



Date: May 9, 2011
To: University Heights Mayor & City Council
From: John Yapp; Executive Director
Kent Ralston; Assistant Transportation Planner
Re: Public Comment Regarding the One University Place Planned Unit Development

As discussed at your April Council Meeting, MPO staff has been collecting public input regarding the One University Place Planned Unit Development proposal. To date, we have received five comments related to the proposed development. Several comments are copied below and two are attached. We will continue to collect public comments through June 3, 2011. Correspondence received by June 3rd will be presented to the Council at your June 14th Council Meeting.

Public Comments Received:

1. Jeff Edberg - Ms. Mayor and University Heights Councilors, Please defer this important vote until after the General Election in November. If this is a good idea, it will still be a good idea in November. If it is not supported by the majority of the citizens of University Heights, a premature vote on this matter could be very bad for University Heights and not in accordance with the will of the people. There is no harm in waiting to make sure this is what the majority of the people of University Heights wants. If a vote is rushed I have to wonder why this developer has more influence with the elected officials than the citizens of this city. Thank you for your consideration.
2. John Streif, 1479 Grand Avenue - I am in support of the plans which were recently mailed to all residents. I appreciate everyone keeping us well informed. Thanks for all everyone is doing on this very important project.
3. June Braverman, Ph.d - Please correct spelling of Chautauqua on site map and REMOVE my name, June Braverman. And I would hope that the title of Chautauqua be removed because our August celebrations are not Chautauquas. According to Wikipedia, "The Chautauqua brought entertainment and culture for the whole community with speakers, teachers, music, entertainers, preachers and specialists of the day" It does not mention garden tours and bake-offs. For further information check Google. Thank you.
4. Larry Wilson - Dear Council Members and Staff, I have reviewed the One University Place PUD submission package as posted on the University Heights website so that I might have a better understanding of whether the project is being developed as promised and expected. Since I have conducted this type of plan submittal review for many years as campus planner for the UI's Planning Design and Construction department and also when employed by the Louisville & Jefferson County Planning commission as Director of Urban Design (which included Planning and Zoning, Board of Adjustments, etc.), I reviewed the One University Place plans in

the same way that I reviewed plans in those positions. My review covered how well, from my perspective, the plans met the PUD submittal requirements of Ordinance 180 Section D and whether development issues and concerns were fully addressed. I think it is very important for the UH City Engineer and MPO planners to review the submittal package for the council. My intent is to raise questions and concerns in my review for them to provide their perspective and/or assure they are answered by the developer and his architect. I would be happy to discuss my findings with you if you would like.

Dear Council Members and Staff, I have discovered that I switched two dimensions indicated in plan view on the C-101 Layout Plan (page 2 of the memo) as indicated below, so I have attached the corrected memo. My apology for the confusion.

Front Yard (Sunset--corner lot)

R-3: 25ft required, 20ft listed in plan notes, ~~409~~ 204ft provided in plan view

C: 30ft required, 20ft listed in plan notes, ~~204~~ 109ft provided in plan view

Attachments

MEMORANDUM

TO: University Heights City Councilors

DATE: May 8, 2011

FROM: Pat Bauer

RE: Initial Comments on Submitted PUD Application Materials

A. NO MENTION OF NEED FOR/TERMS OF TIF FINANCING

The submitted application materials include no mention of any request for TIF financing. It is unclear whether this omission is an indication such financing is not needed for the proposed project to proceed or instead effectively is a request for approval of the PUD application in advance of consideration and action upon a subsequently submitted request for TIF financing. To avoid the possibility of inappropriate sequential determinations, either the PUD application should not be approved until action upon any request for TIF financing is completed or any prior approval of the PUD application should bar any subsequent request for such financing.

B. LACK OF MEANINGFUL SPECIFICITY ON THREE CRITICAL CONCERNS

The submitted application materials are strikingly unspecific on three concerns central to meaningful control of the adverse effects the development will impose on surrounding residents and University Heights as a whole. Moreover, in two instances this lack of specificity explicitly is attributed to conditions caused by the application coming forward well in advance of Saint Andrew Church's decision to sell and/or any subsequent decision by the developer to actually begin construction either on one or both buildings.

