

MINUTES
September 6, 2017
Plan Commission
City of Batavia

PLEASE NOTE: These minutes are not a word-for-word transcription of the statements made at the meeting, nor intended to be a comprehensive review of all discussions. They are intended to make an official record of the actions taken by the Committee/City Council, and to include some description of discussion points as understood by the minute-taker. They may not reference some of the individual attendee's comments, nor the complete comments if referenced.

1. Meeting Called to Order for the Plan Commission Meeting

Chair LaLonde called the meeting to order at 7:00pm.

2. Roll Call:

Members Present: Chair LaLonde; Commissioners Gosselin, Harms, Joseph, McGrail, Peterson

Members Absent: Vice-Chair Schneider

Also Present: Mayor Schielke (entered at 7:16pm); Mark Schuster, Legal Counsel; Joel Strassman, Planning and Zoning Officer; Scott Buening, Director of Community Development; Rahat Bari, City Engineer; Drew Rackow, Planner; Anthony Isom, Administrative Assistant to the City Administrator; Councilmen Uher and Callahan (entered at 7:40pm); and Jennifer Austin-Smith, Recording Secretary

3. Items to be Removed, Added or Changed

There were no items to be removed, added or changed.

4. Approval of Minutes

August 16, 2017 Plan Commission

Motion: To approve the August 16, 2017 Plan Commission minutes

Maker: Joseph

Second: McGrail

Voice Vote: 6 Ayes, 0 Nays, 1 Absent
Motion carried.

5. Public Hearing (To be continued to September 20, 2017 at applicant's request)

**Proposed Single Family Residential Subdivision at 1600 West Wilson Street
Kevin Stough, Applicant**

- **Zoning Map Amendment from R4 Multiple Family Residential Medium Density to R1-H Single Family Residential High Density Zoning District with a Planned Development Overlay District**
- **Design Review**
- **Preliminary Plat of Subdivision**

Motion: To open the public hearing
Maker: Peterson
Second: Harms
Voice Vote: 6 Ayes, 0 Nays, 1 Absent
Motion carried.

Motion: To continue the public hearing to 9-20-17
Maker: Gosselin
Second: Peterson
Voice Vote: 6 Ayes, 0 Nays, 1 Absent
Motion carried.

6. Campana Redevelopment, 901 North Batavia Avenue, and 301 and 501 West Fabyan Parkway Evergreen Real Estate Group, applicant

- **Amendments to the Zoning Map for a Planned Development Overlay**
- **Continued Design Review**
- **Continued Preliminary/Final Plat of Subdivision**

Chair LaLonde announced that the public hearing has been closed and no further testimony will be taken at tonight's meeting. Chair LaLonde stated that this is the fourth meeting the Plan Commission is having regarding the Campana Redevelopment.

Strassman explained the staff recommendations for approval. Included in the recommendations are the items the Commission discussed at the previous Commission meeting. Applicant David Block confirmed that he accepts the conditions as explained.

The Commission reviewed the Planned Development Overlay District recommendation. LaLonde read the Planned Development Overlay District purposes from the Zoning Code. The Commission reviewed each finding and review of specified conditions for the Zoning Map Amendment for a Planned Development Overlay District as presented in the September 1, 2017 staff memorandum to the Plan Commission and voted on each finding separately.

Motion: To approve Finding 1 for Zoning Map Amendment for a Planned Development Overlay District
Maker: Harms
Second: Joseph
Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, LaLonde, McGrail, Peterson
Nay:
6-0 Vote, 1 Absent, Motion carried.

Motion: To approve Finding 2 for Zoning Map Amendment for a Planned Development Overlay District
Maker: Harms
Second: McGrail
Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, LaLonde, McGrail, Peterson
Nay:

6-0 Vote, 1 Absent, Motion carried.

