item at the last meeting he had concerns that it may be harmful to the surrounding neighborhood. He also visited the area and looked at the foliage that was there. He also thought the renderings were well done to give them an idea of how it will impact the area and he thought the way the new usage would come in would have minimal impact on that area. He stated he would support this.

Vice Chair Bull stated he was pretty confident at the last meeting that the code was different when Cherrywood was approved at the 65-foot height level and he was glad to see that confirmation. He stated for all of the reasons given by the Commission, he supported this.

Ayes: 6

Nays: 0

Absent: 1 (Murphy)

Motion carried.

The Commission recessed at 6:51 p.m.

Chair Murphy entered the Council Chambers and reconvened the meeting at 6:52 p.m.

7. Public Hearing

- a. Request By City Of Roseville For Zoning Code Text Amendments To Section 1001.10 (Definitions) And Table 1005-1, Table 1005-5 And Table 1006-1 To Allow As A Permitted Or Conditional Use Taproom, Brewery And Brewpub And Amendment To Section 1009.02 Conditional Use To Create Specific Criteria For Breweries/Taprooms Adjacent To Residential Uses (Project File 0017, Amdt 35).**

This Public Hearing has been postponed.

- b. Request By JRD, LLC For Approval Of A Preliminary Plat to Subdivide The Residential Property At 2237 W Cleveland Drive Into Three Lots And Incorporate The Two Un-Addressed Parcels To The North As Additional Lots In The Plat (PF18-011)**

Chair Murphy opened the public hearing for PF17-019 at approximately 6:53 p.m. and reported on the purpose and process of a public hearing. He advised this item will be before the City Council at the end of August or beginning of September.

Member Daire asked staff if the State requirement for notification 350 feet of the project boundaries and Roseville is notified to five hundred feet. Mr. Paschke indicated that was correct. Chair Murphy indicated the script should be updated to City practice of notification at 500 feet and State law is 350 feet. Member Daire thought the City was exemplary in the way it reaches out to do more than what is required by State Statute.

City Planner Paschke summarized the request as detailed in the staff report dated August 1, 2018. He reported this request is for approval of a preliminary plat to subdivide the residential property at 2237 W Cleveland Drive into three lots and incorporate the two un-addressed parcels to the north as additional lots in the plat.

Member Gitzen asked for clarification on the two north parcels. He wondered if they are buildable lots where the subdivision will be five lots with one outlot. Mr. Paschke indicated that was correct.

Member Gitzen asked in regard to the outlot, there will be a drainage and utility easement over that lot, who will maintain and own the outlot. Mr. Paschke thought that was still being discussed. He did not ask who would own it. In a number of cases, given the size of this there might be an association that is created in order to manage that in the future, which has been done in the past. The easement over it is both a requirement of the watershed for the stormwater. The City will also require certain documentation as well, so the pond stays and does what it is supposed to in the future. This will need to go through different types of inspections. That will be flushed out from now until the Final Plat.

Chair Murphy indicated he had a question on the easements, which showed six feet along the lot lines, would that be the requirement, or would it be five feet. Mr. Paschke indicated in their code the requirement is six feet.

Member Kimble noted her only concern would be the park dedication fees are just against the net increase of lots and that is why it is eight thousand versus the five times four thousand. Mr. Paschke indicated that was correct.

Vice Chair Bull asked in regard to the outlot, he thought it would be difficult to access in its location to the streets. Mr. Paschke thought that was why there was a wide easement in the area on the south side, which would allow them access to the back of the lot.

Vice Chair Bull asked in regard to tree preservation, is it still subject to their arborist's review and approval. Mr. Paschke stated the Arborist has reviewed this already.

Vice Chair Bull asked if there was consideration given for the tree protection fencing as well as the number of trees. Mr. Paschke indicated he did not know. The protection is to preserve trees during construction. Vice Chair Bull thought the area became very narrow in the loop opposite the pond. Mr. Paschke indicated he did not see any comments from the Arborist regarding that but could ask him. Vice Chair Bull thought the right-hand side is still quite a distance from the proposed housing and could be rounded off to get more space and protect the trees.

Member Groff stated in regard to Outlot A, it is mentioned as an outlot to retain water. Mr. Paschke stated it is where the stormwater management for the project will be located. Member Groff asked what the drainage pattern was because that area is on the hill. Mr. Paschke reviewed the drainage pattern with the Commission and noted front yards will be draining forward and the rest will drain from the back into the outlot area. Member Groff thought that made sense.

Member Groff stated on the curve it is a road that goes back into the residential area and when people exit their driveways it is a little dangerous because of the speed of the vehicles coming around the curve. He noted there are also a lot of walkers and people with dogs that use that area as well. He would be concerned with the safety of the people coming out of the driveways and wondered if there was anything they could do to make sure that is addressed.

Member Daire stated he did not have any comments.

Member Sparby asked if there is any type of grading plan or elevations that will be submitted with the project. He indicated he could not get a gauge of the landscape of the properties.

