

**ITEM NO. 5B PRELIMINARY DEVELOPMENT PLAN; .80 ACRES; 1043 INDIANA ST (LBZ)**

**PDP-7-1-11:** Consider a Preliminary Development Plan to relocate the Varsity House and development of a Multi-Dwelling Structure, located at 1043 Indiana Street. Submitted by Paul Werner Architects, for Triple T LLC, property owner of record.

**STAFF PRESENTATION**

Ms. Lynne Braddock Zollner presented the item.

Mr. McCullough said the new PD Overlay District standards permits variances to setbacks but only if the adjacent zoning was greater. He stated the revisions were solvable and could be resolved before it went to City Commission.

**APPLICANT PRESENTATION**

Mr. Paul Werner, Paul Werner Architects, said this was a land use issue, not a Historic Resources Commission issue. He said he would like condition 2 to be reworded regarding the submission of public improvement plans being submitted prior to the final development plan. He said it would take at least a year to build, maybe longer. He said the public improvement plans would include the alley, stormwater improvement, and the entrance to the garage on Indiana Street. He said they would want the building to be built before doing work in the alley. He stated regarding condition 3G they would like to use some of the bricks on the front patio. He felt they were good with the height and setbacks for condition 4. He showed drawings on the overhead.

Commissioner Finkeldei asked if he did not want to have to build or submit plans prior to the submission of the final development plan.

Mr. Werner said they did not want to have to submit plans prior to the final development plan. He said public improvement plans were detailed and a lengthy process. He said they would not build the alley until the building was already up.

Mr. McCullough said the language could be worked on. He said the public improvement plans would need to be known prior to issuing a building permit.

Commissioner Hird asked if the applicant was willing to live with that condition.

Mr. Werner said he would have to think about the timing.

Commissioner Finkeldei thought it was odd that the language said the submission of a public improvement plan instead of the approval of a public improvement plan.

Mr. McCullough said the intent was to have approval before permits would be issued.

Mr. Werner said he preferred liked the word submission instead of approval.

**PUBLIC HEARING**

Mr. Stan Hernly was astounded that this was not deferred. He stated condition 6 glosses over Historic Resources Commission hearing the item. He said there was a spirited debate with the Historic Resources Commission regarding moving the house. He stated it was by no means a done deal that the house could be approved for moving. He said it was unfortunate there wasn't a Historic Resources Commission meeting last week. He felt it was a procedural and legal standpoint if the plan was showing the house moved and Historic Resources Commission did not approve it. He felt very strongly that the issue needed to be deferred and Historic Resources Commission needed to hear the item before Planning Commission took action. He said ending up with an approved plan that hadn't been approved by Historic Resources Commission was a bad place to be.

Mr. Dennis Brown, Lawrence Preservation Alliance, quoted language from the staff report. He expressed concerns with compatibility. He felt the applicant should work harder to preserve the structure.

## **COMMISSION DISCUSSION**

Commissioner Liese asked staff to comment on whether Planning Commission should be considering this prior to Historic Resources Commission.

Mr. McCullough said the Planning Commission review was limited to other land use elements as outlined in the staff report and Development Code. He said Planning Commission was a recommending body and that City Commission would determine it. He said Historic Resources Commission was a decision making body for their part of the process. He said from a legal standpoint staff felt Planning Commission was within their scope of review and authority to hear the item and recommend as they desire. He said ultimately City Commission would determine all of this.

Commissioner Liese said Planning Commission and Historic Resources Commissioner were separate bodies but he was not sure he could personally separate what Historic Resources Commission thought about this. He asked if there was a downside to deferral.

Mr. McCullough said it may cause delay for the developer. He said Historic Resources Commission meets next week and they may want to hear what Planning Commission thinks. He said staff would prefer to have Planning Commission define their scope, operate under that scope, and make a recommendation to City Commission. He said there may be so many changes occur through the Historic Resources Commission process that City Commission may send back to Planning Commission for further review and consideration. He said staff was advising Planning Commission to keep their scope at the land use element and let Historic Resources Commission do their job with the historic values and review.

Commissioner Hird asked Mr. Brown about the importance of the house location.

Mr. Brown said relocation was a better alternative than demolition but some preservationists would see no difference between moving a structure from its original location and demolition. He said the house was on a prominent corner lot with two lots and green space around it. He expressed concern about the site plan saying relocation or replication of the house.

Commissioner Liese asked if Planning Commission would see the item again after Historic Resources Commission.

Mr. McCullough said if Planning Commission took action tonight the recommendation would then go to City Commission.