After LaLonde read the finding for Finding 3, he questioned what specified purposes of the Planned Development Overlay Zoning District would be met. Strassman noted that the purposes of modifying the base zoning district's regulations to implement policies in the Comprehensive Plan and providing opportunities for unique or mixed-use developments would be met with this proposal. Strassman also noted that 2 of the Zoning Code's specified uses of the Planned Development Overlay Zoning District would be met – to modify regulations of the Zoning Code to implement policies in the Comprehensive Plan and to permit unique or mixed-use developments.

Motion: To approve Finding 3 for Zoning Map Amendment for a Planned Development Overlay District with the suggested modifications that it meets the specified purposes of the Planned Development: To modify the base zoning district's regulations to implement policies in the Comprehensive Plan and to provide opportunities for unique or mixed-use developments; and meets the specified uses of the Planned Development: to modify regulations of the Zoning Code to implement policies in the Comprehensive Plan and to permit unique or mixed-use developments.

Maker: Harms

Second: Joseph

Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, LaLonde, McGrail, Peterson

Nay:

6-0 Vote, 1 Absent, Motion carried.

The Plan Commission (PC) reviewed the City Zoning Code Section 5.704D: Review of Specified Conditions for Zoning Map Amendment. Each condition was read aloud and voted on separately.

Peterson stated that for the land use of the Comprehensive Plan there was a lengthy memo saying that it contradicted the Comprehensive Plan goals. She reiterated that one of the goals for the land use is to maintain a diversity of housing types, prices and styles for all segments of our communities. Another goal is to coordinate land use and transportation planning. Peterson stated that even though these are going through very quickly the PC did listen to the testimony. Peterson stated that she has lived in Batavia all her life and lives a block and a half from Campana and she hesitates to go out onto Fabyan Parkway because of the traffic. She knows that there is a terrible problem but according to our guidelines, our Comprehensive Plan, goals and conditions and the agreement with the applicant is why she thinks we are coming to this decision.

Joseph commented that the traffic is already there and caused by all the building to the west of Batavia and Geneva. That is what has made the traffic so bad. As far as the Campana building, there is going to be some developer that will come along and develop it and it may be worse traffic than what is being proposed right now. The traffic will be there and will continue to be more as we continue to develop more west of Randall Road. More houses make more traffic.

Motion: To approve condition #1 of the City Zoning Code Section 5.704D: Review of Specified Conditions for Zoning Map Amendment

Maker: Joseph

Second: Harms

Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, LaLonde, McGrail, Peterson

Nay:

6-0 Vote, 1 Absent, Motion carried.

Chair LaLonde commented that condition #2 is subjective to a degree. Design Review does speak to the public safety, health and welfare. LaLonde read the public health, safety, and general welfare purpose of the Design Review.

Motion: To approve condition #2 of the City Zoning Code Section 5.704D: Review of Specified Conditions for Zoning Map Amendment

Maker: Joseph

Second: Gosselin

Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, LaLonde, McGrail, Peterson

Nay:

6-0 Vote, 1 Absent, Motion carried.

Motion: To approve condition #3 of the City Zoning Code Section 5.704D: Review of Specified Conditions for Zoning Map Amendment

Maker: Joseph

Second: Peterson

Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, LaLonde, McGrail, Peterson

Nay:

6-0 Vote, 1 Absent, Motion carried.

Motion: To approve condition #4 of the City Zoning Code Section 5.704D: Review of Specified Conditions for Zoning Map Amendment

Maker: Peterson

Second: Joseph

Condition #4 was discussed by the PC. LaLonde stated that it talks about the zoning change being needed in the community and he is aware that we are at or exceeded the City of Batavia (COB) goals. Strassman stated that there is no quantification in the Zoning Code or Comprehensive Plan. The Comprehensive Plan does identify the need for affordable and accessible housing. LaLonde understands that there is a specific percentage goal in the community. Buening stated that State law there is a 10% minimum requirement and we are at 11.4% based on the last numbers we received from IHDA three years ago. We do not know our current numbers but based on trends of development we have not had appreciable numbers of affordable housing. LaLonde asked if the senior housing currently under construction would add to the affordable housing numbers. Buening stated that it would but has not been counted yet since it has not been completed.

Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, Peterson
 Nay: LaLonde, McGrail
 4-2 Vote, 1 Absent, Motion carried.

Motion: To approve condition #5 of the City Zoning Code Section 5.704D: Review of Specified Conditions for Zoning Map Amendment

Maker: Joseph
Second: Gosselin

Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, LaLonde, McGrail, Peterson
 Nay:
 6-0 Vote, 1 Absent, Motion carried.

The Commission discussed the 60% occupancy range for the Campana Building. Gosselin stated that vacant means vacant. If the intended requirement was underutilized they would have used the wording underutilized. The building is more than half occupied and to him that does not seem vacant. Chair LaLonde noted that it seems to be an all or nothing statement. Strassman stated that the finding acknowledges that the property has not been vacant. The Commission could add a statement that this finding is not applicable. The Commission discussed the LaSalle Factors and whether or not they could be found as not applicable. Schuster stated that you would find that by this standard it does not support a decision in favor of a change in zoning so in that sense it is not applicable to your decision. It's not that you could erase it; it continues to be one of your standards no matter what you do. If you are more comfortable finding that it would not support a Zoning Map amendment you state it that way. Gosselin stated that this is one of the findings that we have to come to and he is in favor of looking at what the rules are and what the facts are, combining them together and let those dictate what the decision is. In reading this finding, the building is not vacant. Schuster clarified that it is not a requirement that all the LaSalle Factors apply to any particular petition. They are set out to guide your decision. Whatever your finding is about this particular statement it doesn't control the final decision overall. Secondly, the standard comes from established case law, it's repeated in your City Code and the word vacant is the origin of this factor. On that basis you could decide that it is not a factor that would support a petition for zoning amendment in this case. Also, you could find that although it does not strictly apply, that the underutilization of this building is a factor in your decision if you wish. There is an array of options. Chair LaLonde stated that we could vote it not applicable or based on the strict wording. Gosselin stated that he does not feel that it is strict wording, vacant means vacant, not 60% occupied.

Motion: To approve condition #6 of the City Zoning Code Section 5.704D: Review of Specified Conditions for Zoning Map Amendment

Maker: Peterson
Second: Gosselin

Roll Call Vote: **Aye:** Peterson
 Nay: Gosselin, Harms, Joseph, LaLonde, McGrail
 1-5 Vote, 1 Absent, Motion failed.

Motion: To approve condition #7 of the City Zoning Code Section 5.704D: Review of Specified Conditions for Zoning Map Amendment

Maker: Joseph
Second: Gosselin
Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, LaLonde, McGrail, Peterson
Nay:
6-0 Vote, 1 Absent, Motion carried.

The Commission discussed the Zoning Map Amendment for Planned Development Overlay District, modifications and conditions as presented in the September 1, 2017 staff memorandum. The Commission discussed the entrances and exits of the building, commercial entrances, west wing recreational entrances, and controlling of accesses. Block reviewed the building accesses, including those that may be controlled. The Commission requested clarification of condition number two to which Strassman responded that it works with the similar Subdivision condition of approval in the staff memo. The Commission discussed the fact that the added items have “subject to” wording. Chair LaLonde suggested stronger language and not making it subject to if the PC feels strongly about those conditions. Block stated that his concern with that approach is that he does not want to get into a situation where there are conflicting regulatory requirements, where we have one requirement from the COB and another requirement from the State Historic Preservation Office (SHPO) and the National Park Service. These items have not been vetted through SHPO but they have begun that conversation with them. Block continued that they support the concepts in all of the listed conditions. The SHPO needs to see drawings. Without the tax credits we don’t have a project. Gosselin commented that he does not think that any of these are so significant that they should hold the project back. Peterson commented that if the sidewalk along the racetrack is not approved it would affect the safety of the residents that would negate our affirmative vote on the finding. Harms and Joseph concurred. Gosselin commented that a lack of a sidewalk does not seem like an unsafe condition but he would accept it if it were modified. He would not want that one condition to hold up the project. Buening noted that since Condition Number 21 involves conditions in the rights-of-way, this must be subject to KDOT and IDOT approval.