1. Types and Hours of Operation of Businesses in the Commercial Portion of the Project

“Ordinance 180 provides that matters relating to the types of business and hours of operation of occupants in the commercial portion of the project will be addressed in covenants, easements, and restrictions (or, in this instance, more appropriately the Condominium Declaration). **It is anticipated that all of the uses specified in the Ordinance 180, Section 6.F(2)(b) will be permitted, along with any such further uses as may be identified during the course of the PUD Application review process. In terms of hours of operation, it is anticipated that there should be a balancing of the interests of commercial activities choosing to locate in the facility with the interests of the adjacent neighborhood, much in the same way as those interests have been reasonably balanced in connection with other commercial areas within the City of University Heights.** The PUD Application review process should include such discussions with the outcome being incorporated into the Development Agreement as future requirements for inclusion in the Condominium Declaration.” [Supplement, p. 3 (bolding added)]

2. Limitations on Leasing of Residential Units

“The other item under Section 13.E(2) of Ordinance 180 to be included in the development covenants (or again, in this case, the Condominium Declaration) are to be "whether and in what conditions some or all dwelling units may be leased". At the present time it is intended by the Developer, in the commercial/residential building, that the residential units will be a mixture of owner occupied and rental units thereby being able to respond to market demand for each within the City of University Heights. It is correspondingly anticipated that the circumstances (size, finish and price) associated with the residential building will likely favor owner-occupied units as opposed to rental units, but **the Developer at this time would not choose to preclude any possibility of leasing.** As such, it is anticipated that the Condominium Declaration will include provisions that will i) protect all unit owners and occupants in both buildings from undesirable circumstances constituting nuisances, and ii) protect the integrity of the residential units for pleasant residential use regardless of whether the occupants are owners or tenants. Certainly the Developer is willing to receive the Council's input on such matters and to consider mechanisms for assuring peaceful enjoyment and use of residential units by all occupants provided such mechanisms are not inappropriately discriminatory.” [Supplement, pp. 3-4 (bolding added)]

3. Timing of Commencement and Completion of Construction

“As is well understood, the current owner of the project has certain control over contingencies which will ultimately determine when the project might be commenced and completed. It is difficult for the Developer to pinpoint dates at this time. However, it would appear more critical that the Development Agreement include understandings as to the length of the construction process from commencement to completion. In this regard **it would be the Developer's intention, once construction commences, to complete the process as efficiently and in as timely a manner as the parameters of the project permit. This would apply to each phase of the project.**” [Supplement, p. 4 (bolding added)]

C. NEED FOR USE OF A PUD APPLICATION “PUNCH LIST”

The calculation of political advantage prompting last month’s 3-2 vote to press forward with consideration of Jeff Maxwell’s PUD application in advance of any decision to sell being made by Saint Andrew Church echoes last December’s 4-1 refusal to postpone a final rezoning action until after the January special election. On that earlier occasion, councilors supporting Jeff Maxwell’s rezoning request deflected various citizen concerns with statements that such matters would more appropriately be resolved at the point of a PUD application and TIF financing request. Although we now are approaching that point, the evident commitment to get the PUD application approved while the votes to do so remain available presents a considerable risk that important issues that need to be addressed will instead be conveniently ignored.

Most homeowners approaching the end of a major project recognize the importance of a “punch list” – things contractors need to do to fully perform the many commitments they’ve made along the way in the course of a complicated process extending over a substantial period of time. The attached sheet similarly attempts to ensure that various previously raised concerns will be explicitly considered and decided by formal votes in a process that clearly identifies instances where approval of Jeff Maxwell’s PUD application in advance of this November’s election results in the relaxation of requirements that could more effectively be imposed if the application instead was being considered at a point where the proposed redevelopment had matured to the point of a decision by the church to sell.

PUD APPLICATION “PUNCH LIST”

| | MATTERS THAT SHOULD BE CONSIDERED | Required | Excused |
|----|---|----------|---------|
| 1 | Consideration of mass & scale supported by 3-D model including all structures on properties falling within 200 feet of boundaries of rezoned parcels | | |
| 2 | Compliance with Sensitive Slopes Ordinance (both east and west ravines) | | |
| 3 | Minimization of impact on north Sunset/Grand | | |
| 4 | LEED certification | | |
| 5 | Presence of businesses that UH citizens want and will frequent (e.g., coffee shop, grocery store) | | |
| 6 | Configuration of plaza and terms and conditions of public use thereof | | |
| 7 | Multi-use community center | | |
| 8 | Other mentioned amenities (e.g., library book drop off, existence and public access to pedestrian walkway to UAC and dog park, snow removal from sidewalks on south side of Melrose Avenue) | | |
| 9 | Other promised details (e.g., lighting requirements, specification of exterior materials) | | |
| 10 | Development covenants, easements, and restrictions concerning types of businesses and hours of operation of businesses located in commercial space | | |
| 11 | Adequacy of available surface parking to meet projected needs of permitted commercial uses | | |
| 12 | Development covenants, easements, and restrictions concerning whether and on what conditions some or all dwelling units may be leased. | | |
| 13 | Financial terms of TIF (including necessary provisions for low/moderate income housing assistance) | | |
| 14 | Timing of commencement and completion of construction of buildings and improvements (PUD application supplement references “each phase of the project”) | | |
| 15 | Indemnification ordinance protecting adjacent property owners from loss in values existing prior to rezoning | | |

