

AN ORDINANCE APPROVING A SPECIAL USE PERMIT

(Request to establish a Residential Planned Unit Development, in the R-4, Medium Density Multiple Family Residential Zoning District - Plan Case No. 1868-SU-03)

WHEREAS, Hills for College, LLC has submitted a request to consider a Special Use Permit for a Residential Planned Unit Development at 1801 North Lincoln Avenue; and

WHEREAS, the application submitted by Hills for College, LLC under Plan Case No. 1868-SU-04 identifies the intended development of a multi-family residential condominium project that includes 136 condominiums situated within 17 separate buildings to be built along with common open space and parking and developed under a unified development plan attached hereto; and

WHEREAS, all applicable development regulations are intended to be met by the petitioner, including those involving setbacks, drainage, and vehicular access considerations; and

WHEREAS, after due publication, a public hearing was held by the Urbana Plan Commission on July 22, 2004 concerning the petition filed by the petitioner in Plan Case No. 1868-SU-03; and

WHEREAS, on July 22, 2004, the Urbana Plan Commission voted 5 ayes and 2 nays to forward the case to the Urbana City Council with a

recommendation to approve the request for a Special Use Permit;
and

WHEREAS, in order to minimize the impact of the proposed development on surrounding properties specific conditions of approval are hereby imposed as permitted under the requirements of the Urbana Zoning Ordinance and identified in Section 1 below; and

WHEREAS, the approval of the Special Use Permit, with the condition set forth below, is consistent with the requirements of Section VII-6 of the Urbana Zoning Ordinance, Special Use Permit Procedures, and with the general intent of that Section of the Ordinance; and

WHEREAS, the findings of the Plan Commission indicate that approval of the special use permit would promote the general health, safety, morals, and general welfare of the public.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. A Special Use Permit is hereby approved to allow the establishment of a *Residential, Planned Unit Development* on the subject 9.57-acre parcel at 1801 North Lincoln Avenue with the following conditions upon approval:

1. The development shall be constructed in substantial conformance to the site plan layout submitted as part of the application and attached hereto. Any substantial changes to the layout (with the

exception of item #4 below) shall require additional review and approval from the Urbana Plan Commission and Urbana City Council.

2. The design and appearance of the buildings shall be in substantial conformance to the photographs and illustrations submitted for the project and attached hereto. This includes the use of brick material on the exterior of the buildings as depicted in the attached photos.
3. Should the developer elect to utilize the provisions of the Planned Unit Development Ordinance within the Urbana Zoning Ordinance and incorporate commercial uses into the development, a revised site plan may be reviewed and approved by the Zoning Administrator provided the revised site plan generally conforms to the spirit and intent of the original approval. Should the Zoning Administrator determine that the proposed changes substantially change the overall site plan, the case may be referred back the Urbana Plan Commission and Urbana City Council for reconsideration of the original Special Use Permit approval.
4. The developer shall pay the 9.57-acre tract's calculated contribution for the regional detention facility as originally established in 1998. This contribution shall be in the amount of \$143,000. This figure is derived from the amount established in the 1998 Berns, Clancy and Associates report plus a calculated 3% annual interest / inflation factor.

LEGAL DESCRIPTION:

Lot 3, Melrose of Urbana First Subdivision, Urbana, Champaign County, Illinois.

PERMANENT PARCEL #: 91-21-06-476-010

LOCATED AT: 1801 North Lincoln Avenue

Section 2. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

PASSED by the City Council this ____ day of _____, 2004.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk _____

APPROVED by the Mayor this ____ day of _____, 2004.

Tod Satterthwaite, Mayor _____

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois.

I certify that on the _____ day of _____, 2004, the corporate authorities of the City of Urbana passed and approved Ordinance No. _____, entitled "An Ordinance Approving A Special Use Permit (Request to establish a Residential Planned Unit Development, in the R-4, Medium Density Multiple Family Residential Zoning District - Plan Case No. 1868-SU-03)" which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. _____ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the _____ day of _____, 2004, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this _____ day of _____, 2004.

MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

PRELIMINARY DRAFT

DATE: July 22, 2004
TIME: 7:30 P.M.
PLACE: Urbana City Building
400 South Vine Street
Urbana, IL 61801

MEMBERS PRESENT: Christopher Alix, Laurie Goscha, Lew Hopkins, Randy Kangas, Michael Pollock, Marilyn Upah-Bant, Don White

MEMBERS EXCUSED: Bernadine Stake

STAFF PRESENT: Rob Kowalski, Planning Manager; Teri Andel, Secretary; John Regetz, Economic Development Division Manager; Ryan Brault, Economic Redevelopment Specialist

OTHERS PRESENT: Don Aldeen, Tom Berns, Chris Billing, Brandon Bowersox, Matt Deering, John Dunkelberger, Alice Englebretsen, Pat Fitzgerald, Dr. Richard Hill, Lloyd Lain, David Owen, Amy Podlusek, Mitch Richardson, Rebecca Rowe, Walter Shore, Chris Stohr, Scott Wyatt

1. CALL TO ORDER, ROLL CALL AND DECLARATION OF QUORUM

The meeting was called to order at 7:32 p.m., the roll call was taken, and a quorum was declared.

2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF MINUTES

Ms. Goscha moved to approve the minutes from the July 8, 2004 meeting of the Plan Commission as presented. Mr. White seconded the motion. The minutes were approved by unanimous voice vote.

4. WRITTEN COMMUNICATIONS

- Copy of the Revised Plan Commission By-Laws

5. CONTINUED PUBLIC HEARINGS

There were none.

