



MEETING MINUTES

Planning & Zoning Commission

Thursday, July 20, 2023

CALL TO ORDER

Ms. Call, Chair, called the meeting to order at 6:30 p.m. and welcomed everyone to the July 20, 2023 Planning and Zoning Commission meeting. She stated that the meeting also could be accessed at the City's website. Public comments on the cases were welcome from meeting attendees and from those viewing at the City's website.

PLEDGE OF ALLEGIANCE

Ms. Call led the Pledge of Allegiance.

ROLL CALL

Commission members present: Rebecca Call, Kathy Harter, Kim Way, Warren Fishman
Commission members absent: Mark Supelak, Lance Schneier, Jamey Chinnock
Staff members present: Jennifer Rauch, Thaddeus Boggs, Sarah Holt, Zachary Hounshell, Rati Singh

ACCEPTANCE OF DOCUMENTS/APPROVAL OF MINUTES

Mr. Supelak moved, Mr. Way seconded acceptance of the documents into the record and approval of the 07-06-2023 meeting minutes.

Vote: Mr. Way, yes; Ms. Harter, yes; Ms. Call, yes; Mr. Fishman, yes.
[Motion approved 4-0.]

Ms. Call stated that the Planning and Zoning Commission is an advisory board to City Council when rezoning and platting of property are under consideration. In such cases, City Council will receive recommendations from the Commission. In other cases, the Commission has the final decision-making responsibility. Anyone who intends to address the Commission on administrative cases must be sworn in. She indicated that there was no Consent Agenda this evening and swore in those present who intended to provide testimony on the cases.

NEW CASES

- **Dublin Village Redevelopment, PID: 273-009045, 23-049, Concept Plan**

A request for the redevelopment of an existing 6-acre parking lot and a portion of the strip center to construct two, new, four-story, podium-style apartment buildings with 284 multi-family units and 360 parking spaces on a 6.0-acre site zoned Bridge Street District

(BSD), Sawmill Center Neighborhood, located northeast of the intersection of John Shields Parkway with Village Parkway.

STAFF PRESENTATION

Ms. Holt stated that a Concept Plan is the first of three formal steps with a Bridge Street District development. A Concept Plan provides the basic elements of character, building massing, open space and street network. A determination by the Commission is requested tonight. Should a development agreement be sought by the applicant, City Council approval of the Concept Plan is required, as well. The ±6-acre project site is located southeast of Village Parkway and Tuller Road and is within Dublin Village, an approximately 400,000-SF commercial and retail center, developed in the late 1980s, south of Interstate 270 and west of Sawmill Road. Dublin Village (then Dublin Village Center) was approved by Planning and Zoning Commission (PZC) in 1987 as a Corridor Development District application. The site encompasses multiple surface parking lots which support adjacent large-format commercial tenant spaces including the AMC Theater, in-line retail and outparcels. The project site is adjacent to a new intersection planned for Tuller and Village Parkway. A north-south AEP high voltage, over-head electric line easement (60-foot wide) bisects the site. The City is in the process of updating its Community Plan, and City Council has adopted Interim Land Use Principles to be used for proposed development applications. This site is subject to the requirements of the Bridge Street District, Sawmill Center Neighborhood zoning district, including the gridded street network with the goal of walkable blocks. The street network is comprised of different street hierarchies, and this site is comprised primarily of neighborhood streets with the exception of Village Parkway, which is both a principal frontage street and a district connector street. The applicant has submitted previous proposals in May 2022 and December 2022 with slightly different locations and configurations. A revised plan has been proposed, which addresses the concerns of the Commission expressed at the earlier reviews, including:

- The previously proposed street network and parking were dictated primarily by the AMC parking agreements, and access was shown on a principal frontage street;
- The building heights were too tall and floor heights exceeded Code;
- Future, undefined open space, including off-site open space were a concern, and pedestrian pathways were inadequate.
- A conceptual framework/master plan for the entire Dublin Village redevelopment was necessary.

Revised Proposal:

The applicant is proposing two buildings comprised entirely of multi-family units and accessory resident amenity uses as a redevelopment of a portion of an existing surface parking lot and strip center at the southeast corner of Village Parkway and Tuller Road. The Phase One/west building is a Podium Apartment building of ±125 units with 133 garage parking spaces. Phase Two/east is an Apartment building with ±160 units and 175 garage parking spaces. The Phase 2 building is slightly beyond the mid-block crossing requirement, which must be addressed with the Preliminary Development Plan (PDP). The development would facilitate the realignment of the Village Parkway/Tuller Road intersection, the extension of McCune Avenue, and the creation of two north-south public streets. The Phase One Podium Apartment building may be between 3 and 4.5 stories tall; this requirement has been met. Responding to the change in grade across the site, the Phase One building is four stories on the west side and four and one half stories on the east side.

