

MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

APPROVED

DATE: October 23, 2008

TIME: 7:30 P.M.

PLACE: Urbana City Building
400 South Vine Street
Urbana, IL 61801

MEMBERS PRESENT: Lew Hopkins, Michael Pollock, Bernadine Stake, Marilyn Upah-Bant, Don White

MEMBERS EXCUSED: Jane Burris, Tyler Fitch, Ben Grosser

STAFF PRESENT: Lisa Karcher, Planner II, Jeff Engstrom, Planner I; Rebecca Bird, Associate Planner/Historic Preservation Planner; Teri Andel, Planning Secretary

OTHERS PRESENT: Dick Brazee, Paul Debevec, Ann Reisner, Shirley Stillinger, Gail Taylor

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

The Chair called the meeting to order at 7:35 p.m., the roll call was taken, and a quorum was declared present.

2. CHANGES TO THE AGENDA

There was none.

3. APPROVAL OF MINUTES

Ms. Upah-Bant moved to approve the minutes of the October 9, 2008 meeting. Mr. White seconded the motion. Ms. Stake recommended a change on Page 7 to the second line of the second paragraph from the bottom of the page. She proposed that they add the word “not” before the word “allowed”, so that the sentence reads, “It should say it either is required or say it is *not* allowed”. The Plan Commission members approved the minutes as amended by unanimous voice vote.

4. COMMUNICATIONS

- ✚ Copy of the October 9, 2008 Plan Commission Minutes
- ✚ Postcard Announcing Crystal Lake Neighborhood Plan Public Hearing regarding Plan Case No. 2088-CP-08
- ✚ Letter from Andrea Antulov regarding Plan Case No. 2088-CP-08
- ✚ Photos taken of the property at 601 West Green Street for Plan Case No. 2074-T-08
- ✚ Cunningham Avenue Beautification Report
- ✚ Looking for Lincoln Notification

5. CONTINUED PUBLIC HEARINGS

Plan Case No. 2088-CP-08: A request by the Zoning Administrator to adopt the Crystal Lake Neighborhood Plan as an element of the 2005 Urbana Comprehensive Plan.

Jeff Engstrom, Planner I, presented an updated staff report for this case to the Plan Commission. He gave a brief recap of the discussion held at the previous Plan Commission meeting. He stated that City staff had met with Cathy Eastman who had at the October 9th meeting requested a continuation so that the North Broadway Neighborhood Association could have another opportunity for input. He discussed the outcome of a meeting subsequently held with the North Broadway Neighborhood residents at the Anita Purves Nature Center. Those topics included the installation of missing sidewalks, the installation of a multi-use path along the western side of Broadway Avenue and along Country Club Road, and street lighting to be installed on the east side of Broadway Avenue.

Mr. Engstrom mentioned an update to Implementation Strategy M12 regarding a bicycle path along North Lincoln Avenue. He also addressed the Plan Commission's concern regarding the language use of the word "required" in place of the word "encourage" in Implementation Strategy H1.

Ms. Stake mentioned that she got a phone call from Andrea Antulov. Ms. Antulov had suggested that City staff put the proposed Plan on display at the Lincoln Square Village Mall and/or at the Urbana Free Library for further public review prior to a decision being made. She also mentioned that one time her property is inside the boundary for the proposed plan, and the next time her property is not included. Ms. Stake asked when City staff took all the surveys, was Ms. Antulov's property included? Mr. Engstrom said yes. Ms. Antulov's property was included in the survey. City staff mailed out a postcard about the public hearing 30 days prior to the October 9, 2008 Plan Commission meeting to all the residents within the proposed plan area, so Ms. Antulov should have received one. He handed out a copy of the postcard that had been mailed out.

Ms. Upah-Bant felt bothered by Carle's reluctance to have the word "required" used in the plan rather than "encourage." She did not understand the difference between having it in the plan and having it in the development agreement. If Carle is going to go along with the plan, then why does it matter whether the word "required" is used or not in the plan? City staff discussed this issue with Carle Hospital administrators, and Carle mentioned that they would be amenable to

this approach in the development agreement amendment. Ms. Stake expressed her concern about this issue as well.

With no further questions from the Plan Commission for City staff, Chair Pollock opened the hearing for public input. There was none. Chair Pollock then closed the public input portion of the hearing and opened it for Plan Commission discussion and/or motion(s).