6. OLD BUSINESS

Annual Review of the By-Laws

Rob Kowalski, Planning Manager, began his presentation by saying that there were three main concerns of the Plan Commission mentioned during previous discussions regarding the by-laws. They were as follows: 1) How to handle cross-examination when the City was the Petitioner in a case, 2) Further definition of “conflict of interest”, and 3) Clarification of Article 10.2, which addressed how a vote was calculated when a Plan Commission member abstained.

He highlighted some of the changes that staff had made since the last time the Plan Commission had reviewed the by-laws. The changes were as such:

Page 2: Staff added “*and the Open Meetings Act*” in a couple of places to make sure that staff was compliant with it when advertising the meetings.

Page 3: Staff added a sentence to Article V.1 to read as such: “...vote to alter the order of business. *Changes to the agenda that include new business items shall not be added unless properly noticed per the Open Meetings Act.*”

Page 8: Staff added item #4 to Article VII. Determinations, to read as such: “*No matter shall be considered approved by the Commission except upon affirmative vote by a majority of the members of the Commission present.*”

Pages 9 and 10: In Article X.1, staff added the following text, “*Conflicts of interest may arise from various scenarios including, but not limited to, financial, ownership or property interests, conflicts with employment or appointments, or conflicts with a publicly stating opinion on a pending application.*” He explained that although the Plan Commission had asked for different types of conflicts to be mentioned in this Article, there really were not any state statutes that have a include of conflicts of interests to be used as a point of reference.

In Article X.2, staff made the following changes: “If it is determined that a Plan Commission has a conflict of interest, they must state so and remove themselves from the discussion and from the table while the matter is resolved. *Such action shall not affect the quorum established to conduct the meeting. The Plan Commissioner’s recusal will be considered an abstention and shall not be counted as either an aye or a nay vote. Further, the abstaining member shall not be counted in determining the total number of votes required for approval of a matter before the commission, any statute, ordinance or rule of parliamentary procedure to the contrary notwithstanding. (See by-law VII-4).* ~~In such cases, the Plan Commissioner’s vote will be counted as an abstention and shall not~~

~~be counted as either an aye or a nay vote, and the member abstaining shall not be counted in determining the total to which the percentage of votes required is applied in determining the number of votes for approval of a matter before the commission, any statute, ordinance or rule of parliamentary procedure to the contrary notwithstanding. (See by-law VII-4).~~

Staff reworded Article X.4 to read as such, *“With respect to a member who has not announced an intent to abstain because of a conflict of interest, if the Chairperson receives information that a conflict of interest may exist, the Chair shall determine if a conflict exists after consulting with the City Attorney and the City Planner. The determination of the Chairperson is subject to being over-ruled by the Commission, voting without the member at issue. If the Commission or staff is uncertain whether or not a conflict of interest exists, the Secretary shall seek an opinion from the City Attorney. The City Attorney’s opinion shall determine conflict of interest.”*

Mr. Alix inquired if the issue of the City, as the petitioner, been dually reviewed or dually ignored to staff’s satisfaction. Mr. Kowalski replied that he had a long discussion with Steve Holz, City Attorney about whether the by-laws would be consistent with the Lyle case. Mr. Holz felt comfortable that even when the City was the petitioner, staff could be cross-examined by the public or anyone else that had questions or concerns of the case.

One Page 8 in Article VIII.2, Mr. Hopkins pointed out that it read as such, “The Plan Commission minutes shall be kept as part of the official records of the Plan Commission and approved by an affirmative vote of the majority of the members of the Plan Commission *present*.” Mr. Kowalski agreed.

Mr. Hopkins wondered if there was a definition of a “quorum” anywhere in the by-laws. Mr. Kowalski explained that a “quorum” was a majority of the members on the commission, and the definition was in the Zoning Ordinance. He mentioned that the number required for a majority of a commission could change when the number of members on a commission changed. For example, the Plan Commission had a vacant seat, so they currently only have eight members, which could affect the number needed to have a quorum.

Mr. Pollock noted that in terms of language, on Page 9 in Article X.1, they should change the word “stating” to “stated” in the last sentence.

Mr. White moved that the Plan Commission approve the By-Laws with the corrections on Page 8 in Article VIII.2 (majority of the members of the Plan Commission *present*) and on Page 9 in Article X.1 (changing “stating” to “stated”) as recommended by Mr. Hopkins and Chair Pollock, respectively. Mr. Alix seconded the motion.

On Page 4 in Article V.3, Mr. Hopkins read the last sentence in item A, which was as follows: “If the motion carries, the case shall be dismissed.” He commented that this ruling did not apply to a motion that was successful in continuing a case. Therefore, they need to change the last sentence to read as such, “If the motion *to dismiss* carries, the case shall be dismissed.” Mr.

White, as the motioner, and Mr. Alix, as the seconder, approved this change to be added to the motion.

On Page 8, Article VII.5, Mr. Hopkins suggested adding the word be in the second line, so the sentence would read as follows: “An abstention vote shall be recorded as “abstained” and shall not be counted as either an “aye” or “nay”. ...” The motioner and seconder agreed to include this change in the motion as well.

The roll call was as follows:

Ms. Goscha	-	Yes	Mr. Hopkins	-	Yes
Mr. Kangas	-	Yes	Mr. Pollock	-	Yes
Ms. Upah-Bant	-	Yes	Mr. White	-	Yes
Mr. Alix	-	Yes			

The motion was approved by unanimous vote.