The Phase Two Apartment Building may be between 2 and 4.5 stories tall; this requirement is also met, being four stories on all sides. Each building type's permitted ground story height is 10 feet to 14 feet. Each building shows floor heights of 10 feet, 8 inches, meeting this requirement. [Conceptual Plan details were reviewed and inspirational images shown.] It is essential that that it be shown that quality public open space is possible within the AEP easement, as utility easements generally have many limitations. There is the potential for the easement to provide a greenway spine throughout the entire master plan site. Ideally, adjacent vertical elements should be provided along that greenway and a terminal feature at the north end. Staff has reviewed the application against the applicable criteria and recommends approval with seven (7) conditions of approval.

Public Comments

The following public comments were received prior to the meeting.

Eric Burchett, 6729 Hobbs Landing Drive East, Dublin:

"I live in Greystone Mews and this latest project to build more apartments, 284, seems to be overkill in that area. With all the condos and apartments in Bridge Park plus the Pulte Homes development, Tuller Flats, Sycamore Ridge and across Sawmill Road, the density seems to be overwhelming. Additionally, Fischer Homes has submitted a plan for more condos across from the Pulte Homes development, which would eliminate another greenspace on John Shields Parkway. I am aware of proposals for the open space between John Shields Parkway and Tuller Road, which again eliminate greenspace. I am hopeful that the City of Dublin will consider the density issue and deny the latest Dublin Village redevelopment plan."

Diane Cartalono, 3390 Martin Road, Dublin:

"While I appreciate that Stavroff has modified their previous plan, it is still too dense and will result in exacerbating already crowded traffic conditions in the Bridge Park District, especially given the other projects being proposed in what space is left in and around John Shields Parkway. Also, reducing the proposed number of units from the original 301 to 285 seems insignificant. Additionally, there appears to be very little meaningful greenspace, which seems to be the trend. Fisher Homes is proposing an immensely dense condo development nearby, not to mention the Pulte Homes 4-story condos and this just seems to be overkill. Stating the obvious, there is a finite amount of space, and the question must again be asked: "When is enough, enough?" Thank you for allowing me to share my concerns."

Commission Questions for Staff

Mr. Fishman inquired how much of the 6-acre site is public greenspace.

Ms. Holt responded that the applicant has not yet provided that information.

Ms. Call requested staff to outline the BSD-Sawmill Neighborhood District Code requirements for building height and open space.

Ms. Holt responded that the building height requirements differ according to building type. Apartment buildings and podium apartment buildings can be up to 4.5 stories. The proposed buildings meet the Code criteria. The open space for both building types are 200 sq. feet of public open space per unit, which calculates to 57,000 sq. feet of public open space for the project. The Code requires public open space to be usable, public-facing and of a certain ratio (not long and linear). Easements and open space can co-exist, but the design must be specific, providing interaction between the buildings, sidewalks, etc.

Ms. Call noted that 57,000 square feet is approximately 1.2 acres.

Ms. Harter inquired when the transportation and mobility piece would be discussed.

Ms. Holt responded that it would be discussed with the Preliminary Development Plan (PDP) proposal.

Ms. Harter stated that she will be interested in seeing that information, as there was earlier discussion about the COTA location in this area.

Ms. Call clarified that Dublin does not determine where bus routes will lie; however, the City does have a representative on MORPC. It would be advantageous to have either a staff report or a note from the MORPC representative regarding those future plans when that PDP comes forward.

Mr. Way inquired if the proposed public streets had been reviewed by staff.

Ms. Holt stated that the proposed public streets meet the BSD street network requirements. Planning staff has been discussing with Transportation/Mobility and Engineering the right-of-way widths, street character and appearance, and parking on one vs. two sides of the street. The street locations are exactly as intended by the street network map. The site fits squarely between Village Parkway, the intersection with Village Parkway and Tuller Road, and what is currently referred to as Street B.

Mr. Way stated that at this point, it is a diagram, not an accurate placement of a street with measured dimensions.