Mr. White commented that Carle is one of the major employers in the City of Urbana. There are many people who come to Carle for medical treatment, and some of them or their families stay in hotels and eat at restaurants in the City of Urbana. The wording of the plan almost sounds like the City does not want Carle to be here because they are taking over some houses.

He really does not want to see healthcare dollars be shunted off to pay for replacement housing. So he is adamantly against anything that somehow recommends or requires anything from Carle. He believes it sends the wrong message.

Ms. Stake replied that the housing would still be there. Are they replacing the housing for free? Mr. Engstrom answered that Carle would be supporting the replacement of housing through various means. For instance Carle has supported some units at the Crystal View Terrace. They were instrumental in getting the application approved for their tax credits, and Carle has also pledged to buy computers for Crystal View Terrace's computer lab. However, they will not be building housing there. Ms. Stake stated that she did not understand how this would be supporting replacement housing. Mr. Engstrom explained that nowadays, it is hard to find the right buyers to purchase affordable housing. Carle plans to use their resources to connect their employees and other people they are involved with to help find buyers. This is one method in which they support replacement housing.

Ms. Stake questioned if Carle would be tearing down housing and supporting new. Mr. Engstrom said that over the long term, Carle would be expanding their campus if they get an amendment to their development agreement. Carle would then be tearing down some of the housing that they own. This will be done in phases. When Carle comes to the City to request an expansion of the MIC Zoning District, City staff will ask for an amendment to the development agreement, in which they will try to work out the specific terms for which Carle will support housing replacement.

Ms. Stake wondered if Ms. Antulov's house would be one that might be torn down. Mr. Engstrom replied no. Ms. Antulov's house is not one of the properties owned by Carle. Carle will only be able to tear down properties which they own, and the City would not use eminent domain. Ms. Stake commented that apparently Ms. Antulov's house is located near some homes that would be torn down then. Mr. Engstrom said that is probably correct. Mr. Hopkins pointed out that when Ms. Antulov mentioned that sometimes she was part of the area and other times she is not, she is probably referring to being invited to the meetings that were held by the City of Urbana regarding this case. Chair Pollock pointed out that Ms. Antulov lives in the Crystal Lake Park area on Busey Avenue, but that she is acting as a neighborhood advocate for the residents along Broadway Avenue.

Mr. Hopkins stated that he has two kinds of reactions regarding Carle and housing. The first reaction is that the current statement is inappropriate and misleading. The notion of one for one replacement usually means in housing policy or eminent domain or urban development projects exactly what it says. Each housing unit eliminated by this project will be replaced somewhere else with a housing unit that somebody will pay for. He understands that this is not what is meant in the proposed plan at all, so the wording needs to be changed.

The second reaction is that the term “encourage” belongs in a plan rather than the word “required”. One for one replacement, in a development agreement would be a negotiated compact of the agreement. In negotiation, you put a lot of things on the table and work it out between two or more parties for what is going to be in the agreement. So it does not help for a plan to pretend to be an agreement when it is not. It would be misleading to people. A plan cannot actually take the action. A plan is a guiding document.

Chair Pollock agrees that Carle is a valuable asset to the local economy, and we certainly do not want to send a bad message. On the other hand, the proposed plan would be an addendum to an agreement that was already agreed upon and approved through a lot of negotiation. Carle does have a responsibility to the neighborhood. Eventually a real agreement or an amendment to the existing agreement is going to come forward. Mr. Hopkins made a great point in that if the City is going to require in the amendment to the agreement that there be some kind of replacement housing that it should be up front, but it does not necessarily go in a comprehensive plan, which is a guiding document. So, at whatever point an amendment to the agreement comes before the Plan Commission and City Council regardless of what they decide to do with the Comprehensive Plan description of this and based on having been involved in negotiations between Carle and the neighborhood, if it does not require housing replacement, then he will not support it at all at that point.

When he reads the proposed plan, when talking about the language that requires Carle to support housing replacement, it does not state that the City requires Carle to build or to develop. It just states that we require Carle to support replacement housing, which can be a very broad application. “Encourage” is okay for a comprehensive plan, but in an agreement, it does not mean anything.

Mr. White moved that the Plan Commission forward Plan Case 2088-CP-08 to the City Council with a recommendation for approval with the following conditions: 1) Remove Objective 13.4, concerning additional street lighting on Broadway, from the Plan and 2) Amend Implementation Strategy M12 to read “Create safe bicycle path towards the U of I campus along Fairview and Goodwin Avenues, as shown in the Urbana Bicycle Master Plan”. Ms. Upah-Bant seconded the motion.

