

[33:08]

[Jim Walker] - The approach was that... the interpretation was that we could amend the proportionality within the PUD as an administrative update. Um, that even though we talked about it in this group several times, it caught some folks off guard. It was, separately, but concurrently determined that an administrative update was not actually what had to happen, it had to be a planning commission / council item. So now here into pulling back, Catellus I should say is into pulling back the amendment, and taking that submittal off the table and just essentially canceling it.

Let's go back, let's remind ourselves why we're doing what we're doing. And again, third time. The broad view, a slice of which is the PUD change, uh, and then reapproach it in a broad sense. So uh, that's the frame I have for master plan and PUD issues. Does that make sense? I know Jerry Rusthoven is here.

[Pam Hefner] - Yea well he was at, well you did it just now.

[Jim Walker] - Well Jerry, did I misstate anything or did, is there anymore you want to add?

[Jerry Rusthoven] - No, no.

[Jim Walker] - You want to introduce yourself for folks.

[34:26]

[Jerry Rusthoven] - I'm Jerry Rusthoven with neighborhood planning and zoning. Umm, as far as the PUD amendment goes ...[inaudible]...we had a meeting with ROMA and took a look at it, a brief, you know, meeting with [inaudible] review. Umm we [inaudible], however once we reviewed it it turns out that it does trigger one of the provisions in the code that does require rule by commission and then the city council. So at that point we discovered that they uh, did not have administrative approval [inaudible].

[Jim Walker] - And that's consistent with some of the stuff that other folks found, uh related to this thing so, and... In the grand scheme of things of the Mueller process, it's better, to pull back, put it all in context and walk through each step of it. Uh, it's more night meetings but... So it is. But is there any... Jerry. Does anybody have any questions for Jerry?

[Kevin Ludlow] - I have a couple.

[Jim Walker] - Yep.

[35:19]

[Kevin Ludlow] - So what was the provision that it actually turned out to trigger, because...

[Jerry Rusthoven] - It is 25-2-403 from the Land Development Code, uh (b)3. Which states increasing intensity of a land use adjacent to a platted single family tract, what we discovered was in the area... [inaudible]... What their request was, was to increase the amount of residential units, I believe that all this was planned right here, to increase the number of residential units here adjacent to this single family is what triggered it. In the existing PUD ordinance, um it does take out one of the criteria, a traffic criteria for triggering a uh council approved deal, but did not take out the provision that requires it if you're increasing intensity adjacent to single family.

[Jim Walker] - But Mueller's entire PUD has that traffic impact coverage on it?

[Jerry Rusthoven] - Yes.

[Jim Walker] - Not just the proportionalities that...

[Jerry Rusthoven] - Right the part of the code I'm talking about is specifically what is an administrative approval vs. what is council approval. And there is a part in there about inner [inaudible]... The Mueller PUD takes that part out before triggering the uh, council approval but does still have in it the provision that, if you're increasing intensity adjacent to single family, you uh, you have to go to council.

[36:45]

[Kevin Ludlow] - So there was a letter that was sent on October the 22nd that was presumed to have been in error. It turns out then that that actually is the type of notification that people would receive in the case of triggering that particular section?

[Jerry Rusthoven] - Correct. There are, there are 3 notices that go out, um, with most zoning cases, um... One is what we call the early notice. It is just a notice that says the case has been filed. That was the notice that went out. Where the confusion was created was um, that is a standard form that is for the notice and it has a paragraph in there that says a second notice will be mailed to you notifying you of the date of a planning commission hearing. And then of course the 3rd notice will be mailed out notifying you of the city council hearing. And so there was some confusion because at the time and before we did our review, we thought it was going to be an administrative approval so the question came, why is there the paragraph stating that there would be a public hearing, we thought there would be none. And that was just uh, a mistake that was made. But if you know, if it were, uh council approval, that would still hold true.

[37:42]

[Jim Walker] But, I would... But the change in going to, uh council approval really was separate from the wrong notice going out. The wrong notice certainly helped highlight people's concerns and questions but, um, that error still stands alone as an error, by somebody.