Mr. Paschke reviewed the grading and utility plan in the packet with the Commission.

Member Sparby stated one item he noticed while driving by is that there is a large ditch in the front of the property along Cleveland and he was curious how that would be altered. Mr. Paschke did not believe they were doing anything in the ditch other than matching grade.

Member Daire believed there are some pipes, culverts, that go from one side of the driveways to the other on at least two of the properties.

Member Sparby asked what the proposed square footage of the structures on the five properties is. Mr. Paschke did not know if that has been determined yet. He thought they were only showing conceptual pad locations for purposes of the grading plans, so he did not know what the square footage of the homes will be at this time.

Member Gitzen thought on the south property line there is only a six-foot easement that is proposed, the one line that shows up is a description line and not an easement

line. He indicated he would have the same concern for access. Mr. Paschke noted he would ask the question as it relates to access to the pond.

Mr. Joshua Schneider, JRD, LLC, and Mr. Richard Kotoski, realtor for the applicant, welcomed questions or comments of the Commission.

Member Groff asked what the proposed square footage of the homes would be. Mr. Schneider stated they are proposing 2,200 square foot, two-story templated homes on each lot to give an example of what could fit. It is up to the builder or homeowner to determine what they will build and what kind of design they will want.

Member Daire stated as he toured the neighborhood including the three lots proposed to go to five lots a thought occurred to him that this particular chunk of land is going to stand in stark contrast to the rest of the neighborhood around it, both in terms of the size of the homes and the necessary arrangement of the structures. As he was touring the neighborhood, there seemed to be random sighting based on site lines and desire for distance from the street. He noted it strikes him that this particular property is going to be somewhat identifiable as opposed to structures that are there now. He felt the proposal is a departure from the character of the neighborhood.

Mr. Kotoski thought the benefit would be no new roads going in which will help and it is not as wooded as many of the lots in that area.

Member Sparby asked how the applicant saw the smaller properties fitting in with the character of the neighborhood. Mr. Kotoski thought they would be fine as there will either be ramblers or two-story homes which will be nice looking homes and what is being built right now in Roseville. He thought the homes would fit in nicely, noting there are not any neighbors across the street from there, so he did not think there would be a negative impact.

Member Gitzen stated as of right now, they could build on the two northerly parcels because they meet all of the standards. Even if this did not get approved, those two parcels could still get developed in a different style than the rest of the neighborhood.

Member Daire stated on the positive side, in taking a look at the lot configuration in that neighborhood it appeared to him that there was irregular lot shapes and he thought the applicants' treatment of the outlot to handle the little spikes that come down is creative. He thought the existence of the utility and drainage easement is fortuitous because it allows access to the proposed water impoundment area because of the topography that is in the properties it seems to him to be a very difficult thing to maintain any kind of orderly storm water management. He thought the applicant did a creative job in doing that and it seemed to him when he saw the layouts of the proposed five lots that the applicant brought some order to the lot lines in that area.

Public Comment

Ms. Tessa Henricks, 2221 Cleveland Avenue North. She indicated she was directly to the south of this property and was adamantly against this being split into three lots because of how the neighborhood is designed. She noted she has lived there for ten years and they purchased their homes because of the lot size and the lots being wooded. It was secluded, which makes it a whole different kind of neighborhood from the norm. She stated this is a quiet, secluded neighborhood. When the owner passed away, they were hoping the lot would not be split. They were fine with it being three lots but when they look out their patio to the north they see the house and then all empty space. She thought it would be alright with two houses, but they are now talking about five houses that they will be looking at the back of. That takes away the idea of what their neighborhood is like, it takes away the seclusion they had with just a home and a couple over the hill off to the north and west. They thought that would be alright but now there is discussion about five houses, which will produce more people and more vehicles, trees disappearing and homes that are being built not looking like the homes on their street as their street consists of ramblers. She stated their house is four thousand square feet and the applicant is talking two thousand, possibly twenty-two hundred square feet, two-story homes when all of the existing homes on the street are ramblers. She noted there are not any sidewalks and they have dogs so neighbors walk on the streets. She thought adding to the traffic is an issue as well because of the blind driveways. She stated she was against this. She did not mind neighborhood evolving and moving forward but their neighborhood is different. It is secluded, tree filled and mature. She was not opposed to new homes and was fine with this being split into two lots, but she is not comfortable with five lots. She thought it has become a money maker and is keeping within the standards of the neighborhood. She did not know what it would do for the values of the homes in the area either.

