



# PLANNING COMMISSION

## APPROVED MINUTES

January 10, 2023, 5:30 p.m.  
City Council Chamber, City Hall

**I. Call to Order**

Chair Amandolia called the meeting to order at 5:30 p.m.

**II. Roll Call**

**MOTION:** Excuse Commissioners Baker and Williams (Morgan, Cutright 2<sup>nd</sup>)

**ACTION:** Motion carried, 12-0.

**Members Present:**

Austin Amandolia, Chair  
Kimberly Cameron, Vice Chair  
Sarah Chagaris  
Garry Cutright  
Brandon Davis  
Bruce Herrod  
Scot Maclver  
David Morgan  
Anthony Sease  
Raymond Trapp  
Stephen Valentine  
Zuri Williams

**Excused Members Absent:**

Nathaniel Baker  
Carmen Williams

**Staff Present:**

Grace Smith, Assistant Planning Director  
Alexander Cahill, Senior Planning Manager  
Damiere Powell, Senior Planner  
Aaron Cain, Principal Planner  
Earlene Thomas, Transportation Engineer IV

**III. Adjustments to the Agenda**

Novel University Hill Development Agreement (Z2100048) Move to first case on the agenda.

**MOTION:** Move Novel University Hill Development Agreement (Z2100048) to first on the agenda. (Trapp, Cameron 2<sup>nd</sup>)

**ACTION:** Motion carried, 12-0

**Approval of the Minutes and Consistency Statements: December 13, 2022**

**MOTION:** Approve the Minutes and Consistency Statements for the December 13, 2022 meeting. (Cameron, Valentine 2<sup>nd</sup>)

**ACTION:** Motion carried, 12-0

**IV. Public Hearing: Comprehensive Plan Amendment**

**V. Public Hearing: Plan Amendment with Concurrent Zoning Map Change Request**

**VI. Public Hearing: Zoning Map Change Request**

**a. Novel University Hill Development Agreement (Z2100048)**

**Zoning Map Change Request:** Commercial Neighborhood (CN) and Commercial General (CG) to Commercial Neighborhood (CN) and Commercial General (CG)

**Staff Report:** Alexander Cahill presented **Novel University Hill Development Agreement (Z2100048)**

**Public Hearing:** Chair Amandolia opened the public hearing. The applicant and six others spoke in support. No one spoke in opposition. Chair Amandolia closed the public hearing.

**Commission Discussion:** The discussion centered on the following:

- Two members of the public asked why the affordable housing is not being done on site. Patrick Byker stated that use federal tax credits require a separate parcel which is difficult to do on the small site in question, and that the subject site is not in a qualified census district while the site in the development agreement for affordable housing is. Ted Heilbron stated that many more units will be able to be built on the proposed affordable housing site.
- Cartwright: 198 units were approved previously, why only 66 now? Heilbron: 132 units were provided gap financing by the City of Durham; this development agreement will help fund the remaining 66.
- Cartwright: Why is LITHC needed? Heilbron: LITHC provides capital that allows the residential units to be more affordable.
- Morgan: are there any design elements that are committed as part of the development agreement? Byker: There are general commitments but nothing specific.
- Commissioner Sease asked staff to elaborate on the three concerns that staff brought up in the staff report. Cahill responded that staff was hoping for the affordable units to be included in the market rate development rather than off-site. He also stated that there are concerns about a lack of guarantee for well and septic for the Habitat site, and would like to see annexation provided as part of the agreement. He also stated that there is concern about precedence in this agreement for provision of affordable housing off-site. Sease reiterated the concern about precedence. He stated that from a land use perspective this is not meeting the community goals and objectives, but it can be seen as a positive from a housing perspective.
- Commissioner Sease asked why the Habitat parcels are even part of this agreement. Ted Heilbron responded by saying there is no concern about including annexation of the parcels as part of the agreement. He also stated because making Habitat part of the agreement gets their parcels built faster.

- Commissioner Amandolia stated that he is in support of the agreement but has some concerns. He stated that he finds development agreements a “weird” way to do business. He also stated that while the developer stated that the lack of financing from the City is a positive aspect of this agreement, he thinks that the City should be providing gap financing for affordable housing as a public good. He also asked what happens to the affordable housing gap financing if the Novel Hill development does not move forward? Byker stated that that is a risk, but the development team is confident it will go forward.
- Commissioner Chagaris asked if there are perc permits for the Habitat parcels should the City not approve the annexation. Ted Heilbron stated that there are not.
- Commissioner Sease stated that the sidewalks that are committed in the agreement are not in the best location for where people will actually want to walk. Patrick Byker stated that the agreement is in place due to right-of-way constraints in consultation with GoTriangle and City Transportation staff.

**MOTION:** Recommend approval of Z2100048 with additional proffers (Morgan, Cameron 2<sup>nd</sup>)  
**ACTION:** Motion carried, 12-0

**Consistency Statement:** The Planning Commission finds that the ordinance request is consistent with the adopted *Comprehensive Plan*. The Commission believes the request is reasonable and in the public interest and recommends approval based on comments received at the public hearing and the information in the staff report.

b. **Shady Grove (Z2100016)**

**Zoning Map Change Request:** Rural Residential (RR) to Planned Development Residential 5.632 (PDR 5.632)

**Staff Report:** Damiere Powell presented **Shady Grove (Z2100016)**

**Public Hearing:** Chair Amandolia opened the public hearing. The applicant spoke in support. Ten people spoke in opposition. Chair Amandolia closed the public hearing.

