

Village of Shawnee Hills
Planning and Zoning Commission Meeting
June 15, 2015

Chair Kathy Isern called the meeting to order at 7:03 p.m.

Members present: Kathy Isern, Pat Monahan, Dave Hatcher and Dan Mathews

Also Present: Solicitor Brian Zets

Kathy asked if there was an agenda or not. Pat said he sent one out and he was gone most of last week but I would say what we are really going to do is go through the minutes then we were going to come back and deal with the ABR and then I think the other one was what do we have to do for density.

Kathy said we will look at the minutes from last month. Pat asked if anyone found anything. Pat said on page six where it says Pat went to look at the code book. That's okay. Then in the middle of the next page it says: what planning commission might have some ideas about, so I am marching through. I think what the concept was that we made sure whatever process we have it continually flowed through. I think that was what was really meant. It's not very clear. Kathy asked if he wanted to change the wording. On page seven in the middle change I am to It is marching through the process. It was moved by Dan, seconded by Pat to approve the minutes from May 18, 2015 as amended. Following vote on the motion is recorded: yea, 4; Kathy, Pat, Dave and Dan. Nay, none. Chair declared the motion passed by a 4-0 vote.

Pat said he had Shirley make paper copies of the proposed legislation that Brian has prepared in regards to adding the ABR to the PUD legislation.

Brian said he went through Section 1117.10. Because I know we had said that we wanted to have the ABR worked into that process because there was this whole idea of commercially zoned properties are covered by ABR. They actually review all commercial plans whether it is a commercial plan or if it's a commercial plan that involves a zoning and redevelopment so what I did was I took that concept and plugged it into this PUD section so that the ABR would have a review of the plans if it involved commercial. He said ABR takes a look at SCPD rezoning or I guess arguably just a straight rezoning to some commercial, if you want to go residential to commercial. Now this added in, ABR doing the plan review and the zoning review for a PUD rezoning as well.

Brian said under SCPD it goes from the Code Enforcement Officer to ABR, then a recommendation to Council and that is exactly how this tracks as well. If you were going to come in and do a PUD zoning, it would be reviewed and then a recommendation from ABR to Council.

Pat said I wasn't involved when we did the SCPD, but I would contend that they may be answering things that they are really not supposed to answer. I understand the aesthetics, I understand the signage, I understand the fire exits and things but when it comes to planning and zoning questions, I still believe where there was a PUD it might require us to look at SCPD

eventually. I think that where there is commercial involved we should have a joint meeting and they handle those that have to do with aesthetics and we handle those that have to do with planning and zoning because ultimately I think it is our recommendation.

Brian said now I am completely confused. This sounds to be different than what we talked about last time. What would be a planning and zoning issue versus an ABR issue because last time I said planning and zoning should review all rezoning, so that would include the text. I can't figure out where that dividing line is to what do you want to be ABR versus what do you want to be planning and zoning.

Pat said lot coverage is the first thing that comes to mind. Kathy asked what do you mean by coverage? Pat said lot coverage. Does ABR handle adequate parking spots, do they handle the lot coverage of the structure that people are going to put in. Where it is combined both residential and commercial, if that were to exist, they don't have any authority over residential.

Brian said that would be a wholesale change of the SCPD section too because I tried to make this to marry up with what the code says today. So if you want to change it all we can change it all but that is going to be a change from what Section 147 and the SCPD sections say. Right now ABR would have full review over an SCPD rezoning.

Kathy said her only reaction to reading this and maybe you can explain. Almost all of this in the red basically says the planning commission or the ABR shall do this or do that and make a recommendation and so on. How do you determine which group does what and it sounds to me like they are interchangeable?

Brian said what I thought we said last time is that if it had to do with commercial, ABR would do it. That is why I added in the first paragraph, in Section a, as described in Section 147.03 the Architectural Board of Review shall review all plans to commercially rezone and develop property by means of a PUD, regardless of whether the entire parcel or any parts thereof, is being rezoned. Planning Commission shall review all other PUD rezoning applications. I thought we were saying last time that planning commission handled residential and ABR handled commercial.