Ms. Holt responded affirmatively.

Ms. Rauch stated that the Code specifies lot and block dimensions, so the street placement is based on a mathematical calculation.

Mr. Way stated that Street B in the conceptual master plan appears to be further to the east than what is proposed and extends north-south through the center of the area. If it were moved further to the west, as illustrated, it would run through an existing building in the master plan.

Mr. Fishman stated that it was his understanding that an AEP easement cannot be counted as open space.

Ms. Holt responded that it can if it meets the criteria and intent of open space per the Code.

Mr. Fishman inquired if the easement is counted as open space in this plan.

Ms. Holt responded that detailed calculations have not yet been provided, but staff assumes that it is being counted, based on the required square feet of open space.

Mr. Fishman stated that an AEP easement use can change. In 10 years, AEP could put a transformer there, if needed. We have seen open space areas in Columbus that existed as such for 20 years before large transformers were installed.

Ms. Call requested Mr. Boggs' legal opinion. If a property owner owns land that contains a utility easement that currently is open space, and in the future, AEP wants to drastically change how they are using that easement – transitioning from a corridor cable path to large, fenced-off transformer areas – would the review/approval process allow the property owner and the City to be involved, and if so, to what extent?

Mr. Boggs responded that his understanding is that it depends on the particular type of line. AEP can install regular distribution lines at will. If it is a transmission line -- and the staff report for this case indicates that the easement is for a high-voltage line -- large towers require an approval process run by the Ohio Power Siting Board. That is a state board. The City would have no direct involvement, but the property owner and the City could participate in the process as interveners.

Ms. Call stated that the Commission has expressed a concern that if the intent is to count the easement as open space, the Commission can do its due diligence to ensure it meets the intended look and feel of the complementary feature. However, if that area should no longer be open space due to forces outside the property owner's control, then the open space intent would no longer be met for the parcel. The Commission is attempting to understand the future risks.

Mr. Boggs stated that if this project proceeds to PDP and Final Development Plan (FDP) phases, the plan can be refined and strategies can be identified and commitments made for a possible future situation in which AEP determines it will exercise its easement rights to the fullest.

Mr. Fishman stated that if AEP has an easement, it has the right to do whatever it wants; the easement guarantees them the use of that property. Therefore, he does not believe an applicant should be able to count it to meet the greenspace requirement for their project.

Mr. Boggs stated that he has not reviewed the text of the actual easement rights, but the staff report indicates that it is a high-voltage, overhead transmission easement. Therefore, while AEP could install a distribution line at will, for towers and transmission lines, it would have to follow the state regulatory process, which permits the City and property owner to weigh in on the proposal. He would recommend that prior to any commitments, if this process proceeds to the next review levels, the applicant be required to provide their strategy for meeting that open space requirement, as the conditions of approval indicate.

Mr. Fishman stated that the easement then might not be counted as open space.

Mr. Boggs responded affirmatively.

Applicant Presentation

Kevin McCauley, 6689 Dublin Center Drive, Dublin stated that he is representing the owner, Stavroff Land Development. Other representatives are present, as well, to answer Commission questions. They listened to the concerns the Commission expressed in earlier reviews of this project, and over the last few months, they have addressed those concerns, letting City Code guide the principles for this project. They have met the Code in every way that they were able. In regard to the AEP easement – they had a previous experience with AEP, where they wanted to place an extra utility pole on the Stavroff property. AEP requested permission, worked with Stavroff to install the additional pole and line, and paid Stavroff for the land to do so. Their intent is to count the AEP easement as partial greenspace, at least. They plan to meet the greenspace requirement in every way possible. Currently, they have 1.3 acres of greenspace although they are required to have only 1.2 acres; some of that could be adjusted.

Commission Questions for the Applicant

Mr. Way thanked the applicant for providing a framework plan, which he believes is heading in a good direction.

Mr. McCauley stated that they hesitated to provide it, as it is already going through additional iterations. It is a vision as to how the development might go, and they are currently working on the placement of other roads. In this portion of the overall plan, the site meets the District's required lots and blocks, although one side of the east block is slightly over, at 402 feet, where it needs to be 400 square feet. If they were to move that block any further east, it would create more open space than is required.