Chair Pollock suggested a friendly amendment to include the following condition in the motion: *Amend Implementation Strategy H3 to read “Encourage investment in existing rental properties such as apartments at Lincoln and Fairview”*. Mr. Engstrom pointed out that this was something brought up by the Community Development Commission to show the position that the City does not encourage the conversion of housing to multi-family, but that we do encourage investment into the existing rental properties. Mr. White accepted the friendly amendment to the motion. Ms. Upah-Bant agreed as the seconder.

Mr. White moved to amend the motion to take out any and all references to Carle Hospital and the replacement of properties and any of the language that deals with one for one replacement housing, because it sends the wrong message to someone who reads this and happens to be interested in setting up a business. If they are going to do it for Carle, then we need to be consistent and do it for others who purchase homes such as the School District and the Urbana Park District.

Mr. Hopkins stated that he would second the motion if it were a little more specific. Mr. Engstrom responded that the two sections that contain language about one for one replacement housing are H1 and Goal 10.1 on Page 45. Chair Pollock read Goal 10.1, and Mr. White restated his motion to amend to remove Strategy H1. Mr. Hopkins seconded the motion to amend.

Ms. Stake commented that there is a long-standing problem between what the City does for Carle and what the City does for the neighborhood. The neighborhood has had a really difficult time because of Carle. This neighborhood is one of the only integrated, low-income areas. It does not hurt to say that Carle can at least look at it or think about replacement housing. Therefore, she would like to send it to the City Council as it currently is worded. We have had problems with Carle destroying some of the low-income housing, and it does not get replaced. Therefore, she would vote no on the motion to amend.

Mr. Hopkins stated that the reason to keep Goal 10.1 and delete H1 is because Goal 10.1 does not identify the responsibility as being Carle's. Implicitly, since it is the City's plan, the City is saying that this is what we are going to do. It is our responsibility to do it in any number of ways, which might include a development agreement with Carle, but it includes a lot more than this.

The reason it is appropriate to remove Strategy H1 is because it is badly and confusingly worded, and because it is not Carle's responsibility. He stated that he would vote in favor of the amendment.

The motion to amend passed by a hand vote of 3-2. So, the motion now reads:

The Plan Commission forward Plan Case No. 2088-CP-08 to the City Council with a recommendation to approve with the following conditions:

1. *Remove Objective 13.4, concerning additional street lighting on Broadway, from the Plan;*
2. *Amend Implementation Strategy M12 to read "Create safe bicycle path towards the U of I campus along Fairview and Goodwin Avenues, as shown in the Urbana Bicycle Master Plan";*
3. *Amend Implementation Strategy H3 to read "Encourage investment in existing rental properties such as apartments at Lincoln and Fairview"; and*
4. *Remove Strategy H1*

Roll call on the main motion, including the amendment, was as follows:

Mr. Hopkins	-	Yes	Mr. Pollock	-	No
Ms. Stake	-	No	Ms. Upah-Bant	-	Yes
Mr. White	-	Yes			

The motion was approved by a voice vote of 3-2. Mr. Engstrom pointed out that this case would go before the City Council on November 3, 2008.

Plan Case No. 2074-T-08: A request by the Zoning Administrator to adopt design guidelines for the Lincoln-Busey Corridor, amend the Urbana Zoning Ordinance to enable design review in certain areas, and establish the Lincoln-Busey Corridor design overlay district.

Rebecca Bird, Associate Planner, gave the staff presentation for this case to the Plan Commission. She presented a brief recap of the discussions held at the previous Plan Commission meeting and reviewed the revisions made to the text amendment.

The revisions include changes to the language under Membership, Administrative Review, Process Clarification and other minor word changes to clarify the. Other issues that arose included wanting more detail regarding the process of creating a new design overlay district and adopting new design guidelines. City staff envisions this process as being initiated by the City Council and not by members of a neighborhood.

She talked about City staff currently being involved in creating design guidelines for part of the Historic East Urbana Neighborhood. In creating design guidelines for this district, City staff will follow the same process in which the Lincoln Busey Corridor went through with meetings be held in the beginning to gather public input and notifications being sent out to residents inside the district as well as to those within 250 feet of the district for those meetings.