Pat said I did not mean to infer that at all. Here's where I have a problem with it. I have been in every one of the discussions we have had on PUD and I think I understand it fairly well. I do not anticipate somebody on the ABR taking that and going with it. That is nothing against anybody on the ABR. It seems to me it has to be a joint meeting and those items that have to do with the normal ABR stuff they continue to do that. What I meant when I said ABR doesn't do residential, that is the way I should have stated it.

Kathy said if they don't do residential, who is left to do residential but planning and zoning? Pat said we would have to do that. What I didn't mean to do was preclude us from the commercial end of it. In the commercial end I think there are decisions that are naturally part of planning and zoning, especially in a PUD. It depends on how complex it is too.

Brian said it is the same questions. If it was a rezoning, no matter if it is a PUD or if it's not. It is all those things. When you look at the zoning application you are going to have to come to a decision as to exactly what issues you want planning commission to look at versus what you want ABR to look at. You are going to have to identify those and put those into this section or otherwise it will be hard to figure that out as opposed to the types. You are also going to have to change 147 and the SCPD section because that is not the way it reads now. That is why I wrote that other piece of legislation changing 147 because one 147 now says the ABR shall review and approve or deny all plans to all commercially zoned properties within the village for which rezoning is not required. Then it says for commercially zoned property laws that require rezoning or development plan approval which are located within an SCPD the board shall review the development proposal and shall only issue a recommendation to council. Right now ABR looks at an entire SCPD zoning and makes a recommendation. Planning commission is not involved whatsoever.

Pat said so if there is a zoning change involved and if it is not going through SCPD, so it's a PUD. WE actually have that additional direction which I am not so sure that SCPD shouldn't just be eliminated. That's just a thought. If there is a zoning thing involved, isn't it more appropriate that if you said what we write in there, that planning and zoning would have to deal with any zoning changes and ABR would have to deal with the other things. I am just looking for something that would be definitive in that sense. I am throwing that out to everybody.

Dan said if there is a zoning change, in all reality, the only time that you are going to have commercial and residential together is probably Cedarbrook and the Boat shop, don't you think. Kathy said maybe around Straders. Pat said what about the commercial lot over here,. What if they came and said we would like to put something above it. It would still have to remain commercial, the primary use of it.

Pat said here is what I am not comfortable with. I understand what you said because we have had SCPD. Where we have a PUD the complexity of that is going to be a little more difficult than I like, the color, I like the material. Gee, the signage looks good. I think it has a lot more questions involved in it and I don't want to pile stuff on top of ABR.

Dan asked where does it, because it is a planned unit development. They come with the plan for the most part. That is the legislation that we passed. They have to have x, y and z. They have to have everything pretty much laid out. Brian said yes, they will have it all done. In theory they should have worked with Mark , the village, with planning commission, with ABR, with whoever they needed to to put the plan together. That plan, in theory, will be put together and submitted with an application with the idea that unless there was something tiny that came up, that's exactly what is going to go through.

Pat asked so does the planning commission make a recommendation in there. Last month we were talking about should ABR be involved and should ABR not be involved. Out of respect for what they do I wanted to see them be involved but it looks like we fell off the table on certain things. I am okay if that is what you guys want.

Kathy said her issue still is, pretty much the board or the planning commission, either one, they are interchangeable, with their authority and their ability to make recommendations. So how do we decide who does it?

Brian said if it was commercial property it would be the ABR. If it was residential it would be the planning commission. Pat said and what if it was mixed. Brian said it is the ABR. We talked about that and if it was any aspect of commercial it would be the ABR. Pat asked if everyone was comfortable with that? My intent last month was not to throw away the ABR. Kathy said they were by themselves with the SCPD which is very similar to the PUD for planning purposes. Brian said it is really the same thing practically. It is more expansive but in theory it is the same.

Dan said I think there are very limited situations where you can end up with a mixed use and especially with those Casto guys I would find it almost hard to believe that somebody would actually put mixed use if the plan wasn't top to bottom. He said I would think there would be multiple units to offset the cost of building.