Motion: To recommend the Zoning Map Amendment for Planned Development Overlay District with the listed modifications (1-10) and conditions (1-21) with the modification to #17 removing “and historic preservation approvals”
Maker: Joseph
Second: McGrail
Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, McGrail, Peterson
Nay: LaLonde
5-1 Vote, 1 Absent, Motion carried.

The Commission reviewed the Preliminary Final Plat of Subdivision.

Motion: To recommend to City Council the Preliminary/Final Plat of Subdivision, with conditions listed in the staff memorandum to the Commission.
Maker: Harms
Second: Joseph
Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, LaLonde, McGrail, Peterson
Nay:

6-0 Vote, 1 Absent, Motion carried.

The Commission discussed the Design Review. The Commission discussed the rear parking lot landscaping, plant varieties and screening. Chair LaLonde requested that there be significant screening comparable to what is along the west property line now. The added screening would begin from the extension north line of the existing west wing of the building and continue up through the north end of the property. If the existing landscaping on the adjacent property should be removed (the balance of the parking lot area) LaLonde requested that the property owner then provide screening to accommodate for the lost screening. Block stated that they would comply. The Commission continued discussion on the trash enclosure, truck access and parking. Tim Brown, Eriksson Engineering Associates, stated that the existing truck dock is almost parallel to the trash enclosure. They have been working with the current mattress tenant to verify the size of truck that could be utilized and have a couple of solutions that would involve parking parallel to the building. The truck would unload off the side and to the right of the loading dock. There might be a movable dock structure in order to serve the back of the building. LaLonde asked if that issue would be worked out so that there would not be trucks perpendicular to the wall. Block stated that they would work on that directly with the tenant. LaLonde commented that since it is being worked on it does not need to be added as a condition. Chair LaLonde suggested not having landscape obstructions to get into the area along the east wall of the building by removing landscaping that would not provide screening.. Peterson and LaLonde stated it would be easier for maintenance.

The Commission continued discussion the Design Review by discussing the building materials on the north wing and the west wing. Block stated that these would be repaired and repainted to retain their existing appearance. Chair LaLonde discussed the Stealth enclosure and how he is surprised that SHPO recommended it. Block stated that the solution is not perfect and it does change the dimensions of the tower but part of his job is to find appropriate compromises to make the project work and this is one of those situations. Buening added that there was no support by staff to have a separate free standing cell tower on the property when the antennas could be hidden with the Stealth solution. Buening continued that having a cell tower the same height of the building or higher would detract from the building itself. The consensus of the Commission was in favor of the Stealth enclosure as a solution.

Chair LaLonde stated that he has been struggling with the livability of the units without windows. One could not look out except down at the floor looking at grass and looking into hedgerow. He is disappointed that the requirement to have subsill windows has been extended to the north and south wings. Block stated that it is a relatively small amount of units that are affected by that condition, roughly twenty-five. These units will not be for everyone. There will be people who would not be interested enough in the location and the quality of space in the units to put up with the windows below the sill line. But for every person that is not interested there will be one person who is interested and that is the approach they are taking.

The Commission discussed the amenities available for residents. Block stated that there is a large community room in the building on the second floor, which would provide a game room or a library for the residents, sidewalks and walking paths. The Commission discussed parking. Block stated that if parking does become an issue they are willing to assign parking spaces in front of

the building and require residential tenants to park there. The site would be monitored very carefully. There are a variety of ways to manage the parking on this site. The Commission discussed sidewalks, KDOT requirements, and building entrances.

After discussion, the Commission was ready to make a decision on the design review. Chair LaLonde stated that he struggled with this design review and has mixed feelings about staying true to the historic character and the viability of the building. He thinks that this is a historically significant building and we are fortunate to have it in our community. Understanding that this is not an ideal solution and understanding that it has been sitting as it has for many years, he thinks this is the best option that we have and everything comes with some compromise. If the developer is ready to invest in this building he is willing to say yes and to go forward.