7. NEW PUBLIC HEARINGS

Plan Case # 1868-M-04: A request by Hills College, LLC for a rezoning of 1801 North Lincoln Avenue from the B-3, General Business Zoning District to the R-4, Medium Density Multi-Family Residential Zoning District.

Plan Case # 1868-SU-04: A request by Hills College, LLC for a special use permit for 180 North Lincoln Avenue to allow a residential Planned Unit Development.

Mr. Kowalski presented these two cases together. He began with a description of the two requests. One request was for a rezoning from B-3 to R-4 and the other request was for a special use permit to establish a Planned Unit Development (PUD). He showed a detailed description of the site and of the surrounding properties by using the Elmo, noting their current zoning and land uses. He talked about the history of the proposed site and of the adjacent property, also known as the Melrose Apartments. He discussed the proposal for the PUD and the rezoning of the proposed property, and he showed pictures of other existing developments similar to the proposed development. He pointed out that staff, overall, was not in favor of recommending changing the proposed site from commercial to multi-family zoning. He explained the reasons why staff was opposed to the rezoning of the proposed property. He reviewed the La Salle National Bank Criteria and noted the requirements for a special use permit according to Section VII-6 of the Urbana Zoning Ordinance. He summarized staff findings and read the options of the Plan Commission. Staff’s recommendation was as follows:

Based on the evidence presented in the written staff report, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommended against changing the zoning from B-3, General Business, to R-4, Multi-Family Residential and argued that preserving the commercial zoning of the tract was in the better interest of the public.

Mr. Alix asked what the basis was for the special use permit? Why was a special use permit required? Mr. Kowalski answered by saying that the Zoning Ordinance would classify this development as qualifying for a residential PUD. In the table of uses, it outlined a residential PUD as a special use permit in most of the residential zoning districts. PUDs were used for large-scale projects that have multiple buildings and a cohesive site plan that must be considered as one big package as opposed to a piece-meal development.

Mr. Alix inquired if the designation of the proposed development as a PUD would be an advantage or a restriction on the developer? Mr. Kowalski believed that it would be an advantage in many ways. It would help provide a site plan for the entire proposed area up front, so that everyone would know what was going to happen from day one to in the future. If there would be proposed changes to the site plan in the future, then those changes would need to be reviewed again. However, the developer/property owner would not have to keep coming in for additional approvals of construction of other buildings on the site plan.

Mr. Alix questioned if it would be possible for the developer to develop the proposed site as planned without the PUD designation? Mr. Kowalski replied no. The Zoning Ordinance identified that multiple buildings on a lot were permitted under a different approval process, if they were not considered to be qualifying as a PUD. The Zoning Administrator qualified the proposed development as having met the criteria under a PUD. Mr. Alix understood it that it was the Zoning Administrator's decision whether or not to designate the proposed development as a PUD. Mr. Kowalski said that was correct.

Mr. Kangas inquired if there were any infrastructure issues that staff would have a problem with if the proposal should move forward. Mr. Kowalski replied no. The nicest aspect of the proposed site was that it was part of a regional detention area, so the developer would not have to provide any on-site detention. The infrastructure and the roads were already there. Any roads or parking areas would that they would build would be part of the development. The area would be served by utilities and the sewer system.

Mr. Pollock asked if the main entrance would be between the two middle buildings proposed to be along Lincoln Avenue? Mr. Kowalski stated that staff had asked the developer to construct the main entrance be closely aligned with Kettering Park Road across from Lincoln Avenue for safety reasons. It would be the only entrance into the proposed development. Staff reviewed it with the Fire Department, and they do not have a problem with the layout or the one entrance. Mr. Pollock asked if, given the difficulty to turn left into Melrose Apartments, there had been any discussion about turn lanes on Lincoln Avenue? Mr. Kowalski replied no. The Director of Public Works, Bill Gray, had reviewed the plans, and he did not figure that the traffic activity would be enough to warrant the turn lane on Lincoln Avenue.

Patrick Fitzgerald, of Meyer Capel Law Offices and attorney appearing on behalf of Hills College, LLC, approached the Plan Commission. He introduced Tom Berns, of Berns, Clancy and Associates, and Dr. Richard Hill, principal in Hills College, LLC.

Mr. Fitzgerald commented that while they were surprised by the staff report, they did not want to make this public hearing adversarial. They understood, as a general rule, that any municipality

would probably prefer commercial zoning to residential zoning, because commercial zoning would create more real estate tax revenue, more sales tax revenue, and new jobs in the community.

He went on to say that they also recognized that reasonable people disagree all the time, and they respectfully disagreed with the City staff regarding the rezoning of the proposed property. They believed that R-4 zoning for this particular piece of property would be appropriate. When looking at this site, there was R-4 zoning immediately south of and adjacent to the proposed site. There was also R-4 zoning immediately west of and adjacent to the proposed site. The balance of the area contains commercial, industrial, and even cemeteries. From the standpoint of the Comprehensive Plan, where the City had wanted industrial, there was now commercial. Therefore, the fact that the Comprehensive Plan stated that the proposed area was to be commercial, it did not mean that the proposed site could not be developed as R-4, Medium Density Multiple Family Residential. They believed that because there were many different uses going on in the general area, that it was a gray area. Rather than it being a planning issue, it almost appeared as if it had become an economic development issue. The City was showing a preference that they would like to see commercial be built on the proposed site. However, the proposal before the City was a development that would be extremely attractive and very appropriate for the area. He handed out copies of the real estate tax analysis for the proposed development and a binder with photographs of other successful developments similar to the proposed development.