Pat said I am okay if everybody else is okay and I guess the justification I would go by is that is the way it is written in SCPD, the PUD is very similar. I am not so sure that we should have both but that's okay. We don't do enough of any of it in order to really get good at it. I am probably more protective of the residential, from a zoning perspective, to make sure that we don't dump something on somebody.

Pat said the facebook rumor mill needs to have a stake driven through it's heart because people start hearing things. I think if we know that we are going to always buffer that with something, like down at Cedarbrook, I think it will be a disservice to the current residents to back up commercial. You are looking at the back door and I think that's true as I would think over here with the lot that is commercial in front with the residential behind it, if people knew that they were buying something that would have commercial there, that's a different story. I think our protection as well as when we get into residential, keeping a buffer is very important. Are we okay with this? Dan, are you okay with the legislation?

Dan said I think I am. I think it is a roll of the dice where we actually have very limited chance of getting an application where it will be both residential and commercial.

Brian said I agree. I think if this were to get through council in whatever form it is. It will be the preferred method of rezoning, no matter what you do. So if you have any commercial property that is being rezoned and developed, it will go through this PUD because the developer can come in and basically write the text. You can build it the way you want it to look and the way you want it to set on the lot. It will always be the preferred method and that is why I agree with the Mayor when he says SCPD will probably fall by the wayside just because if you are given the choice, you are going to go with the PUD chapter because it is more complete. As long as you are then comfortable saying the next piece of property that is commercially developed will be developed through a PUD and the ABR will be reviewing it then you are good. It really doesn't matter even if it's mixed you will start to see this being the way that all properties are rezoned.

Pat said and I agree with you. The only one I really know that is SCPD is El Vaquero. Kathy said isn't Walgreen's? Yes it is.

Pat said so now we go down to the Cedarbrook area and we have all the commercial development. What about the rim around the outside that is residential? Do we drive that because I want us to drive that? Brian asked what do you mean drive it. Pat said are we the ones that make the recommendation because ABR could come and say sure and I don't mean, again, they say sure I think that's great, take that commercial, let's do this.

Kathy said if it is one developer and maybe they only want to rezone the part that they want to put commercial on, if that's the case and they leave the other part residential, which is what it is right now, then it would come to us, right?

Dan said if it was one developer it would all fall under the PUD. Brian said right. Kathy said it would depend on the developer. You don't have to put all the property into a PUD, right? Brian said correct. Kathy said they can just put the part that sort of looks commercial right now and leave the other section residential which it is already zoned in which case P&Z would look at it.

Brian said when you say us too, eventually it has to be approved by Council. Pat said let's go back to eleven pages of notes and many discussions which has been going on for eighteen months. Let's take the Cedarbrook, Daulton and Casto property there. If somebody came in with an entire PUD and said we want to rezone that back there, we want to want to make that commercial all the way up to East Osage and up to there. That doesn't go to planning and zoning? Brian said no, not that way it has been written. Kathy said it would go to ABR. Pat said I don't like it. I think planning and zoning has the benefit of a lot more discussion on that than ABR. Sure that looks good, let's put in a hotel. I really have a problem with that.

Brian said I don't know if I have a problem with it but that is why I originally said ABR should not be involved in the process at all when it comes to a PUD. That is why it was originally drafted to say it should all come to the planning commission.

Pat said go back to my statement, out of respect for them, I did not want to lose what they did. We not only lose what we did, we dropped dead while they came to life so if I had to pick one of the two and this is no disrespect to the ABR, I would pick the planning commission as the one to do the whole thing. Brian said ABR does not exist anywhere else by the way. I am sure they do great work and they have done it for a long time but this is the model that everybody has. Planning commissions do rezoning, so they would review the text. Kathy said ABR does not meet very frequently. Pat said no they don't. He said that if it had to be between one to two I would have to go to the planning commission because of the fact that I think we have to stay more tied into it. Dan said we have had much more discussion on it too. Pat said I realize this has to go to council, but the idea was to streamline the process so it is more conducive to development. If we turn it over to a whole new group of people that haven't had the benefit and this is just assuming we are all sitting here, then what we could be doing is say that's a great idea why don't we just do the whole thing. If it had to be one or the other, I would go with the planning commission. If it is a standalone commercial that doesn't come into the PUD then it is still ABR.