Mr. Rich Henricks, 2221 Cleveland Avenue North, stated ten years ago they bought their home for the seclusion with the understanding that Acorn had a property that was subdivided into three. Three homes were built as close to the property lines as they can get, and they stick out like ‘sore thumbs.’ They do not match the neighborhood and it does not look right. He indicated he does not look forward to seeing five houses outside of his bedroom window with one being six feet off his lot line when they had forty feet off their lot line in all directions before. The part of that neighborhood is large lots. He understood that might meet the minimum requirements but sometimes the minimum requirements make sense in some neighborhoods and they don’t in others. Having homes that close to the lot lines and where they are going to site on that lot because only certain parts are buildable, they are going to sit on top of the hill, sticking out like a ‘sore thumb,’ ahead of everything else. The reason they are looking at doing this is because there have already been two lots split off and for two years they have not sold because nobody wants to build on top of the freeway. Splitting the lot in two might be a better option versus three.

No one else came forward to speak for or against this request.

Commission Deliberation

Vice Chair Bull indicated the staff report shows the five lots will meet the minimum requirements, but he knew they dealt with other properties down Acorn in the past where there are a number of subdivisions over many years proposed and they did take into consideration the character of the neighborhood. He thought that was very significant here as well as taking this down into five lots. It is making them so small that they do not fit into what the existing neighborhood is. If he looks at this from a Code basis of the just the numbers, it is approvable but when he looks at the subjective nature of does this change the nature of the neighborhood he would indicate this not to be acceptable. On that basis he would not support this.

Member Daire indicated he felt the proposal was out of character with the rest of the neighborhood which was significant to him and he thought there was probably a creative solution to the dilemma that the developers find themselves in and he thought the division into two lots with some high end housing on it and high quality items to match the character of the neighborhood would provide a sufficient return or an equivalent return to the five smaller houses proposed. He thought there was a wonderful opportunity that this subdivision affords and rather than going for the numbers he would agree with a subdivision with fewer lots and high-end housing product. He stated he finds himself loving business development but, in this case, there is probably a solution that can match the quality of the neighborhood round-a-about rather than maximizing the number of lots to be developed. For that reason, he was not in favor of the proposal.

Member Kimble asked Vice Chair Bull and Commissioner Daire if they thought the two existing would stay and the next lot would be split so there would be four lots rather than five or are they thinking three lots. Vice Chair Bull indicated that would be acceptable to him. He did not think that was an option to consider so they needed to recommend approval or denial of the proposal for five. But should the applicant come back, he would be more favorable to four lots due to the size of the homes and the density. Member Daire stated for his part he saw the opportunity was to rearrange the two spike lots that lie to the north of the larger lot and subdividing the sum total into two lots with much higher-end housing being proposed for those sites.

Member Sparby stated in looking at the subdivision code it states, “creating new parcels for single family homes will not be approved if those parcels are not appropriate for their location, unsuitable for residential development”. He thought that was an important part of the code to look at. He thought they might not be appropriate for their location when looking at the types of homes and lots in the area. It seems like this would be atypical of the area to squeeze in five lots to that type of location. He was not in support of this application.

Mr. Paschke indicated in regard to the houses, the applicant could build houses that are much larger than what is being proposed. From that standpoint, he was not sure that becomes an item of denial because they have not proposed any homes on the lots as it relates to the other factors the Commission brings in that is up to their discretion to determine whether or not it achieves compliance with those requirements.

Chair Murphy noted the packet mentioned one favorable comment, was there any additional comments from the public since the packet went out. Mr. Paschke indicated there were none.

Member Kimble was not sure that having five homes that are bigger would be helpful with those kinds of six-foot setbacks. She thought she as well would not be in favor of this but may be in favor of something coming back with fewer parcels.

MOTION

Vice Chair Bull moved, seconded by Member Sparby, to recommend denial of a Comprehensive Land Use Plan Map and Zoning Map Change at 2030 County Road D (PF17-019) based on the proposed lots would not be characteristic of the neighborhood and would change that character.

Further discussion:

Chair Murphy stated he found his thoughts in this matter in alignment with his fellow Commission Members that have spoken.

Ayes: 7

Nays: 0

Motion carried.

- c. Request By Peak Investments, LLC D.b.a. Mudslingers MN For Consideration Of An Amendment To The Zoning Code To Allow Drive-Through Facilities As Conditional Uses In The Neighborhood Business District, And For Consideration Of Approval Of A Drive-Through Facility As A Conditional Use At 2154 Lexington Avenue (PF18-010)**

Chair Murphy opened the public hearing for PF17-019 at approximately 7:30 p.m. and reported on the purpose and process of a public hearing. He advised this item will be before the City Council in either late August or early September.

City Planner Paschke summarized the request as detailed in the staff report dated August 1, 2018. He reported that Mudslingers was requesting an amendment to the zoning code to allow drive-through facilities as conditional uses in the Neighborhood Business District, and requesting approval of such Conditional Use for its existing drive-through facility at 2154 Lexington Avenue.

Chair Murphy asked for review of the notification made in regard to this item. Mr. Paschke believed the standard public hearing notice was mailed out to the property owners within 500 feet.