There was one suggestion that the Historic Preservation Commission be the body to administer design review in the Lincoln-Busey Corridor because it is a relatively historic neighborhood. This would present a couple of difficulties in that historic preservation is very well defined legally. The members of the Historic Preservation Commission can only review projects to do with properties that are legally designated as historic landmarks and districts. This would also create a difficulty with having future design review overlay districts. City staff would prefer to create one board than having different boards for each district because administratively it would make things very difficult.

Ms. Stake stated that she did not understand why it would be difficult to have different boards for each district. Ms. Bird clarified that the City already has quite a few boards and commissions to administer. It is a great deal of work to keep the boards and commissions organized. Also, it is quite difficult to get people who are qualified to want to serve on the boards and commissions. Lastly, there is currently not enough City staff to handle five more boards/commissions.

Ms. Stake said that she believes that there are too many members from the development field. There should be more people on the board from the neighborhood. She also would not want someone from east Urbana to decide what would be best for west Urbana.

Ms. Stake wondered what the fee would be to apply for a design review application. Lisa Karcher, Planner II, stated that the fee amount would be set by the City Council when the proposed district would be approved. Chair Pollock wondered how much the Site Plan application for the MOR, Mixed Office-Residential Zoning District is. Ms. Karcher replied that there is a \$150 fee.

Ms. Upah-Bant stated that she is confused about the proposed makeup of the board for the proposed Lincoln-Busey Corridor. Ms. Bird pointed out that City staff is not proposing a design review board specific to the Lincoln-Busey Corridor. It is a City design review board. She explained the reason that City staff left it with two residents (one from each future overlay district) is because the City does not foresee having more than two design review overlay districts. Chair Pollock asked if there were additional overlay districts, then there could be a possibility of a change of two of the seven members. Ms. Bird said yes.

Ms. Stake commented that City staff is recommending that four members would constitute a quorum. However, if one of the four has a conflict of interest, then that would only leave three voting members. She feels that three is not enough. Chair Pollock stated that this means that two of the three voting members could theoretically be making the decision.

With no further questions from the Plan Commission for City staff, Chair Pollock opened the hearing for public input from the audience.

Gail Taylor, of 307 South Orchard Street, stated that the proposed text amendment to add Section XI-15. Design Review Board to the Urbana Zoning Ordinance was lifted from the MOR Ordinance. Living in the MOR Zoning District, she has discovered that property owners have no rights, including the right to have a petition to be heard fairly in a public hearing.

The proposed Design Review Board is setup similarly to the Development Review Board for the MOR Zoning District. The chair of the Design Review Board, depending on their relationship with City staff, could do things to circumvent fair hearings, property owners' rights, and the right to public notice. City staff is only proposing one resident from the proposed district to serve on the Design Review Board. Already it seems like the Board would be stacked.

Ms. Taylor pointed out that even though board and commission members volunteer their time, they still represent different interests in the community. When does a member remove themselves from voting on a case due to conflict of interest?

She talked about the conflict she has with the adaptive reuse of 601 West Green Street and more importantly with the process to get approval for the adaptive reuse. She noted that the Zoning Administrator reviewed and approved the redevelopment plans as a minor work. What is being proposed for the Design Review Board for future overlay districts such as the Lincoln-Busey Corridor mirrors the ordinance for the MOR Zoning District and the Development Review Board.

Ms. Stake wondered if Ms. Taylor had received any notification of what was going to be happening at 601 West Green Street. Ms. Taylor said no. She wants to ensure that the residents and property owners in the Lincoln-Busey Corridor have adequate representation and that there is public notification even if the Zoning Administrator reviews and makes the determination of whether or not to approve a design review application. Chair Pollock pointed out that if there is a basic disagreement with the notification laws on who gets to find out what publicly on any level, then that is within the purview of the City Council. They make those rules and can amend them, and City staff abides by those rules. There is no public notice that is required that does not go out. There is no ignoring of these requirements.

Paul Debevoc, of 708 West California Avenue, commented that the proposed plan is impressive in its detail and in its organization. We should be in favor of the principle of the design guidelines. Fortunately it is a proactive document. There is no controversy or crisis at the moment, so there is no urgency that the proposed plan be adopted immediately. As the previous speaker pointed out, there are parallels between the MOR and the Lincoln-Busey Corridor. He read excerpts from the MOR Ordinance and noted that similar language is in the Design Review Board Ordinance before the Plan Commission. He stated that the difficulty here is in the ambiguity of the language in the two ordinances. He is positive that none of the City staff wakes up in the morning and comes to work with the goal of infuriating the citizens of Urbana. Quite the contrary, he is sure that City staff comes to work with the goal of doing good for the City of Urbana.