[Jerry Rusthoven] - Well yes, yes except that when we discovered when it was going to be an administrative the error was in fact...

[Jim Walker] - I know but. I don't know, I don't let my son get away with that...
[inaudible]

[laughter]

[Jim Walker] - ...and then then find out later that it was ok.

[Jerry Rusthoven] - And then there are... So there would be no follow-up notices for the public hearing. The one thing that's different on an administrative approval, um what the code allows is that when the staff approves something, we mail out a notice of approval, which is rather unusual, most of our notices are notices of public hearing. We mail out a notice of approval to everybody within 500 feet b/c they then have 14 days to appeal the staff's approval of the case and then to go to planning commission and then city council on the appeal.

[Jana McCann] - And that's what we had presented to you in October as that process that would happen.

[38:49]

[Kevin Ludlow] - So can you explain, just so that people know in the future, how that actually would occur if it in fact was an administrative change? I recognize, that it turns out this isn't, so it will be dealt with. But if it were to be an administrative change, how would people actually go about that process?

[Jerry Rusthoven] - If it were to be an administrative change you would still get an early, notice would go out in the mail that says the case is filed. We would strip out the paragraph that says there is going to be a public hearing in the future because there's not one planned to be at that point. We would mail out a notice of um, approval to everyone within 500 feet and then they would have 2 weeks to contact us to tell us that they would like to appeal.

[Kevin Ludlow] - And if they want to then automatically mean that it has to go to planning commission?

[Jerry Rusthoven] - Yes.

[Kevin Ludlow] - ...or council?

[Jerry Rusthoven] - Yes?

[Kevin Ludlow] - So it starts at planning commission, and then...

[Jerry Rusthoven] - Yes. What would happen is that it would have already been approved...

[Kevin Ludlow] - Right.

[Jerry Rusthoven] - ...and then we go to planning commission and they make a recommendation and then we go to city council and they decide on the appeal.

[Kevin Ludlow] - Ok.

[Jim Walker] - How far out in front of the planning commission and council meetings do the notices go out? Is it typical?

[Jerry Rusthoven] - Uh, it's 15 days for city council and it's um, ten days for planning commission. Typically they may go out a lot of times before that.

[Jim Walker] - I have a different question, any other questions about what has happened to date?

[Kevin Ludlow] - No.

[Jim Walker] - Um, so going forward, and PUDS anywhere in the city, once the developer's gone, last nail's been pounded and now it's part of the fabric, what's the PUD amendment process at that point?

[Jerry Rusthoven] - [inaudible]

[Jim Walker] - It would be the same. So any land owner in the PUD, uh...

[Jerry Rusthoven] - ...can file. If you own property within the PUD, you can file an application.

[Jim Walker] - Just, relevant to their own parcel?

[Jerry Rusthoven] - Correct?

[Kevin Ludlow] - But, but that could be done now as well, correct?

[Several People] - Yea.

[Jim Walker] - I just wanted to find out 10 years from now, once Catellus is gone and we're into, into the after-times. [laughter]

[Jerry Rusthoven] - The after-times?

[Jim Walker] - So there is nothing different than conventional zoning just because it's a PUD. The considerations might be different...

[Jerry Rusthoven] - You would have, the amending process would be the same, we'd be doing... The PUD stays until the zoning is changed so if someone had an individual property within the PUD they too would file an amendment to the PUD to try to get... Where it gets complicated is when people say I want to be taken out of the PUD and the PUD is you know, the bigger picture. So we thus far to my knowledge have not allowed anybody to actually remove themselves from the PUD.

[Jim Walker] - That was my next question, if someone could request conventional zoning. Swiss cheese within the PUD.

[Jerry Rusthoven] - They could ask for that but we would not recommend it because we would look at this project as a whole. Our problem comes when you have people that sell it off into different pieces and one portion may have been an element of the superiority of it, they you know, conservation land. Someone buys that and then they want to take it out of the PUD and we say, no, that was approved because that was there...