Chair Murphy asked for clarification of the lighting requirements. Mr. Paschke stated for most projects in the City it is half a foot candle at the property line. In commercial areas they will have spillage, especially at this intersection where there is more lighting. Chair Murphy asked if the Conditional Use for neighborhood business

if an additional hundred feet, which is not the case here, but if they put something in for an appropriate decibel rating from the speaker box at the property line, it might be more definitive and offer some more relief for protection for homeowners and not be arbitrary. Mr. Paschke stated if this is something they would want to do he would not have an answer for the Commission because he did not know what type of decibel level to put on it. Chair Murphy indicated they could state something about not constituting a nuisance to the neighbors. Mr. Paschke stated they have not received any concerns or issues related to this, as stated in the staff report. Chair Murphy thought this particular application is the exception in many ways but if they were looking at something for all neighborhood businesses and changing it he was thinking something a bit more definitive might be in order.

Member Gitzen stated they are looking at changing two parts of the table for the neighborhood business conditional use for a drive-in and he wondered if staff was also asking the Commission for the definition of a conditional use with those conditions highlighted in red and would that take effect for all drive-ups if they were to change that. Mr. Paschke indicated it would.

Member Gitzen stated he always worried about unintended consequences. They are looking at this one with a large node and a unique situation but if someone came in with a smaller piece staff would look at these conditions. Mr. Paschke indicated he would consider these criteria and every project would be reviewed against it. A lot of cases they talk to individuals in advance and go through all the requirements to make sure they do not have issues, but every project would be gauged against them.

Member Gitzen stated they are standards, but can they make them conditions for this approval also. Mr. Paschke thought they could but did not know it would be necessary because it is a requirement they have to meet.

Member Gitzen stated specific to this one, if they grant the conditional use is that for this specific business. Mr. Paschke indicated it is for the site. Member Gitzen noted it goes with the site, but could they put a condition on it that they recommend approval for this certain business. Mr. Paschke stated for the use as a drive-through for the coffee shop, he thought it was tied to that.

Member Kimble asked if it was tied to this site plan such that if another coffee shop came in with a different site plan, bigger facility, getting closer would they have to come back in. Mr. Paschke indicated they may not have to come in for a Conditional Use Permit if they are not modifying drive-through things but if they are building a slightly larger building or modifying the existing building, those things might achieve compliance with the zoning code and would not require them to go through any formal actions with the Planning Commission or City Council. It is the drive-through they are talking about, not the building.

Member Sparby asked if a fast food restaurant came in and operated a restaurant with a drive-through there would they be allowed to operate under the conditional use that they would potentially grant. Mr. Paschke indicated they could from a standpoint of

that is in essence what this coffee shop is under their zoning definition. It is considered to be fast food and from the perspective of the Code, the Conditional Use would apply to anybody that could achieve compliance with any conditions that are placed on it. A different proprietor could come in. Member Sparby saw that potentially as altering the character of the use. Mr. Paschke was not certain a fast food restaurant would operate a facility in two hundred forty-four square feet. If they are making any modifications to the site and other things, more than likely they will need to come through this process again to seek approval because of a facility they want to build. Also, there is very limited parking. There is probably room to put in a few more parking stalls but for the most part, what is shown is the maximum that will probably be allowed on this site by itself.

Community Development Director Collins stated if they are drastically changing the building the conditions would be different and they would need to come back for review and approval. The intent of the Conditional Use and the reason for running with the land is that if this entity leaves and a new entity could come in and take over that site plan, take over the drive-through, queue lane and facility and not have to repeat the work. It is a benefit to them and to the governmental body reviewing it. If the new entity were to start reconfiguring the site, intensifying the site, reconfigure the lane, in that case, any kind of franchise would not desire this site because of the limitations, but if it does start to intensify it triggers a new fresh look on the site.

Member Sparby asked what standard the fresh look is because they have the Conditional Use for the drive-through. If they are relaying out the restaurant with more square feet what would they look at that under then. Mr. Paschke stated if they build a bigger facility, it is going to impact the existing drive-through which might change where they are located and a few other factors that he cannot address because he does not have a proposal before him but he thought it would trigger staff to have to look at their proposal, whomever that entity is, as getting their own Conditional Use because they are modifying the pre-existing site. Ms. Collins stated if the drive-through is being modified, in this case, any certain intensified use would most likely do that, then it would prompt a new Conditional Use request. Typically, when talking about pre-existing buildings and sites, if they are intensifying beyond fifty percent then that usually triggers conformance and all new approvals. In this case it is a Conditional Use for a drive-through so if they are altering the drive-through and what was previously approved in a site plan then that would trigger a review.

Member Daire stated the Commission had a meeting with the City Council, one of the last items being discussed had to do with the pairing of a proposal on a text change. One of the questions as far as some information for him is how many neighborhood business sites they have throughout Roseville. Mr. Paschke stated he could not estimate but would be more than ten. Member Daire stated lines 53-55 in the staff report is dealing with a bi-part, two-part problem. One is the Mudslingers and the second has to do with the impact analysis on the neighborhood business zones throughout the City and it occurs to him that there are only three lines in the staff report that deal with the potential impact on other neighborhood business districts in the City of Roseville. It seems to him that on the one hand they are woefully dealing

inadequately with a text change in terms of assessing the impact of such a text change on neighborhood businesses zones throughout the City and focusing most on the Mudslingers proposal in terms of its need of getting out of an interim use category and into something they can deal with in a more long term. He felt a little bit of a dilemma because he wants to see Mudslingers get out of a repetitive process and something whereby they are committing to a text change, the impact of which they have no clue.