Mr. Fitzgerald summarized by saying that in their opinion, it boiled down to a very simple analysis, which was that the City had a very attractive development that was ready to go into the community with a very significant tax impact. They understood that there was an issue in the community with wanting to generate more monies for the school district, and they support that. They believe that this development would not put an undo burden on the school district, given that their target market was college students.

The \$183,844.00 annual tax revenue that they projected for the school district was real. The proposed development was the "bird in the hand". The City staff was interested in the "two in the bush". Maybe and potentially, the City might get a commercial development on the proposed site someday. However, the property had been vacant since 1996. Although David Owen, who was the current owner, might be comforted to hear the City's optimistic and glowing report about the potential for the property as a commercial piece, he had been paying the mortgage payments since 1996 and may not necessarily share the City's enthusiasm.

Tom Berns, of Berns, Clancy and Associates, shared some background information on the proposed property. Mr. Owen and his partners conceived an idea of how they could develop the proposed property in 1995. Many efforts have been tried over the last 20 years to do some sort of commercial development, which have been unsuccessful. Mr. Owen came forward with another idea to provide residential living space to serve college students attending the University of Illinois.

This whole new concept of condominiums in housing situation for students versus apartments was relatively new in this community. Dr. Hill would be able to give the Plan Commission some

examples at Texas A & M and other places where he had already generated this type of housing successfully. They believe it might be a viable alternative for families with students at the University of Illinois.

Mr. Berns went on to talk about the description in the B-3, General Business Zoning District. He read that one of the permitted uses in the B-3 Zoning District was multiple family dwellings. This was exactly what Dr. Hill was proposing to develop. Mr. Berns was involved in the planning of Melrose Apartments. It sounded like a good idea to have some sort of synergistic concept to blend some retail sales in the middle of residential development. It just did not sell or work. Staff, the developer and their consultants have been talking about the proposed development for over a year. The developer and their consultants have been working hard every since to make the proposal happen.

He mentioned that Lincoln Avenue had been widened several years back, which Mr. Owen had donated some property to be used as right-of-way by the City. As well, the developers added additional right-of-ways for easements for utilities. Berns, Clancy and Associates have looked at all of the utilities at great length with Hills College, LLC and with City staff. The sanitary sewer connection already existed to serve the proposed area. They created one of the first regional storm water detention facilities in the City of Urbana, which was the one to serve the proposed area. They shifted the driveway to align it with Kettering Park Road as recommended by City staff to minimize any negative impacts on traffic. All of these things have been done to try to focus on other concerns of the developers that have tried to make things happen to the proposed property.

The PUD did not pose a problem for Dr. Hill, because he wanted to develop a large scale multiple housing plan. The proposed development was similar to the Melrose Apartments development. It was a good project and was served well by the students and by the community. The difference was that rather than having apartments that students would rent on a monthly or yearly basis, the developer plans to sell the condominiums. It would be a high quality proposal. The proposed development would be something good for our community. There were no outstanding issues to be reviewed. He recommended that the Plan Commission consider favorably on this sort of approach.

Dr. Richard Hill, of Baton Rouge, noted that they have built some condominiums at LSU, Old Miss, and Texas A & M. They try to pick out the premier universities, and then pick a piece of property that would fit their needs. They want to be close to campus, be on a major artery, and have a secure property. With all of this in mind, they picked the City of Urbana, and the proposed property seemed to fit all of their needs. They presented their plans to the City staff about year ago, and they were given some indication that this would be a proper project. If the City of Urbana did not want them here, then they would leave. They were in the process of looking at other places as well in Auburn, Georgia, Oklahoma, etc.

Mr. Kangas inquired why they prefer to be on a major artery? Dr. Hill explained that it was a billboard. People come by and see how nice the property looks. In Baton Rouge, there was nothing south of the campus. Developers came in and started building apartments, and then they started building condominiums. From those condominiums came the construction of more

expensive condominiums. Once the concept was seen and people saw it, then developers started building in the \$200,000 to \$300,000 range further out from there. After that, commercial development began to be built.

David Owen, of MBO Corporation and owner of the proposed property, could not believe that it had already been 8 years ago since they had talked about proposing Melrose Apartments. They had high hopes of developing commercial on the proposed site, but it had not happened for whatever the reasons. They have talked to many people and tried to do many things themselves, and it just did not work.

The main reason he wanted to address the Plan Commission was to say that he had known Dr. Hill for many years. The project that Dr. Hill built in College Station, Texas was on an MBO parcel, very similar to the proposed property. Dr. Hill honored every commitment he made in his negotiations with MBO Corporation and with the City of College Station. He did very nice projects, and the project he was prepared to do here would be an asset to the City of Urbana.

Mr. Alix asked Mr. Owen to speak to the efforts made to market the proposed property for commercial development and to give the Plan Commission a feel for why he thought that he had been unsuccessful at finding a commercial purchaser or tenant for the property. Mr. Owen responded by saying that the efforts over the last 8 years included drawing up 20 to 30 different site plans. They had talked to 6 – 8 different commercial developers, who for one reason or another were not able to justify developing the site and finding enough commercial base to actually develop particular retail that they were looking at in the immediate area. One of the advantages of doing the proposed development before them was that it would increase the consuming population in the immediate area, which would have an immediate impact on other commercial parcels in the City of Urbana. He stated it was a combination, and no developer could get comfortable with the demographics in the area until this point.

Mr. Alix questioned if the potential buyers who did show interest were interested in the proposed property for more interstate sort of businesses or in businesses that would look more toward serving the people in the immediate area? Mr. Owen replied that primarily it was businesses looking to serve the immediate area.