Dave said it does make sense if you want to maintain control in this room of situations like that. Otherwise you are basically neutering the planning commission of anything that has to do with commercial. Pat said that is going to come out all wrong, maintaining control in the room. We had this discussion with the Board of Zoning Appeals. That is where we decided after something had happened that just led us down a path that wasn't even out there. We have one representative of council, much like Dan is representative of council on this, to make sure that they understood what the bigger picture was. I think our job is to be part of the bigger picture and ABR does a good service but if it had to be what's behind door number one or what's behind door number two I would have to stay with the planning commission to make the decision on this. It just makes more sense to me. Pat said to Brian, you said no one else has the ABR? Brian said no. Kathy said looking at it that way; I would go with planning commission also because we just have more experience with all of it. So sorry Brian.

Brian said I would throw this out there than too. I would suggest that you think about Section 147.03 because you don't want to create a situation when someone sort of picks the forum of where they are going because if you could do SCPD or PUD then you could say I don't like those guys on the planning commission so I will just zone it SCPD and take my chance and head down that road. You will probably want to make it consistent. You could create it so the ABR could still review a plan if it did not involve rezoning to commercial. If it involves rezoning, I would suggest changing 147.03 and taking that language out. Otherwise I think you will create a situation where someone will forum shop.

Pat said I have to agree with that. They still have the right to go to the ABR with a normal single property of commercial, right. Right now we have three paths because that still exists and I do not have a problem with that because it has worked for us. If we are going to do this then SCPD, if we want to retain SCPD, and PUD .

Dan asked what do the people on ABR think their job is anyway. Do they think that is what it is, pick the colors, etc. Pat said no there is actually a written up description of what ABR does and again, I am not out to disrespect them but the point was made that we are more deeply involved I think is the part that if you are looking at where does the village go. ABR, when El Vaquero was adding their new thing on the side, years ago, and they got involved in the design of that and they got involved in the fire exit of that, they called in people, they got involved in the garage doors so there were a number of things they do. I contend they still would have the capability of doing when they are modifying a standalone or somebody is creating a standalone but as far as what happens in SCPD, I think we need to decide do we recommend killing SCPD, and making everything come through the PUD. Kathy said I think I would. Dan said I would too. We did it to make it easier. Dave asked is there anything that the SCPD offers that the PUD doesn't. I don't think there is. Pat said I think it was what was vogue at the time, fifteen years ago.

Pat said I know we do not have to settle this tonight and asked Brian to take another shot at what we just said. Brian said this will reduce what he would have had to do with some other code sections. Pat said if he could restate what I think our position is, when it comes to PUD, that the planning and zoning commission will make those decisions. We propose to eliminate the SCPD which I am sure council will not understand all of that which might be a pretty good discussion when we have that. Where there is still a standalone commercial ABR will still be involved as

they are today. Brian, if you can take that charge and roll with it, I think that cleans it up. Dan you asked a question and in the back of my head I've been running it through, signage, color, materials, do they have the right kind of fire exits, do they have this, do they have that. Dan said I was just getting at, is that what those people signed up for. Pat said yes. Dan said they had no interest in zoning. Pat said the biggest thing is that long list of volunteers we've got. The last thing you want to do is offend somebody and I think they have a very good position to do that. The biggest one they ever did was down here at the vet clinic because that was quite a meeting actually. So if that resolves that that gives us marching orders for next month.

Pat said the one part that wasn't dealt with unless I misread something; you totally threw me last month on the density issue. I thought the PUD thing, we started talking density, then we went to PUD. What do we have to do, do we have to pick lots, for example the ones Steve Smith and Frank Iulianelli talked about, the ones abutting commercial. We can use Eileen drive as another example. Would we have to deal with those pieces of property to give an increased density?