Member Daire stated according to the staff report, line 53 states “Some other NB nodes around Roseville appear to be large enough to accommodate a drive-through facility that is at least 200 feet from residential districts, but generally not by simply modifying an existing building”. To him, the analysis of Community wide impact of this text change has not been addressed adequately and he would like to see more attention given to that as well as in the future a separation of project proposals for text change and the text change itself.

Member Groff thought Commissioner Daire brought up a good concern. They did have the conversation with the City Council and it is a confusion when they combine a text change with a particular project. He indicated they all like Mudslinger’s and so does the neighborhood, but he thought the text change could affect a number of businesses which concerns him.

Vice Chair Bull agreed per their conversation with the City Council, they need to take a look at the text amendment as a City-wide universal approval or denial and then Mudslinger should be looked at after that based on the text amendment change approval or denial. He stated approximately a year and a half ago they were deliberate in talking about changes they were making to table 1005-1 among others. He asked Mr. Paschke if he recalled why they made neighborhood business as not permitted versus conditional like the others. Mr. Paschke stated it had to do with initially the potential for impacts, which is stated in the staff report. From that perspective, he believed that when they were adopting the 2010 zoning code they determined with the assistance of their consultant that they would have drive-through facilities not be permitted.

Vice Chair Bull asked if Mr. Paschke can offer an opinion on the business operational impact or differences that would be experienced by Mudslingers if they had a Conditional Use Permit versus a continued Interim Use Permit, other than the renewable process. Mr. Paschke stated Interim Use is not supposed to be a permanent use so from that perspective there is no permanency for them.

Mr. Paschke stated the whole goal and discussion back when the initial Interim Use was done was to look towards modification in the Zoning Code that would support this type of use in this location and in other locations. It is looking at what they currently have in the code and applying those standards and criteria throughout the City to those sites that fit those criteria and then making a determination that way. That is why as a staff they felt this time around as they are moving towards changes in the Zoning Code that maybe it isn’t completely impactful to adjacent properties to

neighborhood business to have a drive-through next to them, thus the Conditional Use. They can have standards they can review and create a distance for the things that are most impactful in their review. From that standpoint, no matter where the neighborhood business lies within the City of Roseville, there will be standards in place that they will need to achieve. If they cannot achieve them, staff will not support a Conditional Use request going forward.

Member Kimble thought Commissioner Daire brought up some good points and from a practical standpoint she would support the continued use of the drive-through at Mudslinger. She agreed there is an inadequate analysis of what the impact could be on neighborhood business and she thought it would be important to understand that and to have some sort of overview of the number and a map that would refresh the Commission on where they are located in the City and also the separation of the text change and this specific action.

Member Sparby asked if there was anyway they could restrict this condition to Mudslingers business or do they have to put it on the parcel because he thought there were a lot of unknowns about the broader impact, however, he thought staff has done a good job on the amendment they have made to have a logical ordinance in place to handle this. He thought there was a little unknown about the potential impact on other neighborhood business which they might want to get a handle on, but he thought with the hundred feet that does provide an additional insurance for those surrounding neighborhood businesses to give them some assurance that it may not be disruptive. He indicated he liked the way this was headed. Mr. Paschke stated the Conditional Use before the Commission is for the drive-through, it is not for the business or the use, it is for the drive-through facility itself. Whatever conditions the Commission wants to put on the drive-through specifically that would potentially preclude someone else bigger, larger coming in, that is what he would suggest they might think about adding to it.

Chair Murphy stated to be clear, that was for the second part of the request. The first action for this body is to recommend change to the table itself to allow Conditional Use in a Neighborhood Business for a drive-through and if they fail in that effort or don't succeed then what are their options for the second part of the request. Mr. Paschke stated if there is not support for the text amendment then the Conditional Use goes by the wayside. Chair Murphy asked if there was a need for the Commission to act on the Conditional Use request by Mudslingers, the first part to amend the table. Mr. Paschke stated they Commission could deny the request because it doesn't meet code.

MOTION

Member Daire moved to TABLE this item until such time as staff can complete an assessment even though it might be a loose assessment of this text change on other neighborhood businesses throughout the City.

Further Discussion:

Member Daire felt their objective is to understand the impact of what it is they would be voting on and recommending, and he personally did not have a sense for that scale of impact. Chair Murphy asked if Member Daire would be offended if they don't consider that and they go through staff presentation and applicant's discussion and make that as part of their Planning Commission discussion after they close the Public Hearing. Member Daire indicated that was fine.