Mr. Kowalski added that staff's recommendation was not based on the idea that staff thought this would be a horrible development. Staff's recommendation was based more on the feeling that commercial zoning and eventually a commercial development would serve the City of Urbana purposes better overall at this location.

He mentioned that City staff had met with Dr. Hill and others about a year ago to discuss the concept. City staff did relay the message that commercial development was their goal for the proposed property. They even talked about ways to take a small piece along the front of Lincoln Avenue to use for commercial development. This idea did not seem to work well with the developer's site plan and could not generate enough land area to do something that would be worthy of a commercial development.

He noted that staff was ready to bring the proposal before the Plan Commission for their review, but he was asked to put the case on hold indefinitely. A few weeks ago, the developer called and asked him to put the cases back on the agenda for the Plan Commission. During the year that the case was on hold by request of the petitioner, there had been an increase in interest in commercial development for the proposed area. In fact, about six months ago the manager of Melrose Apartments had called to see if it was possible that they could establish a coffee shop in their lobby, clubhouse, or front area. He told them that it was not possible because it was zoned residential, and it was not part of the approved PUD. The manager was concerned because there was a demand for some services, and those services could not be met in the immediate area.

Mr. Hopkins inquired whether multi-family housing was permitted in the B-3 Zoning District. Mr. Kowalski replied yes. If a developer owned a parcel and wanted to build one apartment building, then he/she could do that. There was a provision in the Zoning Ordinance that says that in any zoning district, more than one principal building per lot could be established if the developer/property owner was approved a conditional use permit. One of the caveats of that was that the lot or parcel of land would not qualify as a residential, commercial or industrial PUD. The size of the proposed lot and the intensity of the proposed development would qualify as a residential PUD. It therefore, would fall under the City's PUD Ordinance.

Mr. Hopkins asked if there was no PUD option under the B-3 Zoning District? Mr. Kowalski stated no. Mr. Hopkins questioned if there was a mixed-use PUD option under any zoning category? Mr. Kowalski replied not per se. However, he believed that there was a component of the PUD Ordinance that would allow a very small percentage of a residential PUD to contain some commercial. Mr. Pollock clarified that the bottom line was that in order to build the proposed development the land needed to be rezoned.

Ms. Goscha pointed out that Mr. Kowalski had talked about the desire for higher density in the downtown core of Urbana. She wondered if staff had any discussions with the developer for the proposed development to possibly develop some parcels in the downtown area instead of on the proposed site. Mr. Kowalski stated that staff had not had those discussions with the developer, because it was clear from their development concept and from the market that they were trying to capture, their plan would not work very well on a 30,000 square foot site on Race Street or anywhere else in downtown. Perhaps, if the developer had a different kind of product this idea might work.

Mr. Pollock noticed that Mr. Kowalski had mentioned a few times that there were additional commercial interest in the corridor. Did that mean that there had been additional commercial interest in the proposed tract? Mr. Kowalski answered by saying that over the past year, since staff and the developer had first met regarding the proposed project, there had been interest from a commercial developer on this tract. His understanding was that through the Economic Development Division, a site plan and even a draft of a development agreement have been started. However, he could not say for sure if there was a contract submitted or accepted by the owner. This would be a question for Mr. Owen. He added that the decision and staff's recommendation was not based on contracts, but rather it was based on the Comprehensive Plan and the zoning of the lot.

Mr. White commented that the proposed development was nice looking and would probably fit about where the developers have it sited, because he was not sure that they would find another 9-acre tract of land close to campus that was not already owned by the University of Illinois. There were some other areas of the community that really could be used for B-3 that had fallen into disrepair or were not being used. Therefore, there were other areas that the City could use for business that would not hold this property. The proposed development would generate about \$180,000 for the school district in Urbana, and it was likely to generate very few students for the schools. So, this would really be a net gain for the school district, which he felt would be positive. He was very much in favor of forwarding both the rezoning case and the special use permit requests to the City Council with a recommendation for approval.

Mr. Alix understood the status economic development argument that the public would be served by a parcel like this being put to the highest and best use. But, looking at it, he also understood why the petitioner was interested in the proposed site. The University of Illinois had designated Lincoln Avenue as the "Gateway" to the university, and clearly the visibility that it affords to current and perspective students was going to be an asset. There was good road and connectivity to the university, and he felt that most importantly and most attractively, there were other developers who had demonstrated that, for whatever reason, this area was an area in which it was possible to be commercially successful building developments that rent or sell predominantly to students.

It puzzled him why this area had never been more attractive for commercial development. When the initial Melrose development went in, he was quite disappointed not in the development itself, but in the fact that it was essentially the end of efforts to see this entire half section to become a potentially major commercial development, which could have served the area all around it. The landowner had said that there had been efforts to achieve this for a number of years, and so far, there had been no takers.

Mr. Alix reiterated what Mr. White had said about there being a number of other areas in the City where there was unused commercial space, both built (as in the case of the Philo Road Corridor and Lincoln Square) and unbuilt (as in the new Walton Subdivision and some of the redevelopment happening at Five Points). He felt that the City needing the proposed parcel for providing coffee shops, etc. to people who live in the area could be served by additional or by existing vacant properties, including the area to the south of the new development at Lincoln Avenue and Bradley Avenue.

He was surprised to hear the landowner say that the interest he had from possible commercial developers was primarily interested in businesses to serve the local area. He would have expected the City's argument for this as valuable commercial property rested primarily on the availability and proximity to the interstate. For whatever reason, this did not seem to be an area that had developed as an interchange centered commercial district.