Mr. Way noted that it would, however, be open space that is not encumbered by the AEP easement. He likes the tentative framework plan's depiction of the green north/south open space corridor on the west side. There may be opportunity for the applicant to extend the open space further with

Street B, as a strategy for that area. He noted that the demolition plan shows a section of building removed between Big Sandy and another building, so there would be room to move Street B over. He is less interested in open space on a block by block basis than in how each of those open spaces relate to each other, creating something bigger for the development. Street B seems to be the start of something, while the AEP easement cannot be the start of anything, because it always needs to be preserved as a right-of-way. The applicant cannot build or develop on it. It cannot contribute in the way that something more central could.

Mr. Fishman stated that the plan proposes meeting the parking requirement by counting on-street parking. He would prefer to see the parking requirement be met with off-street parking.

Mr. McCauley responded that their proposal counts only 24 of the potential 54 parking spaces on McCune Street (both sides of street) to meet the Code requirement.

Mr. Fishman stated that realistically, there will be 2 cars per unit, which is more cars than the number of parking spaces required by Code.

Mr. McCauley responded that the underground parking would provide most of the required parking spaces. The Concept Plan needs to be developed further to know how many 1 and 2 bedroom units there will be, but at this point, the plan meets Code.

Ms. Harter noted that the 4.5 story and 4.0 story buildings will appear to be the same height due to the grade change.

Mr. McCauley responded affirmatively.

Ms. Call stated that the previous plan they submitted for this area was for a 7-story, 278-unit building on 3.85 acres (72 du/acre). Commission members expressed concerns with the project mass, building height, the greenspace easement, the mid-block pedestrian crossing, inefficient street network for the area, and that the project did not meet the Bridge Street Vision or Land Use Development Principles. Other than those comments, were there other items the applicant considered when revising the plan?

Mr. McCauley responded that they started with the street network, which was clearly a problem at that time, but also reduced the massing, building height, the AMC easement and addressed the need to meet Code. He does not recall the AEP easement being part of the earlier discussion. Previously, they did not meet Code on a number of items. He believes the Bridge Street Code is difficult to meet 100%, but they are as close as possible.

Ms. Call inquired if they considered a mixed-use product instead of an all-residential product.

Mr. McCauley responded that they did not consider it for this site. A mixed-use product is anticipated in the future development of the area. This is step one of a multiple stage development process.

Brian Kinzelman, Senior Principal, MKSK, 62 S Ludlow St, Columbus stated that the Commission should not give too much consideration to the framework plan, which is actually in its 6th iteration. The most significant element that will direct the overall development is the future extension of John Shields Parkway to Sawmill Road. A future Snouffer-Sawmill Road intersection has been envisioned for many years. They did not consider a vertical mix of uses in this building; it is strictly residential because of where it is located within the planned community. Additional housing of different types is needed in central Ohio, including the City of Dublin. The vision for the area is for a mixed-use, more dense, but walkable development than exists in this particular area today.

When they return for the next review step, they hope to have more definition for their master plan. At this point, they need to know they are moving in the right direction.

Mr. Fishman inquired if this area is limited to 40 units per acre.

Ms. Rauch responded that there is no density requirement within Bridge Street District. It is based solely on how the site is proposed to be developed and those development requirements.

Public Comment

Ellen Sullivan, 4397 Zachary Ct., Dublin inquired if there is any requirement for Stavroff to include information in their rental agreements making future residents aware of the easement issue.

Mr. Boggs responded that to his knowledge, the Stavroff Company, as the landlord, would not need to include that information in the tenant leases.

[There were no additional public comments.]

Mr. Boggs stated that the AEP easement is a matter of interest to the Commission. It is not a document that he has read. While it is not uncommon to be aware of previous experiences with easements, the same conditions may not exist with this easement. However, this is at the Concept Plan stage. At the PDP stage, the applicant's legal representative will provide a copy of the easement and we will come to an understanding of what it means. That will in turn be shared with the Commission so that it will have accurate information when it is time to make that decision.

Commission Discussion

Ms. Call requested that in their consideration the Commission members reference the review criteria and the Interim Land Use Principles. Most of the proposed conditions of approval are in anticipation of a PDP. With the Concept Plan, we are focused more on the vision/appearance. She referred to the list of Code criteria and the Land Use Principles. The first criterion is that it is "consistent with applicable policy guidance of the Community Plan, the BSD Special Area Plan and other applicable City plans and policies." The first two Land Use Principles are to "think comprehensively and consider the public realm." She requested Commission members to respond to those items, rather than the proposed conditions.