Brian said if you are talking about residential density 1117.05 specifically allows modification of the density requirements. It says: in addition to these modifications, village council, after planning commission approval recommendation may permit an increase in the total number of residential units allowed through the PUD when these four factors are demonstrated. He said but that only allows a residential increase in density of the homes that are currently allowed which are single family. As we said before the PUD allows increased density but it only allows single family because this is all there is. Brian said he started to take a look at multiple family and that is what you have to figure out what would you really like to have with respect to multi-family districts. If you were talking about a duplex type home, two family homes, an apartment, a condo, a townhouse. Pat said don't use the A word, apartment. Brian said in the grand scheme of all the things you have, apartments, condos, town homes and what I have now learned even though it's unofficial, a land dominion which is a situation where the owner owns the land and the building but an association maintains the outside grounds and usually you don't have a clubhouse. It is like condo living but you actually own the ground and the land and an association takes care of the maintenance on the yard. Dan said there are Dominion neighborhoods that are built like that. Dan said for example, Bob Grants property, if he built detached single family homes there would not be a problem. It is only if the buildings are attached. Brian said correct.

Pat said, so let's try this, do we agree that the northwest end to put the internet to rest, that that is really single family homes. Brian said I don't think you can really agree on that. I think that is a case by case basis. Pat said that is our intent though. I am trying to narrow it down. I think we came out with the one they came and talked to us about and we said we really don't want them attached. We would like them separate unless I missed part of the conversation on that. Dan said one, I think that is our preference and we can always fall back on, even if somebody came in with a fantastic condo plan, I think we can always fall back, because we want single family, I think we can always fall back on it create too much high density, it creates too much traffic. Pat said I was looking for a box that separated this from that. Brian said somewhere ether is that comprehensive zoning plan that lays out where everything is ideally supposed to be. You could create a multi-family residential district.

Dan said her is the only thing with the lot that Frank and Steve came in with. If we say, and I think this is why we have to address how we have to do multi-unit, if we say listen we would rather them be detached I don't know if a developer, because of the cost, would do the development. I think the cost would be more. Kathy said sure you can't share walls, savings in utilities set up and stuff. Dan said so either way I think we have to address how do we allow multi family. Brian said you have to figure out which ones do you want out of that poll and when you look at multi-family district regulations you have to look at all the regulations then. Heights of the buildings, setbacks, there are lots of regulations. He said he pulled some recently and some have some little charts that make it easier because you are going to have to set out the development standards for them.

Pat aid I am going to go back to what I was trying to do before. So here is Eileen Drive. Would it be fair because we know they are not going to build on both sides, would it be fair to say that will be single family homes. Would it be fair to say that would be single family homes and then we look for districts much like that over there that we can decide what we want to do.

Brian said I don't think there is any way to say that. You can take the comprehensive plan and say this is what we anticipate the zoning to be. Someone can come in and say they want something different and that would be a fallback if you decide you want it to be denied. I guess in theory you could do it that way but you would have to rezone the property today that way. You can't just in theory say this is the only thing that is going to be there because you have to wait for each applicant to come in and figure out why it should be rezoned or not rezoned or what should be there.

Dan said can we say where residential property abuts commercial property where it is road to road, we can really limit which lots, without saying which lots. Brian said you could probably do that through the actual requirements of the district. You could say you couldn't have a multi-family home within 100 feet of, you could figure out a way to place restrictions on setbacks and things so they arguably couldn't go somewhere unless somebody came in and bought up a bunch of lots and mowed down homes.

Pat said just don't come in and propose a line of three story condominiums back there because we are not going to do it. Same thing in the back corner, we are not going to do it. Could we keep going back to the plan and those plans are like something dreamt up by government people that never get read. Could we do a framework with these pieces of open property? To say what would be allowed and go through zoning. Brian said no the only way you can do it is put a different color code on the comprehensive plan and say this is ideally what we like because this is the comprehensive zoning plan of the village. Pat said so unless we do anything else. We have our plan of single family homes. Having said that, that protects certain areas. If Frank and Steve want to come to us and say on this property will you consider rezoning this for a higher density so we can put these in, we would treat that as a PUD by itself. Brian said assuming that is what they are trying to rezone with, yes. Pat said okay because that was the discussion last time and we were just kind of thinking and Dave brought it up, where it abuts commercial property it may be logical because the existing properties the majority of emails come from where one touches the other.