He then showed pictures of 601 West Green Street from each of the four directions – north, south, east and west. He commented that the difficulty any one would have looking at the changes being made and wonder how ever could the redevelopment plans not go to the Development Review Board. So he suggested that City staff reword the Ordinance to tell how a project is going to be triggered for review. City staff could choose some parameters. It could be the incremental cost to the building, the amount of the structure that is being dealt with and then choose some level. Quantitative requirements are all over the Zoning Ordinance, such as how tall something can be and what the setback requirements are. So it is not unreasonable to ask City staff to write a statement setting a level for when a project will be forwarded to City Council.

Ms. Stake asked if Mr. Debevoc felt that any redevelopment project should go before the Design Review Board. Mr. Debevoc responded that he did not have enough experience in how onerous that may be. From his own experience, there are many minor work projects (1% effects) that he would not worry about at all. Mr. Debevoc stated that the language in the MOR Ordinance and the language in the Lincoln-Busey Corridor Ordinance are so similar that they do not want to have another divisive, debilitating incident that just recently occurred.

Ann Reisner, of 905 South Busey Avenue, agreed with Mr. Debevoc's comments. There is language in the proposed ordinance that says that joint determinations by the Zoning Administrator and the Chair of the Design Review Board cannot be appealed to the Zoning Board of Appeals. She finds this problematic, because there would be no mechanism to appeal a decision. Ms. Bird explained that this type of determination would be able to be appealed to the Circuit Court, but not to the Zoning Board of Appeals. Ms. Reisner withdrew her complaint about this issue then. She just wanted some mechanism for appeal.

She believes that having an additional resident from the district serve on the board would be a nice balance. She asked City staff to explain their reasoning for taking out the additional resident. Ms. Bird stated that the board was originally envisioned as having a balance between professionals with expertise and residents. The Historic Preservation Commission and Plan Commission members are still citizens even though they serve on a City board. Ms. Reisner stated that she sees a licensed realtor, a developer and an architect might all have interest in growth; whereas the residents would have interest in stability. So, she feels that City staff is balancing off the interest of the neighborhood. So she urged City staff to include one more resident on the board.

With no further comments or questions from the audience members, Chair Pollock closed the public input portion of the hearing. He then asked City staff if they had any additional comments.

Ms. Bird clarified that the MOR design guidelines and text amendment were the starting points used by City staff in creating the proposed ordinance and text amendment. There are some significant differences though. One is that the MOR is a zoning district, and the proposed Lincoln-Busey Corridor would not affect zoning at all. It is purely design, which is significantly different. Another difference is that the Design Review Board would not have the same kind of power that the MOR Development Review Board would have because the MOR Zoning District deals with zoning as well as design.

She pointed out that in trying to address some of the issues that have come up recently with the administrative review, City staff included the language about a decision being made jointly by the Chair of the Design Review Board and the Zoning Administrator. The way that the current MOR Ordinance is written the Zoning Administrator has the authority to grant variances because it is a zoning district. However, no variances would be granted by either the Zoning Administrator or the Design Review Board in the Lincoln-Busey Corridor because it is not about zoning. Therefore any variances a developer/property owner might want would need to go before the Zoning Board of Appeals.

Ms. Bird clarified that the Historic Preservation Commission member, the Plan Commission member, the developer, and the architect that serve on the MOR Development Review Board will also serve on the Design Review Board. The other three members will consist of a realtor and two residents (one from the Lincoln-Busey Corridor Overlay District and one from another neighborhood).

The suggestion that every project go before the Design Review Board would be quite problematic on a number of different levels. One is that for property owners who want to maintain or make minor improvements to their homes, they would first spend a lot of time and effort going before the Design Review Board to get approval. This could create a disincentive for property owners to maintain or improving their properties.

It is also quite a bit of work to prepare the noticing, write memos and give staff presentations to the Board. If this is required so a property owner could repair a step going up to the porch, then it will take a lot of staff time.

Ms. Upah-Bant inquired as to whether “conflict of interest” is legally defined anywhere. What would be an acceptable conflict of interest? Ms. Bird states that the Zoning Ordinance states that a conflict of interest generally has to do with a financial matter. Ms. Upah-Bant stated that if City staff cannot describe what constitutes a “conflict of interest”, then how are we to expect board/commission members to know? Would a member have to benefit financially in order for it to be considered a conflict of interest? She would like to see this defined. Ms. Karcher stated that staff can provide clarification.