Mr. Way thanked the applicant for providing an iteration of a framework plan, although it is not a fixed plan at this point. That item reflects that the proposal is thinking comprehensively and considering the public realm. He has more confidence that this proposal is moving in the right direction. Additionally, he believes the proposal is attempting to be consistent with the applicable policies and guidance of the Community Plan, BSD Special Area Plan and other City plans/policies.

Ms. Harter expressed agreement with Mr. Way's assessment. She appreciates the applicant's efforts to heed the Commission's guidance provided at the previous review.

Mr. Fishman stated that he also agreed. The only item he is having difficulty with is the number of parking spaces for the proposed units. He does not know of any adult living in the City of Dublin that does not have a car. Therefore, the Commission has to assume that a one-bedroom unit of a married couple would need two parking spaces. The intent is that this will not be the only development within this area, so the density in the area will increase. There is insufficient parking in the plan, which will end up clogging the corridor. The applicant was responsive to the

Commission's comments at the previous meeting and the plan is moving in the right direction; however, the number of units are a significant hang-up with the proposal.

Ms. Call stated that her primary concern is that without a comprehensive plan, what is proposed is another multi-family product immediately next to many other multi-family products; that is not a variety of housing. The proposed development should consider the comprehensive network and the public realm. Staff indicates that the Concept Plan conforms to Criteria #2 and #3 regarding lots, blocks, street types and site development standards, and the land use allows for appropriate integration with the surrounding community. She asked Commission members to provide comments re. Criterion #5, that "The conceptual building is appropriately sited and scaled to create a cohesive development character, completes the surrounding environment and conforms with the Code Building Types."

Ms. Harter stated that currently, just residential development is proposed. Additionally, the pedestrian pathways are unclear. Those items need to be addressed.

Mr. Way stated that it appears the applicant is beginning to address the connectivity, walkability and transportation network issues. If we had an approved framework plan, all of these discussions would be unnecessary. In the absence of that, he is unsure sufficient clarity can be provided before we have to look at each site individually. It would be ideal to have that (approved framework plan), but he understands this is a complex parcel of land and there are existing leases. He is hopeful that in the future, every time the applicant comes before the Commission, that consideration of an application begins with the framework plan, wherever it is in its iterations, illustrating how the proposed plan would fit into that vision/strategy. If that vision/master plan could be approved, the review process would be simpler.

Ms. Call expressed agreement with Mr. Way. The Commission is trying to envision what could occur. The proposed Concept Plan is entirely too broad when attempting to review it against the Land Use Principles and the BSD's neighborhood standards. The variety in the BSD allows some flexibility to incorporate individual applications into a "Distinctly Dublin" product. However, the way in which this particular parcel will integrate with the neighboring structures could be vastly different. For instance, it is not desirable to develop residential uses all the way up to the strip mall along Sawmill Road. However, if this would be an exclusively residential product next to a mixed-use product, that would be a very different discussion. The applicant has the benefit of a large parcel of land and is working on a vision, and the City would like to be part of that. At this point, it is very difficult for the Commission to look only at a small portion of it, disregarding the rest of the applicant's parcel. That is the reason for the Commission's hesitation.

Ms. Call referred to the last Land Use Principle, "Be Distinctly Dublin." Does the Concept Plan conform to the Neighborhood Standards, including the open spaces and gathering places to the benefit of the development and the community?

Mr. Fishman stated that he looks forward to the applicant coming back with the necessary information so that the Commission can vote on the application with the confidence that it knows what the City will be getting.

Ms. Harter stated that this application does not yet seem to contribute to the community with the desired connections. That element will be important for the future residents who would live here and for the community. She encourages them to think in that direction.

Mr. Way referred to the land use principle to “Be Distinctly Dublin.” When he thinks of that quality, it encompasses the quality of the materials and quality of open space – having that type of “feel.” He believes this area could be unique to itself. Dublin Center has an image that has existed for years, and at that time it was developed, the attempt probably was to make it distinctly Dublin, not consistent with what was across the street in Columbus. The issue with this plan is the missing details – the materials and quality of spaces that would make it uniquely Dublin.

Ms. Call stated that while Dublin is forward thinking, it is not willing to accept just any conceptual development proposal. The applicant has considered the Commission’s previous direction and made some changes, such as building height. The architectural imagery and activation is attractive and a valid Dublin product. However, Dublin is very well planned, and this application is not yet where it needs to be. It appears that it might be consistent with some of the applicable development criteria, in which case the Concept Plan could be a “maybe.” However, if this exact plan were to be moved forward, there would be many details to be worked out. It is typical in the development process to have “some” details to work out.