Member Kimble asked for clarification on the alternative action which talks about tabling beyond August 27, 2018 which may require a 60-day action. Mr. Paschke reviewed State Statute with the Commission. As relating to the splitting of the process, that public hearing and all the information they were working on related to this project had already gone out before the decisions were made to look at splitting those things which is why they are not split coming to the Commission.

Mr. Van Harvieux, Peak Investments, kind of understood what the Commission is talking about. As far as Mudslingers, it took them so many months to become operational because of all the conditions on that property. They finally got it to where they are open and customer parking is not even approved. This is so small that they cannot have anything other than a drive-through so there is no way anything else could come in there unless they knocked down the building next door. His understanding is the drive-through lane is one thing, but it is what you build around it is what would have to go back for approval. He stated he has been trying since 2016 to get this permanent or at least renew the Interim Use, which is the way the City originally wanted him to go and he has been told they have thought about it and want to change direction and it has taken a really long time to get to this point and the Interim Use is up in October. He noted his landlord is not excited about this and they want to do a new ten-year lease and cannot sign that until all of this gets settled and he could lease it to someone else when the lease comes up.

Chair Murphy asked if the applicant had time to put in an interim use request for another one to three years. Mr. Harvieux indicated that would be up to the City. It is more expensive for him to do that, which is a burden considering all of the improvements he has made to the property. As far as the business goes, business has been outstanding and has gotten support from the community.

Vice Chair Bull asked in regard to the Interim Use Permit and the business operation, he believed the Code allows them to go up to five years per approval period and would that work better for him if the City Council could take and process an Interim Use for five years. Mr. Harvieux stated it would but his only concern is that he leases the land and it does not make a lot of sense in his business model to buy it so if someone came in and bought the land and he could not lock the land up for more than five years, that scares him because it is a big part of his operation. He noted his landlord is a great company, but they might have other opportunities down the road, which would be his only concern.

Member Groff asked if his preference would be to get the text amendment approval and have it approved so he could continue for a longer lease on the property and have

more security. Mr. Harvieux stated that is what he would like to do. He would prefer to sign a ten-year lease.

Member Kimble thought the issue was the first part of this item which is the text amendment which would apply across the City which is really the question and not his specific site.

Public Comment

Chair Murphy noted there was one comment that was favorable and attached to their packet from Hannah Lawson.

No one came forward to speak for or against this request.

Commission Deliberation

Chair Murphy noted there were two items before them, so he suggested the go through the text amendment portion of the item first.

Vice Chair Bull stated they were very deliberate approximately a year ago in reviewing and modifying these tables. Now they are coming before them for amendment to take the premise of where they were with the neighborhood business and the nature of what they thought the neighborhood business was going to be and he thought this particular lot, which is part two, is a little bit extraordinary for what they see for neighborhood businesses and they did not want neighborhood businesses having restaurants or banks with drive-through and that type of nature. They decided those were not permitted and needed to be in another business district. That is why he was curious in regard to the interim use permit and the applicant because he wants to be a proponent of business in Roseville. He wants to be able to see this business do well, but he did not know if there was a way to even extend the Interim Use Permit longer.

Vice Chair Bull stated with Interim Use, if the business changes they have to reapply. The Interim Use does not stay with it. A Conditional Use in a neighborhood business area would stay with that property as long as they are meeting the conditions of the Conditional Use. As the nature of that neighborhood business could change there is some possibility the Conditional Use could be reused or renewed. He felt they did a really good job in examining all of those factors a year ago. He stated he was not supportive of a text amendment change and additional information on how many businesses it would affect would not change his mind.

Vice Chair Bull thought they could look at the second portion of this item even if they do not approve the first because the City Council could decide to approve the text amendment and then pick up the Conditional Use Permit for Mudslingers. He thought an Interim Use was much more appropriate for the City.

Member Gitzen disagreed somewhat with his fellow Commissioners. What he has heard so far, putting it in Conditional makes sense to him. They still have to look at it and so does the Council and they are not granting a permitted use. He thought they were adding some flexibility to what can go in there. He agreed with Commissioner Daire regarding what the Council said about separating the Text Amendment from the actual specific item. He would support both parts of this item. He thought there was enough review with the Conditional Use Permit application that if there was an issue and it didn't fit staff would come back with a report indicating the reason. He indicated he would be comfortable supporting both of these items at this point.

Member Sparby thought the key point is they have lumped these together, so they are getting a little of each and probably not enough of the analysis of the City Wide. At this point the Commission is making a recommendation and the City still has to vet this out. If they can include that information to send up to them so they could look at both the text change as well as the impact and then also consider Mudslinger's application all in on unison, he thought that was something he could get behind recommending to them because he thought assuming there is no adverse impact City wide he thought having the Conditional Use there would make sense because it still gives the City some purview over what would be going into that neighborhood business district.