Ms. Upah-Bant wondered if City staff had any problem with making the Design Review Board bigger by having more members to allow for an additional resident from within the district to serve on the Board. Ms. Bird explained that the reasons City staff left the number of members at seven was to keep the balance of residents to professionals.

Ms. Upah-Bant stated that she likes Mr. Debevoc’s suggestion that they use a percentage or somehow quantify how much change is required before the Design Review Board becomes involved. Ms. Bird replied that in all of the other city design overlay district ordinances that she has researched, she has found the language to be very vague. She pointed out that the more you pin down what it is that you want, a project could meet all those requirements and still end up being bad. So the language is written with some flexibility so the Board has the ability to make a good decision.

Ms. Upah-Bant stated that she was surprised to hear that a property owner could possibly be required to come before the Design Review Board every time they wanted to make a repair to their home. They should come up with a list of maintenance and repairs that would be allowed without having to come before the Design Review Board.

With no further questions for City staff from the Plan Commission, Chair Pollock opened the hearing up for Plan Commission discussion and/or motion(s).

Ms. Stake feels the Design Review Board should have more members than seven. There really needs to be at least two people from the district serving on the Board. She really likes Mr. Hopkins’ idea that he mentioned at the previous meeting about having four members – one from each district. Only she wants two from each proposed new district. So, the Design Review Board would keep growing in membership as overlay districts are approved.

She is really concerned about what would be considered a minor project and a major project. Her idea of each is different from other people’s ideas. She drove by 601 West Green Street earlier in the day, and she would consider it to be major work. Ms Stake also does not like the Zoning Administrator being allowed to grant variances. Ms. Bird pointed out that the Zoning Administrator does not have this ability in the proposed Lincoln-Busey Corridor Overlay District. The Zoning Administrator only has the power to grant variances in the MOR Zoning District.

Ms. Stake questioned whether notification would be required in the proposed Ordinance when the Zoning Administrator and the Chair of the Design Review Board review and consider approval of future projects. Chair Pollock answered that if the Zoning Administrator and the Chair of the Design Review Board decides that a proposed remodeling or project does not rise to

the level of needing to go before the Design Review Board, then they can make that decision and construction can take place without design review.

Ms. Bird stated that in the Historic Preservation Ordinance there is a chart listing the level of review for specific types of projects. This chart is a guideline for the Zoning Administrator and Chair of the Historic Preservation Commission when a project comes in to determine the level of review that is needed.

Mr. Hopkins asked where in the Zoning Ordinance is the MOR Ordinance located. Jeff Engstrom, Planner I, stated that the Ordinance pertaining to the Development Review Board is located in Article XI of the Zoning Ordinance, which begins on page 140. Ms. Karcher added that the use regulations for the MOR Zoning District are located in Section V-8, which begins on Page 38. Ms. Bird stated that the MOR Design Guidelines are in a separate document.

Mr. Hopkins commented that part of what is framing the discussion for the proposed case is the case that has happened in the MOR Zoning District. It would be useful to him to clarify a little about what happened in that case. People are talking about variances. Were there actually variances granted? Was development review administratively processed? Ms. Bird explained that the case was administratively processed, and in the process, when the Site Plan was first approved two variances were granted by the Zoning Administrator. Later the developer realized that he needed two additional variances, which the Zoning Administrator granted administratively as well. Two of the variances were for the parking lot, one variance had to do with the exterior staircase on the west side of the building, and the fourth variance was for a handicap accessible ramp on the east side of the building.

Mr. Hopkins stated that a variance is a judgment call on a specific requirement, and is often quantitative. The rest of the development review activity and the kind of design review we are talking about for the Lincoln-Busey Corridor are not about variances. Any variance that arises in the Lincoln-Busey Corridor would then need to go before the Zoning Board of Appeals. It is the MOR Ordinance, itself, that gives the Zoning Administrator the right to grant variances. Outside of the MOR Zoning District, the Zoning Administrator does not have the right to grant variances.

He felt that the Plan Commission should work on the wording of the proposed text amendment some more before making a decision. In his opinion, it would be more effective to work on this than at the Committee of the Whole level. Chair Pollock commented that if there are significant changes that the Plan Commission thinks should be made to in the wording or in other elements of the proposal. He does not feel that the Plan Commission should do this on the floor. Therefore, he suggested that the Plan Commission give some indication or direction to the City staff on what they would like to see addressed, allow City staff time to make changes and then bring it back to the Plan Commission at a later date.