Ms. Call noted that only 4 of the 7 Commission members are present this evening. She invited the applicant to request any additional clarification desired and asked if they would like to proceed with a vote on the Concept Plan this evening.

Mr. McCauley stated that many of the Commission’s comments were helpful and insightful. However, as he understands it, the Bridge Street Code is a form-based Code. An application must meet the Code’s requirements regarding block lengths and building height, but the BSD Code is not concerned with the use inside that building. They drew up a plan that meets that Code. What he is hearing now is that the Commission may not like the proposed use here without seeing a master plan for the site. He is being penalized for having the additional land.

Ms. Call clarified that much of the BSD Code requires complementary uses of adjacent properties. In this case, the Commission does not yet know what that adjacent property is going to be, because there is no master plan for their site.

Mr. McCauley responded that the Commission did not have that level of information when it reviewed the Pulte Homes townhome development, and the hotel and Fisher Homes applications, which were approved near Dublin Center, not knowing how that site might be redeveloped. Yet, those plans were approved because they met the Code.

Ms. Call stated that when talking about adjacent uses, we are talking about the current adjacent uses, not whether they are expected to remain as such. New buildings could be there later. With the Bridge Street vision, we have a greenspace area and the anchor tenants, and we are aware of the “broad strokes” of the overall vision for that area. Here, we are talking about a redevelopment, surrounded by existing uses and approved but not yet developed applications. There is little greenspace or undeveloped property immediately adjacent to the proposed development. While this might be the only development within this particular area, we are aware of the potential for the applicant to develop the site further. Has the City recently done any small-scale commercial development immediately next to 4-story residential? She is not aware of any. This is the issue. If the Commission were looking at this site independently, the discussion could focus on whether we want small-scale commercial development immediately next to a 4-story residential unit development. She requested the Law Director to comment on the reason this application, which

has already-developed outparcels, would be considered differently than a proposed developed plan surrounded by greenspace, open space and undeveloped parcels.

Mr. Boggs responded that 8 criteria are set forth for a Concept Plan. The Commission's comments relate to whether the Concept Plan is consistent with the policy guidance of the Community Plan's Special Area Plan, other City plans and if the proposed land use allows for appropriate integration into the community consistent with those adopted plans. Having the appropriate integration for a proposed residential use adjacent to existing commercial seems to be what the Commission is focused on; whereas with greenspace, the adjacent area would be a blank slate. The Commission has not seen a lot of infill redevelopment within the Bridge Street District area. There is room to have a discussion on how, ultimately, all those puzzle pieces would fit together. However, this is a criteria-based, Code-based process, and we are at the Concept Plan step of that process. The Commission should refer to that criteria, if it makes a decision tonight.

Mr. Fishman stated that many years ago, when the City was writing the Bridge Street Development Code, in review meetings the consultants warned this could happen. If every applicant attempted to build to the Code maximum, deviations would be necessary. They indicated that it might be necessary to re-write the BSD Code, as developments occurred. They also said the Commission had flexibility with the BSD Code. If an application was not compatible with an existing or intended adjacent use, it would not be necessary to approve applications without making some deviations. The question was asked at that time that if a proposed building would not be compatible with other buildings, could the City say that it was not compatible. The consultant indicated that the Commission could indicate that the application would not be compatible.

Mr. Boggs stated that this is a form-based Code. The criteria do consider uses on the basis of whether they are accounted for in plans and can be integrated together. This is a single district, a single neighborhood. Perhaps the consultant's deviation comment was based on the Code's provision for waivers, versus the process. This application needs to be considered on its own merit.

Mr. Fishman responded that the BSD Code consultant stated that if the proposed use is not compatible with adjacent uses, the BSD Code provided flexibility, as the BSD Code requires compatible uses. At that time, he had asked about density. The consultant indicated that if the transportation level would be too high, deviation would be necessary.

Mr. Boggs responded that the density would flow from the form. He would disagree with the consultant's statement that with a form-based Code, if an application meets Code in all other respects that compatibility could be based on use alone. The applicant's previous plan for a 7-story building on a finite amount of ground would have caused a density that would not integrate with the area. Tonight, the Commission should consider whether the plan presented tonight meets the review criteria.