[41:47]

[Kevin Ludlow] - So I guess the follow-up question to that then is, does the zoning department even have the ability, say for example Home Depot, they own their property, say for example they just decided that they wanted to make this an apartment complex which is a lesser zoning and therefore actually doesn't trigger section B of that code. Could they do that if they wanted to?

[Jerry Rusthoven] - They could file the case, uh...

[Kevin Ludlow] - But does the zoning department weigh in on that?

[Jerry Rusthoven] - Yes.

[Kevin Ludlow] - You do weigh in on that?

[Jerry Rusthoven] - But we would ultimately, if it's an administrative approval we would be the ones, you know, to give a yes or no.

[Kevin Ludlow] - And so after the fact though, say 10 years from now, whatever the case may be, does the master density chart still apply to the entire section?

[Jerry Rusthoven] - Yes. That chart goes with the ordinance.

[Kevin Ludlow] - Ok. So it will always stay with the ordinance.

[Jim Walker] - If um, in a PUD, that has a TIA controlling it and we get rail, so now we're looking at going up to the maximum allowable in there, is there anything other than administrative that lets people do that? Because they're not actually then amending it. Is that a first come, first serve?

[Jerry Rusthoven] - You're talking about the number of trips available?

[Jim Walker] - Right. There is, there will be a certain number of trips available that would be apportioned, somehow, to within the PUD, and then um, I, what we want to have happen is that land use then intensifies around the, uh rail. But then what kind of notification triggers... We might hold that off for another meeting

[Jerry Rusthoven] - I think what it is we would file an amendment with TIA to show you can accommodate the additional trips given the new route...

[43:25]

[Jim Walker] - But the TIA already already contemplates the addition, the... I guess it contemplates the land use. It doesn't, not the number of trips... That might be a future conversation is, uh, a couple of scenarios in the future about major PUD, uh changes or amendments.

[Jerry Rusthoven] - One more thing if I can point out I know it's not related to this, but you were talking about the school district for ? center.

[Jim Walker] - I was.

[Jerry Rusthoven] - Keep in mind that, uh, we have area local with AISD that spells out the department regulations for the school district. This is a separate agreement. That's not in the code.

[Jim Walker] - So would then AISD be exempt from Mueller's design standards? [long silence] ...I know what I want to hear.

[Jerry Rusthoven] - You would still have the PUD, the zoning ordinance that would apply to the property and the school district property would be within that. But where you have conflict I think you would go to the inner local. Because what happened was, about 10 years ago the school district and first big bond package, they were having trouble getting their schools done. So they just laid out with us a deal that says this is our, these are the regulations for schools. Just wanted to be sure [inaudible]...

[Jim Walker] - Thank you, that is worth noting.

[Woman] Very interesting.

[Jim Walker] - It is also worth noting that the MDA requires that city council, uh vote on any sale that Catellus is contemplating to another governmental entity. Umm...

[Rick Krivoniak] That does not include the 10 acre site that set aside for the school. Is that correct?

[Jim Walker] - That's correct. The 10 acres that are currently over there is uh... [inaudible question] No for the school.

[Rick Krivoniak] - For the school, yea.

[Jim Walker] - Catellus doesn't need any more council approval for that. Uh. Questions for Jerry? I have one person signed up on this. Dreux.

[Dreux LaViolette] - Actually a lot of my questions were answered.

[Jim Walker] - That is fabulous. That's why we do these meetings.

[45:30]

[Rick Krivoniak] - I have a probably really stupid question, but I'm going to ask it anyway. Umm. So this commission is charged with advising the council on the implementation of the plan?

[Unknown Responder] - Yes.

[Rick Krivoniak] - Does our recommendation carry any weight, the same weight as the planning commission, no weight? Do, I mean, we make a recommendation?

[Pam Hefner] - Are you asking me or Jerry?