Mr. Hopkins pointed that he heard two major concerns, which are an issue with the process and one with the criteria. Regarding the process, notification of building permits is when they are approved. Ms. Bird noted that they are published in the *News-Gazette* but not by the City. The *News-Gazette* chooses to publish them. However, the City does post them on the City of Urbana website. Mr. Hopkins stated that his point is that the content of a building permit is public knowledge once a building permit is approved.

He commented that it is not clear in the proposed Ordinance how it is determined whether a property owner/developer needs to submit an application. His understanding is that when a person submits a building permit application, City staff looks it over and determines whether that person needs to file a design review application as well. So for example, if someone from the Lincoln-Busey Corridor submits a permit application for plumbing repairs, will the application reach the Zoning Administrator? Ms. Bird explained that the application would reach the Zoning Administrator but because of other reasons, not because of being in the Lincoln-Busey Corridor.

Given all this, Mr. Hopkins stated that if the Zoning Administrator and the Chair of the Design Review Board make a determination that what they have before them in the form of a building permit application and an application for design review, then a notice gets published. However, the ordinance does not require notification be published that a design review determination was made by the Zoning Administrator and the Chair of the Design Review Board. The City could require City staff to do this. Then we will have set up a process where (if the notification actually works and is done in a way that people will actually see it) we will have a more reasonable basis for an appeal process. Chair Pollock asked if the publication should be a blurb in the newspaper or some type of notice mailed out to people within a certain area. Mr. Hopkins stated that he hasn't figured this part out yet. What the notification is, it needs to work. Chair Pollock commented that if there is a little notice in the back of the *News-Gazette*, none of the neighbors of the proposed review and construction will see it.

Mr. Hopkins stated that there is another possible step in this in that if an executive decision is made, then the executive has to report that decision to the Design Review Board. Any member of the Board could challenge that executive decision. This will also allow for public notification to be made.

He pointed out a discrepancy in the language of the proposed ordinance. In H.1. Zoning Administrator Review Procedures on Page 150, it states as follows, "*Joint determinations as to whether the application is to be reviewed administratively or by the Board cannot be appealed to the Zoning Board of Appeals.*" Staff pointed out that an appeal could be filed with the Circuit Court. However, in J.4. Design Review Board Review Procedures, the first sentence states as such, "*Any order, requirement, decision or condition of approval made by the Zoning Administrator or Design Review Board is appealable by any person aggrieved thereby to the Zoning Board of Appeals in accordance with the procedures of Section XI-3.C.*" He suggested that they note in one of these that an apparent exception exists.

Regarding issues with the criteria, Mr. Hopkins remarked that in design review, it is incredibly difficult to make quantitative thresholds work. We could use a dollar amount. However, one could rewire the entire house without going to the Design Review Board. Rewiring of the house might cost more than a project that would be considered a major work. We could use the criteria of change in square footage. However, we then might miss anything that transforms the face or the design of the building. So he is having a hard time thinking of a way to do this quantitatively.

He believes that the City can still express in some policy fashion the kinds of things we are looking for. One way to do this is by examples. We would want examples of what would and what would not be considered administratively reviewed. They should be focused on trying to

hit the margins of where people would have a tough time of deciding. Another thing that these examples could help make clearer is what is in the Zoning Ordinance by right? And what is in the design review? The design review is not about variances and it is not about whether or not one meets the zoning criteria.

Ms. Stake reiterated that the Design Review Board should have more members, so that there can be two people from the neighborhood serving on the Board. Ms. Upah-Bant agreed. She would think that there would be plenty of people from the neighborhood willing to serve on the Board. Chair Pollock believes that if five of the Board members are to be consistent from one district to another, adding an additional resident should not be a major hurdle, because they are not talking about adding additional professionals.

Mr. White mentioned that the City is currently only talking about two districts. So, we could have two additional residents from each proposed new district serve on the Board. They could add some language to the Design Review Board Ordinance to only allow up to six residents to serve on the Board. He mentioned that having residents from the Historic East Urbana neighborhood working on the Board for the West Urbana area could be very valuable on their input.

Mr. Hopkins talked about the quorum issue. Part of the issue is that conflicts are sometimes announced in the meeting because a Board member discovers a conflict once deliberations begin. He assumed the reason that City staff included language stating as follows, "*Abstaining shall not change the count of Board members present to determine the existence of a quorum*", to prevent holding meetings over and having to restart them if one of the members of a quorum discovered a conflict interest. He is not sure how the City should handle this issue at this time. He did feel it is important to find out how other Boards and Commissions deal with this issue. One solution might be to raise the requirement of a quorum.