Pat said so we don't do anything until somebody applies to do something. Dan said does that muddy the water. They haven't bought that lot. Pat said I know. I am trying to get to something that says these are the ones they will be allowed on. I will tell you what people were thinking. God knows I used that word condo and then I tried to switch to patio homes and whatever. We were already asked to rezone that to commercial. They started talking to us and we said no. They didn't file because we said we did not want to consider that, then the next question was would you consider multiple story condos here. Basically what you are looking at is a three story condo facing towards the residential. Again, what do we want to do? I don't think multiple story condos, even though they sound good to a developer, the only time I think we would entertain something was if they could make it conducive, let's just say Strader's property sold over here. Somebody wanted to do a development that kind of had European shops with condos upstairs and they naturally had to meet all the other standards. I am okay if we don't touch anything until it comes up but we have to realize that slows down anybody that wants to do something or do they file a normal BZA thing. Dan said I think that defeats the purpose of us passing the PUD.

Brian asked what is going to the BZA. Pat said okay let's take what they talked to us last month about. Let's just say they took that piece of property and they wanted to do whether they were attached or unattached four single family homes that might have common walls. Brian said I don't think they could do common walls. I don't think the zoning code today allows for that. Pat said so my question is, do we have to do anything to that code in order to allow certain things in order to ever have those lots utilized. Brian said yes, that is what I said. You have to consider if you want some form of multi-family home, whether it be two family attached, whether it is condos, apartments, townhomes, that needs to be created. You could, in theory, wait until someone came up with something but you would have to create the district, create it's regulations, and then you might run the risk of creating it to sort of fit the people's application that is in front of you and the next person down the line gets denied and they are going to argue well you didn't even have this and you created it for them now you are denying me and it could get into an ugly fight. Pat said I think if somebody were going to come through today and about the current residential, I think we have our answer, unless I am reading it wrong, they are basically some form of a land dominion like you called it or something that affectively has residential homes facing residential homes. Brian said yes you could put detached single family homes. Pat asked Brian if he had a good example, that we can look at next time, that we can pick out lots that we could possibly designate as multi-family district. If you had some model legislation that without us reinventing the wheel that we could take a look at.

Brian said he pulled some examples but I don't think it is going to be modeled, because you have to figure out what you want the regulation to look like for what you want. Kathy said for what we want to live with. Brian showed the commission an example from Wapakeneta and they have a conversion of single family into two family dwellings. Multi-family dwellings, single family detached dwellings so they have sort of these different residential uses and then they have a chart that talks about lot development standards, minimum lot areas, maximum lot coverage, minimum lot frontage, front yard setbacks. They have all these which in theory you could say we would like to model it after but you would have to figure out – because they say single family detached dwelling is 7500 square foot lot so you would have to figure out what is really going to fit on our lots and how is it going to work so you could fill these numbers in to make it work. There is a lot of work to putting this together because you have to figure out what you want. You can use

some of these as examples. He said Greenhills has a very good code with respect to their development standards. They didn't use the chart form but they talk about different setbacks and coverages and height regulations.

Dan said I am looking at this and can't we keep it as simple as saying multi-unit is allowable where it abuts commercial. Kathy said you still have to put in some standards so you have a rough idea of what it is going to look like. Brian said even if you look at the residential code there are still setbacks, lot coverage and all those things. You still have to create all that for the district. Dan said what is your say where it abuts commercial and it must be filed as a PUD. If it is filed as a PUD, it would come through here and we can dictate. Kathy said we still do not have any underlying code that permits multi-family. Brian said you will need the guidelines. Pat said I agree with Kathy. If we have a couple of good examples, maybe two or three and we go through them ourselves and then we come back to get the underlying code and then I think probably Steve Smith knows the answer to these. Of the existing lots we have in the village today, using that one as an example, we can designate those as permissible multi-family areas. Would that work Brian? Brian said I can't remember when we did the comprehensive plan a while ago, I can't remember how the process was. You are talking about designating; there is no way to designate it except for potentially that map. There is no real reason to designate anything. If somebody comes in and they say we want to rezone. Planning commission can do what they want to do. There is no way to designate that we only want this here. You can't do that anywhere really. Pat said we could very easily tell them where we don't want it.