Mr. Paschke stated he was not clear on exactly what the analysis would be as it relates to impact because it is all project based. If the simple request is to determine how many of the neighborhood business districts could develop with a drive-through that is more than one hundred feet, they might be able to do that but aside from that he cannot tell them what overall impact and other things that might occur on any of the neighborhood business sites until they would get a proposal in. Member Sparby thought that was the major analysis, the viability of other neighborhood business sites to have something that would reflect a similar drive-through.

Ms. Collins stated she also wondered what the potential analysis would look like because a drive-through is looking to continue at this particular site and it might make sense for this particular site but the kind of impetus for the Conditional Use is that it is being taken site by site and a drive through isn't being proposed on any of the other neighborhood business sites and it might not make sense on any of the other neighborhood business sites to do that. They cannot assess the viability of that but the ratio of whether a drive-through would be suitable in their neighborhood business districts has no bearing when looking at it site by site.

Vice Chair Bull stated his question is in regard to flexibility versus having various zoning districts that give guidance to the people. They could have total flexibility and have one zone and let people come in and apply for whatever but that is not the way they work. The various tables they have in their code gives them the guidance of what is permitted and what the allowable business types are.

Ms. Collins reviewed the difference between Interim, Permitted and Conditional use. She noted on this site the Conditional Use makes sense and they should go for it. The

intent of the Interim Use Permit is not for continued renewal, it is to transition you to that new use or concept. What is an important topic is to determine if this is so unique or could it work in another Business District.

Member Kimble stated the issue the Commission is having with this approval is they do not know where all of the neighborhood businesses are located at. She asked if the Commission would be comfortable making the approval based on 200 feet rather than the required 100 feet because that seems to her that it would be more protective of other neighborhood districts and zoning and also help this business. Mr. Paschke indicated the Commission could change that number. He thought they were predicating their number on this particular drive-through at the bank adjacent that is a little over a hundred feet from the residential and does not have any issues.

Ms. Collins stated if the intent is to limit the impact of this use the additional 200 feet may be that limiting factor. Member Kimble thought if they increased the distance it might make meeting that requirement more difficult for every neighborhood business.

Member Groff thought at the point this item was determined, the text amendment combination was before they met with the Council because going forward this will not be the process they see again with two items mixed. He stated he would support this because he thought having the business owner here and speaking he understand it was hard enough running a business without having these sorts of impediments in the way and he thought they were not damaging their neighborhoods or City by moving forward with this.

Member Sparby thought a really good point was made by staff if this is appropriate and he thought it was appropriate in some cases to have a use such as this in a neighborhood business but not in all cases and he thought that was illustrated by the Conditional Use. It is not permitted, it is conditional so when this type of thing comes forward they need to make sure they meet the Ordinances and they also make sure they meet the Conditional Uses that are put on top of it. He thought this business is clustered in the types of uses that can come in and meet these criteria of a Conditional Use. Having staff talk through the analysis gives him more comfort in moving this as a Conditional Use as a text amendment.

Member Daire stated he has listened to the discussion with great interest and it has sparked in him an appreciation for the wisdom that is represented behind this table.

Chair Murphy wondered if Member Daire still wanted to entertain his previous motion. Member Daire stated an observation he has had, on County Road D and Fairview they are considering a brew pub that has sparked a text amendment. This month they are considering Mudslingers. This site was a service station at one point and the service station was razed and Mudslingers was able to establish an operational structure and traffic circulation pattern and parking for employees. There is no on-site consumption of coffee. The site at County Road D and Fairview, that structure could be razed and there is an apartment building that is approximately fifteen feet on the west side of that site and on the south side there is another multi-

family structure, much tighter than this situation. If a proposal came in for a drive-through at that location, which is also a neighborhood business location, would they feel comfortable in saying it is not appropriate there and what objective, rationale could they give for stating it is not appropriate. Given that staff doesn't know quite how to approach an analysis for this text change and without trying to burden staff with the need to examine the developable potential of every neighborhood business site in the City, he would concur and thought the statement made by the owner of Mudslingers is tremendously persuasive. He felt sorry the owner was put in this situation and would vote for the text amendment.

SUBSTITUTE MOTION

Member Sparby moved, seconded by Member Groff to recommend approval of the proposed zoning text amendment to allow drive-through facilities as conditional uses in the Neighborhood Business zoning district, based on the content of this RPCA, public input, and Planning Commission deliberation.

Further Discussion:

Chair Murphy asked if Member Sparby would be open to adding 200 feet as opposed to 100 feet on line 90 as suggested by Member Kimble. Member Kimble stated it makes the condition more strenuous for other NB sites. Member Sparby indicated he would keep his motion clear in that it recommends what is in the staff proposal as stated.

AMENDMENT MOTION

Chair Murphy moved, seconded by Member Kimble to amend the motion to change 100 feet on line 90 to 200 feet.