Mr. Hopkins does not believe that the proposed Design Review Board will meet that many times. It is very likely that they may only have one agenda item in the three year term. He expressed concern that there might be an agenda item, in which the Board meets on to make a determination without first being trained on what they are doing. He is also concerned about the notion that we could make up multiple committees, because we would get a very different kind of deliberation. Although he is not necessarily in favor of adding more residents, he would much rather add more residents and have a larger committee than have committees that shift in and out for different cases.

His last concern is about residents serving on the Board. We have to be careful about the notion of residents in the area for two reasons. One is the Lincoln-Busey Corridor is an incredibly small area. He imagines that people think the residents must be single-family home-owners in the district. In fact, the proposed current language would allow a condominium owner. In affect, what we are doing, especially if we add two or more residents of that corridor, is giving a kind of localized control of neighbors to a very specific set of people with a very specific set of attributes to tell the rest of their neighbors what they can do. Chair Pollock added that some of them will also have very specific agendas in some instances.

Mr. Hopkins stated that one way to balance this is by the way we design the makeup of the Board. This is one of the reasons why we do not stack it. Therefore, he is reasonably comfortable with the current makeup of the proposed Design Review Board the way it is designed.

Ms. Stake asked if Mr. Hopkins wanted the developers being the ones with the power. Mr. Hopkins replied that there is only one developer being proposed to be on the Board, so they would not have the power. Ms. Stake feels that the developer goes along with the architect, etc. Chair Pollock commented that no matter what commission you are developing and no matter how you do it, it is by Council approval of a Mayor appointment. We need to assume that we have people working on City commissions and boards that work in the best interest of the public.

Mr. Hopkins argued that another way to think about the proposed Board is that it should have one rental property owner, one tenant, one single-family owner, one across the street owner, one future student trying to do finances and trying to find a place to live without high transportation costs, etc., because when talking about whose interests are being dealt with in this district, it is not just the single-family home owners living in the district. Ms. Stake replied that this is correct, but you can see that this has not been the high priority in the community.

Ms. Upah-Bant mentioned that she would like the conflict of interest defined because it is such a small area. Chair Pollock felt it would be very difficult to define this. In general, for one of the Plan Commission members to declare a conflict of interest, it is up to the individual member to make this determination, to declare a conflict of interest and to act accordingly. Mr. Hopkins believes that defining "*conflict of interest*" because the Lincoln-Busey Corridor is a small area and because of the way the board is being defined.

Ms. Karcher summarized the Plan Commission's concerns to be the following:

- 1) Board composition, how a quorum is defined, and how conflict of interest is defined and handled.
- 2) Notification requirements, and
- 3) Parameters or criteria for administrative decisions.

With no further comments by the Plan Commission, Chair Pollock continued the proposed text amendment case to a future meeting date.

6. OLD BUSINESS

There was none.

7. NEW PUBLIC HEARINGS

There were none.

8. NEW BUSINESS

There was none.

9. AUDIENCE PARTICIPATION

There was none.

10. STAFF REPORT

Ms. Karcher reported on the following:

- ✚ **Rezoning and Comprehensive Plan Amendment for 502, 504 and 508 East Elm Street** were approved by City Council on September 15, 2008.
- ✚ **Meijer Subdivision Preliminary/Final Plat** was approved by City Council on September 15, 2008.
- ✚ **I-74/Lincoln Avenue Preliminary/Final Plat** was approved by City Council on September 15, 2008.
- ✚ **Beautification Corridor Plan for North Cunningham Avenue** was presented to the public and to City Council on October 20, 2008.
- ✚ **University Avenue Corridor Study and the White/Springfield Corridor Study Public Meeting** will be held at the Illinois Terminal. The City of Urbana has contracted with the Champaign County Regional Planning Commission to do the corridor study for the University section. The funding for the study is from an Illinois Department of Transportation (IDOT) grant.
- ✚ **Looking for Lincoln Ribbon Cutting** will be held on Tuesday, October 28, 2008 at 1:00 pm on the corner of Race and Main Streets.

11. STUDY SESSION

There was none.

12. ADJOURNMENT OF MEETING

The meeting was adjourned at 9:50 p.m.

Respectfully submitted,

Robert Myers, AICP
Secretary, Urbana Plan Commission