He believed that the proposed site was a transitional parcel. With transitional parcels that have different zoning districts on each side, he was inclined to look favorably on rezoning requests if the proposed use was not injurious to uses around it. In this case, he believed that the potential

development would be very compatible with the Melrose use to the west and to the south. It seemed to be a quality development, and he would be inclined to support it.

Mr. Kangas reiterated what Mr. White and Mr. Alix said. There were other spaces for commercial development, even along the Lincoln Avenue Corridor. It seemed to him that the type of development that the City would want or would be likely to get would be McDonalds, Burger King, etc. Would that really be better than the proposed development? Maybe it would generate more monies for the City and maybe it would not.

He pointed out that it really had not been only 8 years that the land was vacant. He had been here for 20 years, and the land had never been developed.

He did not see any problems with the infrastructure or road safety that would be prohibitive. So, then it came down to an economic development issue. Would the City earn more off the housing or off some potential economic or commercial development? He could not find anything wrong with the proposed development. Therefore, he was supportive of it.

Ms. Upah-Bant commented that she saw a whole lot that was great with the proposed development. The City had a \$12,000,000.00 development fall into their lap. The City should be cheering about it. It would have very little impact on the school district, and it would be a high quality development. They should be welcoming Dr. Hill to the City of Urbana.

She understood the City's concern about development and long-range growth. However, she would have thought that growth would have happened already with the Melrose development. She was concerned that the City would be turning down \$183,000 annual tax payment to the school district for a pittance, in terms of a McDonalds or a Burger King. Although the City had seen some businesses develop, some of the commercial kind of franchise businesses that are being developed would not bring in that kind of tax revenue. Therefore, she felt that there was a lot to say in favor of the proposed development.

Mr. Hopkins felt that there was an ordinance problem. There should be a PUD that included some commercial. The size and nature of the parcel and the location could work that way. It seemed to him that to a certain extent, it appeared that commercial development could happen if they knew how to do it within their ordinance structure. He assumed that staff had looked at this carefully and could not figure out how to pull it off.

He expressed two concerns with the way the PUD development was currently proposed. The first concern was that this was a major commercial location, and there were not that many in the City of Urbana. Although there were some vacant commercial properties, none of them were near the interstate and on a major artery that was an entry. His second concern was that by not being a mixed use, it would be a closed community. Although the Melrose Apartments had already started that, he felt that the proposed development would be even more closed. Part of the reason would be because in order to live in the proposed development, people would have to buy the condominiums. So, not only would this not be open to anybody else in the community, it would coincidentally be a pretty homogenous place. He believed that having this type of development on our entry to the City, and not creating it in a way that says this was an arterial

street, a front door to the University of Illinois, and this was a place to have commercial and to have people run into each other, was really too bad. Most parts of the project were fine. He felt that there was a better way that they could do it.

Mr. Kangas moved that the Plan Commission forward Plan Case # 1868-M-04 to the City Council with a recommendation for approval based on the La Salle National Bank Criteria. Mr. White seconded the motion.

Mr. Pollock expressed that he was torn about the proposal. He felt that it would be a quality project, and he had total faith in the developers. However, he felt that commercial areas of this size were very rare, especially along the interstate in the City of Urbana. It was clearly something that had not developed in the last few years, but he felt that the highest and best use of the land would be commercial. In the very long run, it would be an advantage to the City to have this land available for commercial development. He respected the Comprehensive Plan. He thought the proposed development was a great idea; however, he did not like it in this particular spot. For this reason, he would not support the motion.

The roll call was taken and was as follows:

Mr. Hopkins	-	No	Mr. Kangas	-	Yes
Mr. Pollock	-	No	Ms. Upah-Bant	-	Yes
Mr. White	-	Yes	Mr. Alix	-	Yes
Ms. Goscha	-	Yes			

The motion was passed by a 5 – 2 vote.

Mr. Kangas moved that the Plan Commission forward Plan Case # 1868-SU-04 to the City Council with a recommendation for approval. Mr. White seconded the motion.

Mr. Hopkins mentioned that Mr. Kowalski had indicated that there was a way that a small portion of commercial development was possible in a residential PUD. Mr. Kowalski replied that the Zoning Ordinance allows 10% of the site to be used as commercial, but the commercial business had to be permitted in the B-1, Neighborhood Business Zoning District. Mr. Alix remarked that the Melrose Apartments could have a coffee shop then. Mr. Kowalski stated that was correct. They could request to revise their PUD special use permit.

Mr. Hopkins noted that he would like the developer to be permitted to be able to use up to 10 percent of the site for a B-1 commercial development. Mr. Pollock clarified that this would allow the property owner to open a business without having to revisit the special use permit process in the future. Mr. Hopkins proposed an amendment to the motion to include recommending that the developer be permitted to use up to 10 percent of the site for a B-1 commercial development. Mr. Alix seconded the motion.

Mr. Kowalski restated the motion with the amendment, which was as follows: the Plan Commission would forward this case to the City Council with a recommendation for approval and with a further recommendation for the petitioner to consider using the portion of the PUD

Ordinance that would allow a percentage of the site to be used for commercial development. Mr. Alix stated that more specifically, he wanted to make it explicit that permission to do that was included in the special use permit. Mr. Kowalski pointed out that he would not want to give approval for something to happen in the future without it being reviewed by the Zoning Administrator, Plan Commission or City Council.