Further Discussion:

Member Daire indicated they have no objective criteria that 100 feet would not work. It was earlier proposed that they have a decibel limit at the edge of the property and thought it was a far better way to approach this than not knowing and thinking that 200 feet is better than 100 feet. He thought if they had some way of measuring that was more objective like they do with the parking lot lights then they would be in a far more defensive position. Chair Murphy stated as maker of the motion he appreciated the suggestion to tighten up the number of neighborhood businesses that this would apply to by having a larger radius and he thought while they ask staff to go out and perhaps come up with a decibel rating which they could incorporate at a later time, they are safer with coming up with a set of conditions that narrow the number of eligible NB businesses. He would not be opposed in the future for an amendment to change the hundred feet and take out everything in red and said, "And shall not exceed xx decibels at the property line".

Vice Chair Bull thought they were getting into a situation that puts the City into a lot of liability that they are setting such conditions on neighborhood business and conditions for this that they can be met by one property and when they start to

regulate the City and all of the properties, one business or property at a time, they can get themselves in a lot of trouble. He is fine if they have additional permits and they look at the conditions that are pertinent to each property, but they have to make them general that it is fitting to the entire category of the District they are applicable to. The amendment is contrary to that and without other information that there are neighborhood businesses that might be applicable to this, he sees they are making a single recommendation, so he did not think he was in favor of the amendment.

Chair Murphy stated in looking at the slide before them, to the north and northwest corner, he would think those two, if a drive-through was proposed there those would also satisfy the 200-foot radius. He did not think they were proposing Legislation that is applicable only to a specific business or a certain location.

Member Sparby agreed with some of the comments and thought 100 feet is grounded in the staff report based on the analysis they conducted and for that reason alone he would not consider increasing the distance. He stated he was comfortable with the 100 feet requirement as a reasonable buffer from NB to residential

Member Gitzen indicated he would not support the amendment either. He thought in looking at the criteria a-f, he felt this is ready for other Districts and is across the board for all drive-through, so he would not support the amendment for that reason. He would be satisfied with the 100 feet as staff recommendation. Member Groff indicated he would be satisfied as well with 100 feet recommendation.

Ayes: 0

Nays: 7

Abstain: 0

Motion to amend failed.

Ayes: 7

Nays: 0

Abstain: 0

Substitute motion carried.

Member Gitzen moved, seconded by Member Sparby, to recommend approval of the proposed drive-through facility at 2154 Lexington Avenue, based on the content of this RPCA, public input, and Planning Commission deliberation.

Ayes: 7

Nays: 0

Abstain: 0

Motion carried.

Chair Murphy asked Mr. Paschke if staff would be willing to accept a research item on a metric for decibel rating at the edge of the property that would be as innocuous as the lighting measurement, same specificity. Mr. Paschke indicated they could look into it.

Recess

The Commission recessed at 8:40 p.m.

The Commissioner reconvened at 8:45 p.m.

d. Request By Roseville Centre Lodging, LLC In Cooperation With Centre Pointe Solutions, To Consider The Final Plan Of An Amendment To Planned Unit Development Agreement #1177 To Allow A Four-Story Hotel And Other Site Improvements At 3015 Centre Point Drive (PF18-006)

Chair Murphy opened the public hearing for PF18-006 at approximately 8:45 p.m. and reported on the purpose and process of a public hearing. He advised this item will be before the City Council in late August or early September.

City Planner Paschke summarized the request as detailed in the staff report dated August 1, 2018. He reported this is a request to consider a Final Planned Unit Development to support a hotel at 3015 Centre Pointe Drive.

There were no questions for staff.

Mr. Tom Noble, West Development, sponsor of the Abbott Hotel development at 3015 Center Point Drive, address is 1660 Highway 100 South, St. Louis Park indicated he was at the meeting the answer questions.

There were no questions for the applicant.

Public Comment

No one came forward to speak for or against this request.

Commission Deliberation

MOTION

Member Bull moved, seconded by Member Kimble to recommend approval of a Final Planned Unit Development for 3015 Centre Pointe Drive to modify the permitted use on he subject property from a 21,240-office building with underground parking to a four-story hotel with surface parking, which achieves compliance with the Standards outlined in PUD #1177.

Further discussion:

Member Daire stated when he visited the site he thought the name Marriott popped up a couple of times and he drove through an extra time and to the north of the site is a Marriott Fairfield Inns and Suites and to the south side of it is a Marriott Residence

Inn and less than 500 feet away is Marriott Courtyard. It occurred to him that this proposal breaks up a stream of Marriott development along I-35.

Ayes: 7

Nays: 0

Abstain: 0

Motion carried.

8. Other Business

Chair Murphy asked Ms. Collins if they received any public comments that they need to review. Ms. Collins stated they have not received anything since their last conversation and staff is still looking at the communities for staff's obligation to review the plans. The plans can be found on the Comprehensive Plan page. She indicated they did hear at the joint meeting the City Council will hold another potential informational meeting about Harmar and the Lexington/Larpenteur area.

9. Adjourn

MOTION

Member Kimble seconded by Member Gitzen to adjourn the meeting at 8:54 p.m.

Ayes: 7

Nays: 0

Motion carried.