Commissioner Finkeldei asked if Historic Resources Commission had met last week and denied it, would Planning Commission still have had this on the agenda.

Mr. McCullough said staff would have had to talk to the applicant and it could have been heard by Planning Commission.

Commissioner Finkeldei said in the past Planning Commission has heard items that had a negative Historic Resources Commission recommendation, such as the Oread Hotel.

Commissioner Burger asked if Planning Commission needed to do something with condition 6 in their recommendation to address Historic Resources Commission approval.

Mr. McCullough said if the Historic Resources Commission process was ultimately denied and an appeal was upheld then the preliminary development plan would not exist. He said the entire request was contingent upon approval of the Historic Resources Commission element as well.

Commissioner Liese said from his perspective a deferral would not be necessary. He said he was comfortable making a decision tonight and letting Historic Resources Commission do their job.

Commissioner Belt asked what the likelihood was that they would see this again.

Mr. McCullough said that was tough to predict. He said they would have to get through the Historic Resources Commission process and there are so many variables with that. He said this was the application the applicant wanted to present to the governing bodies.

Commissioner Belt said Planning Commission unanimously approved the rezoning so that should give the Historic Resources Commission an indication of how Planning Commission was leaning zoning wise.

### **APPLICANT CLOSING COMMENTS**

Mr. Werner said the perception was that they were going to lose at Historic Resources Commission and he did not feel that was the case. He said it was a 3-3 tie vote last time Historic Resources Commission saw it and the building has been changed since then. He said he felt pretty good about where the project was going. He stated it was an environs review, not a listed structure. He said the reason for moving it to the north was so they would only have to move it once and put it on a new foundation.

Commissioner Liese asked if Mr. Werner was saying that Planning Commission implied that it would be denied by Historic Resources Commission.

Mr. Werner said no, it was implied by public comment. He said regarding the public improvement plans he could submit the public improvement plans prior to the issuance of building permits.

Commissioner Finkeldei said he took their job as the Planning Commission seriously and what they recommend. He said they had a narrow function. He said Historic Resources Commission has its own important function and that Historic Resources Commission should fully consider and make their decision. He said the Planning Commission point of view was that the plan had high density and it was an appropriate place for high density development. He said he would defer to Historic Resources Commission to decide whether it was the right design.

Commissioner Blaser inquired about the approval of the setbacks.

Mr. McCullough said the report was in error, Planning Commission would not have authority to grant waivers.

Commissioner Culver inquired about condition 2 regarding the public improvement plans being submitted before any building permits. He asked if that was in alignment with what staff would like to see.

Mr. McCullough said staff preferred the word 'approved' rather than 'submitted' before building permit issuance. He said there was a direct link to fire code issues, lane width, utilities, etc. He said typically staff and applicant would work on it as it moves forward.

Commissioner Liese thanked Mr. Hernly and Mr. Brown for voicing their concerns. He said he was glad they were raising these issues and he was sure Historic Resources Commission would make a smart decision.

### **ACTION TAKEN**

Motioned by Commissioner Liese, seconded by Commissioner Blaser, to approve the Preliminary Development Plan for 1043 Indiana Street based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval subject to the following conditions:

1. The applicant submit a drainage study to be reviewed and approved by the City prior to submission of a Final Development Plan.
2. The approval of public improvement plans prior to issuance of building permits.
3. Submission of a revised Preliminary Development Plan to include the following:
  - a) A note identifying the 18' front yard setback is based on average setbacks on the block as permitted by Section 20-602(e)(i);
  - b) Correction of plans noted in staff review comments dated 08/08/11;
  - c) Correction of total units on 4<sup>th</sup> floor in the Detailed Project Summary and identification of Varsity House as a Congregate Living unit;
  - d) A note identifying the height of the retaining walls along all sides of the property;
  - e) A note indicating this planned development is restricted to the uses allowed in the RM32 district; and
  - f) Removal of the note that identifies the project will utilize removed brick from the alley to landscape on the site. If the alley is reconstructed, the historic brick must be gently removed and placed on pallets for delivery to the City.
4. The submission and approval of building elevations and floor plans that identify: height, setbacks, common open space, and recreational space for Planning Staff to determine Development Code compliance.
5. The applicant verify the entire development site is under unified control.
6. Completion of Historic Resources Commission conditions of approval.

Commissioner Finkeldei said regarding condition 3(f) he hoped the city would consider selling some of the bricks back to be used in the development.

Unanimously approved 8-0.