Mr. McCauley referred to Mr. Boggs' statement and indicated that this 6-acre site does stand on its own and meets the form-based Code criteria. They have made all the corrections that the Commission had indicated would be necessary in its earlier review.

Ms. Call stated that the criteria requires the creation of a cohesive development character complete with the surrounding environment and to conform with the building types in Code. This application creates a cohesive development with the surrounding development on the west side but not on the east. Infill property is evaluated with the surrounding adjacent parcels. The adjacent parcel is single-story, ground-level retail, and the western neighbors are multi-story residential. Maxing out

the possible between those sites is not cohesive and does not complete the surrounding environment.

Mr. Underhill stated that 12-14 years ago, he was with the Ben Hale firm and Mr. Hale received a call from a City Councilperson, who wanted to appeal a decision of the City's Planning Commission regarding a ground sign for a condominium development near the roundabout at Avery and Post Roads. The application was tabled because the Commission did not like the 8-foot sign. Their firm argued that because their application met the Code standards, it should be approved. That Commission indicated that in Dublin it was necessary not only to meet but to exceed Code requirements. An appeal was filed, and he, representing the applicant, won the appeal. The BSD Code has produced a great product, but he believes the entire document is unconstitutional. It is void for vagueness, because an application can meet the Code standards yet still be turned down. That constitutes a lack of due process. The question tonight is if the application is Distinctly Dublin. Mr. Way has indicated that is subjective. We agree, but if that one criterion is essential, how does the applicant know what "Distinctly Dublin" is? This is not a PUD development. This is an administrative process wherein the law is applied. The BSD Code development process involves 3 steps. When the BSD Code was approved several years ago, Stavroff & Associates were adamantly against having their property included in the BSD District because of the problems, such as this, that it would cause them. They were in a unique situation with a built shopping center with long-term leases. If we want to see that area redeveloped over time, it is essential to have some certainty regarding the requirements, and there is none. The City rezoned the property and unfortunately, the Code now does not require a mix of uses on a project-by-project basis. The zoning category we are in provides for residential to be built and stand on its own merits, based on whether the objective criteria are met; the subjective criteria can be discussed. The vagueness of this Code is so difficult and causes applicants to spend substantial amounts of money before they can get to the point of knowing whether they have an acceptable product. This is the third plan revision, and it is difficult for this applicant to know exactly what the City wants. He noted that this application would require a development agreement for TIF monies, so it also would need to be reviewed by City Council. It does not appear there is much that can be done with this plan, so the applicant would probably need to discard it and start over to a large extent. Regardless, the applicant does request a vote tonight.

Mr. Fishman clarified that he agrees with most of his comments. For him, the issue is the density and the need for adequate parking for an additional 500 cars.

Mr. Underhill stated that is a valid concern, but the question then is how many parking spaces would be considered enough. Would adding 35 more parking spaces be enough?

Mr. Fishman stated that two cars per unit would be 500 parking spaces. It is not satisfactory to count onstreet parking spaces, due to the surrounding retail and commercial development. The biggest issue in high density areas is the difficulty for people to find parking spaces. He avoids certain areas of Columbus due to the difficulty and aggravation of finding parking.

Mr. Underhill stated that the proper avenue to address that would be with a Code amendment.

Mr. Boggs responded that based on staff's review of the application, the application meets the BSD Code parking requirements, so that would not be a valid reason for a no vote on this application.

Ms. Call stated that the common concerns she has heard from the Commission regard the density and character of this building. The criteria states exactly that, "the conceptual building must be appropriate to the building beside it in scale; creates a cohesive development character; completes the surrounding environment; and conforms with the building types in the Code." The building type

is allowable by Code, but the appropriate building scale needed to create the cohesive development character and complete the surrounding environment are the issues. Commission members do not believe the application meets those criteria.

Mr. Underhill stated that is the difficulty with subjective criteria, which the Commission is tasked to consider.

Ms. Call stated that there are some unknowns, such as the AEP easement, open space and site development standards that could be addressed at the PDP stage; however, to move forward, the Concept Plan must meet all the criteria. The Commission is an administrative body, not legislative, and the criteria requiring the appropriate scale for a cohesive development character are not met.