Brian said that is why you start those early conversations when someone comes in and wants to rezone property. You have these discussions so you can figure out what is going to go on the lots you are thinking about and come to a final development plan.

Pat said so we couldn't, just for simplification, where it abuts commercial, we couldn't put that out there. If we were to write that in, try to do that. We are all thinking of the empty lots but somebody could easily go and take an existing lot that is behind Iacono's, behind Dells and put something in there. Kathy said you can say it is only permissible there but you still need to know what the housing is going to look like. You need to define it. Pat said my question is, can we save them the time of going down the rat hole of saying I want to put that on Miami Drive. Brian said yes, that is when they come to a planning commission meeting and you tell them that. Pat said so we can't predefine it for them. Brian said like I said before you might be able to do it if it has to be so far from something you don't want. You can build in the regulation that it can't be so far from something. I don't know how you can write the words to say it can't go here. You have to figure out a way to make it. Pat said I was more into where it can go. Brian said right but that is what you can't do so we have to reverse engineer it the other way and that is really hard. You can't tell somebody you can only put commercial here. In the grand scheme of things maybe a rezoning would never pass but you don't tell somebody you are not allowed to do this with your property just straight up without you even coming to me with a plan or an idea. Pat said we do today, you can't put a house on commercial property. Brian said you cannot tell someone you can't put a house there because they could come here today and say I want to rezone that to residential and put a house there and it would have to follow the normal course. Now at the end of the day the rezoning might be turned down but you can't tell them you are not allowed to put a house there.

Pat said so if I were answering Steve and Frank and say okay you would have to come in and apply to do that. There is no way go through and create a density in that area right there. Is there a way to make it easier so they know where it will be permissible? Brian said no. You can tell them what you would like to see but it is not in the code anywhere.

Dan said so that preliminary conversation we had with them last month. They said they haven't gone into contract yet and who knows if the lots are even for sale. Could they walk away from that thinking we could probably put multi-units here. We should progress, we should approach them, ask them if we can buy their lots. Is that what it would basically come down to, just kind of a feeling? Brian said right. Pat said and this is why I don't think we solved anything. I am not trying to change the law, I just think unless we have a way of designating areas I don't think we resolved that issue because somebody is going to say why would I bother. Brian said I think you would because after you have those conversations and they have conversations with Mark and they figure out what they can and can't do. You start to develop plan and eventually Mark will say my report will say that this should be approved. A little further down the road you come and have some conversation with the planning commission and you get some good idea of what the zoning should be like, this is what the text should be like, this is what your landscape plan should be like. I think by the end of the day, because I have done rezonings, you have a good idea of the day I submit my application and my text I have a feeling that this is working and I am going to get an approval of recommendation to council and then I talk to council. In the development world there is no guarantee. A perfect example is the BZA hearing last week where those people asked for a variance and they almost didn't get it because it wasn't going to be approved. They had a plan for \$400,000 house that almost got flushed. I don't think they went through the process correctly on that but they eventually got the variance they needed.

Pat said so you are going to give us examples of the underlying thing we have to do and you are also going to give us the proposal to remove the SCPD and we will turn this over to planning commission rather than ABR. ABR still exists for standalone commercial. Brian said not for rezoning of the property, just redevelopment.

There being no further business, it was moved by Pat, seconded by Dave to adjourn. Following vote on the motion is recorded: yea, 4; Kathy, Pat, Dave and Dan. Nay, none. Chair declared the meeting adjourned at 8:02 p.m.