[Rick Krivoniak] - Uh, well I'm looking at you. [laughter]

[Jerry Rusthoven] - If there was an amendment submitted to the PUD, that was not an administrative amendment, or even if it was an administrative amendment, we'd have no problem coming here I think you'll already gather from Catellus and ROMA, but we'd have no problem coming here doing a presentation on it uh, and answering any questions you need and then including whatever action you take, you know if you make a motion to recommend approval we can include that information in backup so that we give to city council and planning commission. We'd probably like to come here before we went planning commission...

[46:30]

[Pam Hefner] - And the planning commission, you know there was a subcommittee between this commission and the planning commission.

[Jim Walker] - Yea.

[Pam Hefner] - ...so, they are familiar, if they're still there, I think some of them still are, with uh, Mueller and were pretty invested in it.

[Kevin Ludlow] - So uh, I actually had a quick follow-up question to, to what Rick said there. It's come up a couple of times that, that the Mueller neighborhood will not actually ever have a, a contact planning team like a number of the other neighborhood around do because it's actually a PUD and a neighborhood. So that's where I think the question actually has some relevance as far as what the recommendation of, be it this body or some other body, you know what the influence ultimately is to make those decisions not to the zoning department but the planning department of that team. So, I don't know if you can further comment on that.

[Jerry Rusthoven] - Yea, well we would think that that this body, this body here would serve almost to the degree like a contact team would serve a normal neighborhood plan [inaudible]. There won't be a neighborhood plan for Mueller because we already have the master plan. The idea is ...[inaudible]... contact team would be...

[Jim Walker] - This body actually right now per our ordinance goes away when the last nail is pounded. And at that point then the POA and the Mueller Neighborhood Association are the structures in place to process these things and your weight at planning commission and council is proportional to your political influence, and intelligence. So that has always been true. That will always continue to be true, and we um...

[Jerry Rusthoven] - We might have to, after you guys go away, do some sort of cleanup ordinance because, there are things that a contact team can influence such as the timing of a plan amendment and things like that, do things, when this commission goes away we'll have to [inaudible]....

[Jim Walker] - I'd love to have the first in Texas POA that could actually double for, for that. I mean that would be a precedent setting deal. Umm. Jerry I just wanted to make sure I heard that staff is going to bring something to this body before planning commission?

[Jerry Rusthoven] - Yes, you're likely, be it administrative or council approved we have no problem doing that.

[Jim Walker] - I think that would be certainly our ideal that way, um we can be present at planning commission to represent that, that deeper level of thought and history with this particular plan.

[49:05]

[Kevin Ludlow] - One more. In this particular case, what would a plan amendment actually, I understand what it does in a regular neighborhood and how, that, those plan amendments work, but what would a plan amendment actually accomplish in the Mueller neighborhood. What would be the specific purpose?

[Jerry Rusthoven] - Well we really don't have a neighborhood plan for Mueller...

[Kevin Ludlow] - Right, exactly.

[Rick Krivoniak] - ...which is the PUD, yea.

[Jerry Rusthoven] - So after this body is gone and the last nail is built, you know, the last thing is built, someone wants to make a change to the master plan, you know, normally that would be a change to a neighborhood plan provided by a contact team. If someone was making a change to the master plan and this body no longer existed, I think we need a body to know who we as staff need to go to to present the proposed plan. I'm sorry, the amendment to the PUD.

[49:47]

[Kevin Ludlow] - So just for the record, without that body existing the only time a plan amendment could actually be brought forward would be in the month of July since this is east of I-35?

[Jerry Rusthoven] - No, because this not an actual neighborhood plan, this is a PUD.

[Kevin Ludlow] - So it only applies to PUD rules. So even after the fact though, that, that still wouldn't apply. Like after the last nail was hammered out?

[Jerry Rusthoven] - Correct, because we use the master plan as a substitute for a normal neighborhood planning process.

[Jim Walker] - It's more appropriate the master community association so it includes the businesses and the renters. Pam can we put that on our agenda for 2014? February 20, of 14. [laughter]

[Jim Walker] - Other questions for Jerry, or on the PUD.