Mr. Way moved, Ms. Harter moved to approve the Concept Plan with the following seven (7) conditions:

- 1) For future applications, McCune Avenue, Village Parkway, and Street B are accepted as Front Property Lines.
- 2) All streets and streetscape features shall be consistent with BSD Streetscape Character Guidelines, to be analyzed at PDP.
- 3) The garage access for the Phase One building shall shift to the east, approximately mid-building, at PDP so as to avoid conflict with the new intersection alignment at Village Parkway and Tuller Road.
- 4) The applicant shall continue to work with staff to ensure all practicable Building Type requirements per the BSD Code are met at PDP, including but not limited to Front Property Line coverage.
- 5) A mid-block crossing waiver shall be necessary for Phase Two at PDP, if this building is over 400 feet long at that time.
- 6) Based on the length of the buildings, mid-building pedestrianways are required for each building type and should be more centrally located, visible from the McCune-facing amenity decks, and emphasized with both architectural and landscape features at PDP.
- 7) The applicant shall continue to work with staff to ensure that Open Space requirements are met at PDP, including, but not limited to, the 3:1 ratio requirement and vertical elements adjacent to the AEP easement.

Vote: Ms. Harter, no; Mr. Way, yes; Ms. Call, no; Mr. Fishman, no.

[Motion failed 1-3]

Ms. Call stated that the Concept Plan is not too far off what is required. If the applicant could provide a master plan to the Commission that shows how its cohesive nature incorporates the adjacent parcels, it would help the discussion.

- **Open and Uncovered Patios, Administrative Review - Code Amendment, 22-178**

Review and recommendation of proposed language to amend Zoning Code Sections 153.002, 153.071, and 153.074 to address the definitions of accessory structures in residential and non-residential districts.

Staff Presentation

Mr. Hounshell provided an overview of the proposed Code amendment to the open and uncovered accessory structures sections of the City's zoning Code. The Board of Zoning Appeals requested staff to take a deeper look at the current definitions and requirements for those structures. Their request was due to an administrative appeal that was heard by that Board. The Board upheld staff's recommended action on that case but requested a review of the related Code sections. The Planning Commission reviewed an earlier draft of amendments at its May meeting and suggested some additional clarifications regarding the definition of a trellis, artificially increasing the height of structures, grading requirements for patios and play equipment in residential properties. The following revisions have been made: clarifications regarding yard and lot requirements; removal of all references to open and uncovered structures, making the text specific to actual structures; ability for at-grade patios and seating walls up to 18 inches in height to encroach into the rear yard setback by 5 feet; and ability for porches to encroach into the front yard. Staff requests the Commission to provide a recommendation of approval to City Council.

Commission Discussion

Ms. Harter inquired if landscaping would be permitted within the 5-foot encroachment.

Mr. Hounshell responded affirmatively. The Code does not regulate residential landscaping. The only areas in which there are requirements are "no disturb" zones.

Ms. Call indicated that previously Mr. Schneier expressed a concern about the definition of patio, questioning whether it was appropriate to call an at-grade concrete patio a structure.

Mr. Boggs stated that the definition of structure is incredibly broad. That is the reason the Code attempts to distinguish between a horizontal structure and a vertical structure. It distinguishes any improvement that is affixed to the land, such as a concrete slab, as a horizontal structure, as opposed to a structure that is vertical and raised from the grade.

Ms. Harter inquired if the issues are with existing homes or new home construction.

Mr. Hounshell responded that this requirement would be more specific for existing homes, and those complaints are heard by the Board of Zoning Appeals. For future home developments, the intent is that the Neighborhood Design Standards will provide better clarification and distinction between outdoor amenity space and buildable area.

Public Comments

No public comments were received on the case.

Mr. Fishman moved, Ms. Harter seconded a recommendation to City Council for approval of the Code Amendment.

Vote: Mr. Fishman, yes; Mr. Way, yes; Ms. Call, yes; Ms. Harter, yes.

[Motion approved 4-0]

DISCUSSIONS

- Administrative Approvals
- September Tour

[Discussion topics deferred to August 10, 2023 PZC meeting.]

COMMUNICATIONS

Ms. Rauch noted the following upcoming meetings and items:

- The Dublin Irish Festival will be held Friday evening, August 4 through Sunday evening, August 6, 2023.
- The next regular PZC meeting is scheduled for Thursday, August 10, 2023.

Ms. Call noted that election of a new Chair and Vice Chair would occur when all members were present.

ADJOURNMENT

The meeting was adjourned at 8:39 p.m.



Chair, Planning and Zoning Commission



Assistant Clerk of Council