The Commission reviewed all of the findings for the Design Review as presented in the September 1, 2017 staff memorandum to the Plan and voted on each finding separately. Chair LaLonde commented on the first finding. He stated that they did visit the multi-family design guidelines by nature of the fact that there are residential units as part of this project. Even though there are no mixed-use design guidelines the multi-family design guidelines were discussed at length.

Motion: To approve finding number one, the project is consistent with applicable design guidelines,
Maker: Harms
Second: McGrail
Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, LaLonde, McGrail, Peterson
Nay:
6-0 Vote, 1 Absent, Motion carried.

Chair LaLonde commented that he would like to add on to that element that the building be brought up to the current energy code. LaLonde stated that he did not feel that it needed to be added onto the motion but wanted it on the record.

Motion: To approve finding number two of the design review
Maker: Joseph
Second: Harms
Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, LaLonde, McGrail, Peterson
Nay:
6-0 Vote, 1 Absent, Motion carried.

Motion: To approve finding number three, as modified by the planned development
Maker: Peterson
Second: Harms
Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, LaLonde, McGrail, Peterson
Nay:
6-0 Vote, 1 Absent, Motion carried.

Motion: To approve finding number four

Maker: Gosselin
Second: Joseph
Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, LaLonde, McGrail, Peterson
Nay:
6-0 Vote, 1 Absent, Motion carried.

Motion: To approve finding number five
Maker: Gosselin
Second: Joseph
Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, LaLonde, McGrail, Peterson
Nay:
6-0 Vote, 1 Absent, Motion carried.

The Commission discussed the Design Review and the staff's recommended conditions. The Plan Commission's added conditions were discussed:

- Add perimeter landscaping, arborvitae or equivalent, to significantly provide screening at maturity north of the north line of the building and to the south of that line if existing vegetation is removed
- Ensure loading dock solution that does not block traffic ingress and egress access to the west portion of the site
- Add foundation landscaping substantially matching the south side plantings to the north and west sides of the west wing
- Improvements to the west wing would include potentially a new roof and repairs to the side.

Chair LaLonde recommended that they also repaint the entire west walls of the building and stated that it does not have to be a condition but should be considered as one of the improvements.

Motion: To approve the design review with the 4 conditions as presented in the September 1, 2017 staff memorandum to the Plan Commission and the additional 4 conditions as discussed
Maker: Joseph
Second: McGrail
Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, LaLonde, McGrail, Peterson
Nay:
6-0 Vote, 1 Absent, Motion carried.

Block thanked the Plan Commission and stated that they are committed to being good neighbors here and to do something to the building that would make this community proud and to have this building continue in its historic role as a beacon for the City of Batavia and the entire valley here.

7. Matters From the Public (For Items Not on the Agenda)

There were no matters from the public for items not on the agenda.

8. Other Business

Chair LaLonde requested that staff send the materials for the September 20th public hearing well in advance so that the PC could have sufficient time for review.

Rackow reported that for the former west side water tower property, there is a request to divide the property into six lots into single-family residential lots. A year ago there was a proposal for twelve to fourteen apartment units. There is a Zoning Map amendment for this property.

Buening stated that staff is getting inundated with other projects in town. Peterson asked if there was a reason for the influx. Buening stated that he would guess that the recession is over and people are trying to take advantage of interest rates.

Joseph asked about the former Marathon gas station on Wilson and Washington. Albertson answered that it is in the process of being torn down.

Chair LaLonde asked for details on One Washington Place. Buening answered that staff continues to work with the developer.

9. Adjournment

There being no other business to discuss, Chair LaLonde asked for a motion to adjourn the Plan Commission. Peterson moved to adjourn the meeting, Harms seconded. The motion carried. The meeting was adjourned at 9:46pm.

Minutes respectfully submitted by Jennifer Austin-Smith