Mr. Alix commented that the reason he supported the amendment was even if the developer chose not to develop a commercial area on the site, Mr. Kowalski had mentioned that the developer of Melrose Apartments had wished they had thought about this when applying for a special use permit to develop Melrose Apartments. He wanted to make the option open for the developer of the proposed project. Mr. Pollock remarked that this would additionally send a message to the folks at Melrose that should they be interested in amending their PUD, the Plan Commission would be interested in reviewing that amendment. The amendment was passed by a 6 - 1 voice vote.

The roll call on the main motion was as follows:

Mr. Kangas	-	Yes	Mr. Pollock	-	Yes
Ms. Upah-Bant	-	Yes	Mr. White	-	Yes
Mr. Alix	-	Yes	Mr. Goscha	-	Yes
Mr. Hopkins	-	Yes			

The motion was passed by unanimous vote. Mr. Kowalski mentioned that these two cases would go before the City Council on Monday, August 2, 2004.

Plan Case # 1901-M-04: A request by Frederick Enterprises, Inc. for a rezoning of 505 South Urbana Avenue from the R-3, Single and Two-Family Residential Zoning District to the R-4, Medium Density Multi-Family Residential Zoning District.

Mr. Kowalski began the presentation for this case by briefly describing the lot and the surrounding properties. He talked about the adjacent land uses and their zoning designations. He discussed the Comprehensive Plan and how it pertained to the rezoning request. He reviewed the La Salle National Bank Criteria and read the options of the Plan Commission. Staff's recommendation was as follows:

Based on the evidence presented in the written staff report, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommended that the Plan Commission forward this case to the Urbana City Council with a recommendation for approval.

Lloyd Lain, of 306 East California, stated that he was in favor of this proposal. The existing structure at 505 South Urbana Avenue was in horrible shape. He was surprised that the City had not made the owner tear it down years ago.

Mr. Lain asked that with all the different Tax Increment Finance (TIF) Districts, why were there not any curbs on Urbana Avenue? Maybe the City Council should look into this. Mr. Pollock commented that he had asked this question about 15 years ago and never got an answer either.

Alice Englebretsen, of 501 East California, mentioned that she was a member of the Historic East Urbana Neighborhood Association (HEUNA). Her concern was that she thought the lot was too small to put a four-unit apartment building on. She was extremely concerned about the parking on the street. She would like to see the neighborhood primarily stay as single-family residential. The proposed development might set a precedent for future multiple family apartment units and might be a detriment to the neighborhood. She expressed concern that the zoning was based on a 1982 Comprehensive Plan. Although the new Comprehensive Plan had not been adopted as of yet, but it did encourage single-family homes.

Mr. Pollock inquired as to what the new Comprehensive Plan would designate this parcel as in terms of zoning classification? Mr. Kowalski replied that in the new Comprehensive Plan, the proposed property would be zoned as "residential", and it would be primarily zoned as single-family.

Ms. Englebretsen noted that next door to the proposed property was an apartment building that was a complete disaster to the neighborhood. It should be demolished as well as the existing house at 505 South Urbana Avenue.

John Dunkleberger, of 401 East Illinois, expressed his concern about the parking. There should be at least two parking spaces required for each unit. From the proposed site plan, it appeared that the developer planned to have four parking spaces, one of which would be handicap parking. With a four-unit apartment building, he believed that they should have at least eight parking spaces. Unless the developer could work in eight parking spaces, he would be in opposition of the proposed development. He explained that there was a four-unit townhouse next to the proposed site. The residents park in the yard and on the sidewalks.

Mr. Pollock inquired as to how many parking spaces would be required for the proposed development. Mr. Kowalski responded by saying that the parking requirement was based on the size of the bedrooms. Although staff had not received any architectural plans as of yet, he believed that the building was proposed to be constructed in a way that the bedrooms would only require one parking space per unit. In total, that would require four parking spaces for the development. He mentioned he would have to check with staff in the Building Safety Division, but he believed that the handicap parking space could be designated as needed.

Mr. Kangas asked for clarification on what the Plan Commission was evaluating. Was it the rezoning from R-3, Single and Two-Family Residential Zoning District to R-4, Medium Density Multiple Family Residential? The Plan Commission was not suppose to evaluate the site plan? Mr. Kowalski replied that was correct. As a note to that, he added that one of the biggest comments that City staff had received in the past from HEUNA was in regards to the look and the design of apartment buildings that were built. The proposed lot was originally platted for a single-family home, and it was being proposed to rezone to multi-family housing. As a result,

the developer would be required to put the side of the building as the front to be able to fit on a lot that was long and narrow as opposed to wide.

He mentioned that he had talked to Chet Frederick, the petitioner, about considering some design features on the building that might make it even more attractive or appealing. However, it was not to be considered at this public hearing.

Mr. Kowalski explained that considering the width of the lot, it would not be possible for the petitioner to put this building on the front of the lot with the parking behind it, because he would not be able to get a wide enough access drive along the side of the building and access parking in the rear. There was also not a rear alley that served the lot. The apartment building next door was built without an adequate access drive width. That was one reason why it had some of the unattractive features that it had.

Ms. Upah-Bant questioned why the house had been allowed to stand in the shape it was in? Why had it not been required to be torn down? Mr. Kowalski understood it to be that the Building Safety Inspectors have continuously over the years notified the property owner of improvements that needed to be made. Some of the improvements were made and some were not. The Building Safety Division Manager was at the point to order demolition of the house if the final list of necessary building code improvements were not made.