**Commission Discussion:** The discussion centered on the following:

- Commissioner Morgan commented that he is concerned about traffic, particularly at Olive Branch/Carpenter Pond intersection and that the City should do more about traffic issues.
- Commissioner Morgan asked for a proffer for two more parcels to be treated as though they are in the A60 Overlay. Jarrod Edens agreed to the notification requirements.
- Commissioner Chagaris asked if this development could be annexed by the City of Raleigh. Grace Smith stated that there is an annexation agreement between the City of Durham and City of Raleigh in this area.

- Commissioner Harrod asked if the Lick Creek Greenway went through this property. Jarrod Edens replied that he did not think so; he stated that no corridor was requested. Damiere Powell stated that there is a general area for the Lick Creek Greenway but that there are no standards at this time.
- Commissioner Harrod asked about road improvements. Earlene Thomas stated that improvements on Olive Branch Road are no longer required based on updates from DCHC MPO and CAMPO.
- Commissioner Cutright stated that the housing types could be a good project, but there are broader issues that are brought to light by this project.
- Chair Amandolia asked if the developer would be willing to proffer elements that are consistent with the two upcoming text amendments. Jarrod Edens stated that he would be willing to proffer erosion control elements but not mass grading.
- Chair Amandolia stated that capacity is not the issue Olive Branch Road but rather the streetscape. He also stated that more density could be accommodated on the site and that good design and housing type mix is more important.
- Commissioner Sease seconded Chair Amandolia’s statements. He also stated that there is a good street network at this site, though it is of rural nature. Doesn’t support as is, but could be good with more housing types.
- Commissioner Davis asked Pam Andrews about the response she got from the Fire Marshal about blasting. Ms. Andrews stated that no homes were given inspections of their wells after blasting.

**MOTION:** Recommend approval of Z2100016 with additional proffers (Morgan, Valentine 2<sup>nd</sup>)

**ACTION:** Motion carried, 9-3 (Morgan, Sease, Valentine voting no)

**Consistency Statement:** The Planning Commission finds that the ordinance request is consistent with the adopted *Comprehensive Plan*. The Commission believes the request is reasonable and in the public interest and recommends approval based on comments received at the public hearing and the information in the staff report.

c. **Kempski Milstead Home (Z2200026)**

**Zoning Map Change Request:** Residential Rural with a development plan (RR(D)) to Residential Rural

**Staff Report:** Damiere Powell presented **Kempski Milstead Home (Z2200026)**

**Public Hearing:** Chair Amandolia opened the public hearing. The applicant spoke in support. No one spoke in opposition. Chair Amandolia closed the public hearing.

**Commission Discussion:** There was no discussion on the item.

**MOTION:** Recommend approval of Z2200026 (Morgan, Cameron 2<sup>nd</sup>)

**ACTION:** Motion carried, 12-0

**Consistency Statement:** The Planning Commission finds that the ordinance request is consistent with the adopted *Comprehensive Plan*. The Commission believes the request is reasonable and in the public interest and recommends approval based on comments received at the public hearing and the information in the staff report.

**Blanchard Property (Z2200046)**

**Zoning Map Change Request** Residential Rural (RR) and Commercial General (CG) to Commercial General (CG)

**Staff Report:** Damiere Powell presented **Blanchard Property (Z2200046)**

**Public Hearing:** Chair Amandolia opened the public hearing. The applicant spoke in support. No one spoke in opposition. Chair Amandolia closed the public hearing.

**Commission Discussion:** There was no discussion on the item.

**MOTION:** Recommend approval of Z2200046 (Morgan, Valentine 2<sup>nd</sup>)

**ACTION:** Motion carried, 12-0

**Consistency Statement:** The Planning Commission finds that the ordinance request is consistent with the adopted *Comprehensive Plan*. The Commission believes the request is reasonable and in the public interest and recommends approval based on comments received at the public hearing and the information in the staff report.

**VII. Public Hearing: Text Amendment**

**a. Erosion Control UDO Text Amendment (TC2200005)**

Proposes revisions to the Sedimentation and Erosion Control standards (Section 12.10) and Enforcement and Penalties (Section 15.5) of the *Unified Development Ordinance* (UDO) regarding soil erosion controls during the development of larger sites; proposes increased design and implementation requirements in areas with Triassic soils and adds enforcement standards.

**Staff Report:** Ryan Eaves presented **Erosion Control UDO Text Amendment (TC2200005)**

**Public Hearing:** Chair Amandolia opened the public hearing. Ryan Eaves and eight others spoke in support. Chair Amandolia closed the public hearing.

**Commission Discussion:** The discussion centered on the following:

- Commissioner Morgan asked who does enforcement. Ryan Eaves stated that it is County sedimentation and erosion control. That is already in the UDO. Ryan Eaves stated that the goal is to do inspections monthly, but are hitting sites about every six weeks with current staffing.

- Commissioner Chagaris asked what measures and who is responsible for removal if too many flocculants are used. Ryan Eaves stated that sediment basins are required to be cleaned out when half full, which will then remove flocculants.
- Commissioner MacIver asked what the new sediment basin time will be. Ryan Eaves stated it will go from three to four days in this text amendment.

**MOTION:** Recommend approval of TC2200005 (Morgan, Cameron 2<sup>nd</sup>)

**ACTION:** Motion Carried, 12-0

**Consistency Statement:** The Planning Commission finds that the ordinance request is consistent with the adopted *Comprehensive Plan*. The Commission believes the request is reasonable and in the public interest and recommends approval based on comments received at the public hearing and the information in the staff report.

**VIII. Old Business**

**IX. New Business**

**X. Adjournment**

The meeting adjourned at 8:42 p.m.

Respectfully Submitted,

Terri Elliott, Clerk  
Durham Planning Commission