Mr. Hopkins pointed out that in Exhibit E, Aerial Photo, it showed two cars pulled up on the lawn at the apartment building next door. This reminded him of two things. The first one was that the street actually had no curbs or gutters. It was not really designed to handle the traffic or the parking requirements that we would expect when allowing apartment buildings to be built. On the other hand, the proposed apartment building would be a half a block away from Vine Street.

Mr. Hopkins inquired if the alley to the south had been vacated? The alley would have made it possible to have an accurate layout of access to both the neighboring apartment building and to the proposed apartment building. He was happy to see people at the public hearing representing the neighborhood.

He mentioned that he was frustrated on what to do regarding this case. On one hand, he did not think that it would work as a single-family lot. He felt that the City had some major responsibilities, one of which was to fix the street by adding curbs and the other was vacating the alley.

Mr. Alix felt that this was a neighborhood where property values were going up. As you go east, there were older homes that were well maintained or were candidates for being remodeled and rehabilitated. All the interest in preserving the neighborhood character of the MOR, Mixed-Office Residential Zoning District, it was interesting that so little attention had been paid to the Historic East Urbana neighborhood. It should be something that they should be concerned about as a planning issue.

He agreed with the comments about the street. It was only one block east of Vine Street. If this was a street that had single-family homes on it and was only one street over from a major artery, and if the City was proposing to upzone, then the City should take a look at what it would take to get infrastructure improvements there that would commensurate with the type of development that was being proposed on it.

He could not oppose the rezoning request. He felt it was a use that was compatible with most of the other parcels on the block.

Mr. Kangas questioned if these would be single-bedroom apartments? Mr. Kowalski understood that to be true. Mr. Kangas inquired if a duplex would be allowed in a R-3 Zoning District? Mr. Kowalski replied yes. Mr. Kangas stated that a duplex could have two bedrooms in each part of the duplex. So, there could very easily be eight unrelated adults. How many parking spaces would be required? Mr. Kowalski stated that four parking spaces would be required for a duplex.

Mr. Kangas stated that he could not oppose the rezoning, because it did seem compatible with everything else from R-3 to R-4. He did not like shoehorning apartment buildings into single-family lots. He much preferred them to be built on two lots, but he could not argue too strongly against this particular case.

Mr. Hopkins suggested that the petitioner flip the layout around and share the access drive with the neighboring apartment building. It would help fix the problem of having an undersized access drive on the north and allow the petitioner to position the parking for the proposed development in the back. This would position the apartment building in the front, which would be more visually compatible with the single-family residential housing across the street. It might even make it less likely that cars would be parking in the front yard. Mr. Pollock agreed that it was an interesting idea, but in terms of a rezoning from a R-3 to R-4, the Plan Commission could not require that. Mr. Hopkins understood that. He stated that he believed that they needed to communicate ideas to people; otherwise, the City would not make any progress on the kind of development that they had been getting.

Mr. Pollock noted that the western half of the block that ran by the City building to the north with curbs, parkways and sidewalks was quite different from the block to the south. He hoped at some point this would be recognized.

Ms. Goscha agreed with the comments from everyone, particularly the comment regarding the development review guidelines that the City recently initiated for the MOR Zoning District. She believed that the City needed to start looking at other areas of the City and potentially all of Urbana, and offer all of the citizens the same rights and protections that were being offered for the MOR Zoning District.

She mentioned that she was sympathetic to the single-family residences that live in the area. At the same time, she did see that the proposed development would only be a half of a block away from Vine Street. So, to encourage multi-family housing was a strong priority of the City of Urbana. Therefore, a multi-family development would be acceptable on the proposed lot. She

strongly encouraged a nice looking façade zone and potentially locating the parking in the rear of the building.

Mr. Alix moved that the Plan Commission forward this case to the City Council with a recommendation for approval. Mr. Kangas seconded the motion.

Mr. Hopkins asked if they could attach a similar recommendation rider that would say to City Council that this kind of development on this kind of street to encourage infrastructure improvements in south Urbana. Mr. Pollock preferred that the Plan Commission would recommend that outside of this particular plan case. He noted that they were on record. Mr. Kangas suggested that when staff presents the case to the City Council that they mention some of the concerns of the Plan Commission for this area. Mr. Kowalski added that another option was that when staff presented the draft of the new Comprehensive Plan to the Plan Commission, they could review the maps and make changes then.

The roll call was taken and was as follows:

Mr. Pollock	-	No	Ms. Upah-Bant	-	Yes
Mr. White	-	Yes	Mr. Alix	-	Yes
Ms. Goscha	-	Yes	Mr. Hopkins	-	Yes
Mr. Kangas	-	Yes			

The motion was passed by a 6 - 1 vote. Mr. Kowalski stated that this case would be presented to the City Council on Monday, August 2, 2004.

8. NEW BUSINESS

Discussion of the Downtown Tax Increment Finance (TIF) District #1 Plan Amendment

Ryan Brault, Economic Redevelopment Specialist,

9. AUDIENCE PARTICIPATION

There was none.

10. STAFF REPORT

Mr. Kowalski reported on the following:

- ✓ **APA-ISS Conference on July 30th**: The Conference would be focused on “The Rebirth of Downtowns”. He talked about the guest speakers. He invited the members of the Plan Commission to attend and noted that the City would pay for their registration.

11. STUDY SESSION

There was none.

July 22, 2004

12. ADJOURNMENT OF MEETING

Chair Pollock adjourned the meeting at 9:47 p.m.

Respectfully submitted,

Rob Kowalski, Secretary
Urbana Plan Commission