MEMORANDUM

DATE: May 9, 2011 [Corrected 05-09-11](#)

TO: University Heights City Councilors

FROM: Larry Wilson

RE: Comments on Submitted One University Place PUD Plans Dated April 22, 2011

I have reviewed the One University Place PUD submission package as posted on the University Heights website so that I might have a better understanding of whether the project is being developed as promised and expected. Since I have conducted this type of plan submittal review for many years as campus planner for the UI's Planning Design and Construction department and also when employed by the Louisville & Jefferson County Planning commission as Director of Urban Design (which included Planning and Zoning, Board of Adjustments, etc.), I reviewed the One University Place plans in the same way that I reviewed plans in those positions. My review covered how well, from my perspective, the plans met the PUD submittal requirements of Ordinance 180 Section D and whether development issues and concerns were fully addressed. I think it is very important for the UH City Engineer and MPO planners to review the submittal package for the council. My intent is to raise questions and concerns in my review for them to provide their perspective and/or assure they are answered by the developer and his architect.

GENERAL COMPLIANCE WITH ORDINANCE SECTION "D" APPLICATION REQUIREMENTS

Sec. 13.D.3. Detailed Site Plan--showing all existing or proposed easements.

The submitted plans show none, but (a) easements will be needed for storm drain line and construction on UI property to north, and also for the Melrose north sidewalk and other walks; (b) an easement or right of way will be needed along the main access drive from Melrose north to UI property to provide legal and physical access for future development of that site to prevent it from being landlocked; and (c) a right of way will be needed for North Sunset.

Sec. 13.D.11. Design elevations showing all side of every building . . .

Sec. 13.D.12. Description of materials for all exterior building surfaces . . .

Sec. 13.D.13. Vertical and horizontal dimensions of the exterior of all buildings . . .

The submitted drawings are too small for the details to be understood and details are lacking in terms of materials, material locations, dimensions, etc. The drawings submitted in support of the Grandview Condominium PUD plan application were much more detailed.

Sec. 13.D.16. Location of existing and proposed utilities . . .

No electrical or natural gas utilities are shown.

Sec. 13.D.20. All other information reasonably required by the University Heights City Council or its designees to explain or illustrate the Plan Application.

A planting plan (including turf areas, plant names and planting details) needs to be submitted (proposed planting is shown in a conceptual way only on Plan A-2, application page 10). Proposed street/site furniture (lighting poles and fixtures, benches, waste receptacles, bus stop shelter and other furniture) that will serve the public need to be shown (proposed street/site furniture is shown in a conceptual way only on Plan A-2, p. 10). The application materials also do not include exterior lighting

and exterior lighting photometric plans (to determine light pollution) or any indication of the location and design details of any refuse stations.

REVIEW OF SPECIFIC DETAILS OF SUBMITTED PLANS

NOTE: The hard copies submitted in 11"x17" format generally were too small to permit effective review. In addition, because of data file size, full-sized sheets (24"x36") printed from the website PDF to scale by a printing company were fuzzy in places and did not always allow for accurate review of particular details.

Sheet C-101: LAYOUT PLAN (Application p. 2)

SETBACKS

1. Front Yard (Melrose)
 - R-3: 25ft required, 33ft listed in plan notes, 33ft provided in plan view
 - C: 30ft required, 33ft listed in plan notes, 33ft provided in plan view

2. Front Yard (Sunset--corner lot)
 - R-3: 25ft required, 20ft listed in plan notes, 204ft provided in plan view
 - C: 30ft required, 20ft listed in plan notes, 109ft provided in plan view

Setbacks listed in plan notes should match provided setbacks to prevent buildings from being moved closer to the property line than currently shown at some later date.

3. Side Yard Setback
 - R-3: 10ft required, 20ft listed in plan notes, 64ft front Building 1/69ft back Building 2 provided in plan view
 - C: 15ft required, 20ft listed in plan notes, 69ft front Building 1/NA back Building 2 provided in plan view

Setbacks listed in plan notes should match provided setbacks to prevent buildings from being moved closer to the property line than currently shown at some later date.

4. Rear Yard
 - R-3: 30ft required, 20ft listed in plan notes, 20ft provided
 - C: N/A

The setback listed in plan notes and shown in plan view do not conform to the R-3 setback requirement and there is a 10ft deficit

PARKING

1. Front Building 1
 - Residential
 - 21 residential units @1.5 spaces per unit = 32 required spaces
 - 55 underground private spaces provided (23 excess private spaces)
 - Commercial (total 49 surface public spaces provided)
 - Restaurant:
 - 4,238sf @1 space each 150sf = 29 spaces required spaces

29 surface public spaces provided
Other commercial spaces:
12,770 (as shown on application page 10) @1 space each 200sf = 64 required spaces
20 spaces surface public spaces provided

44 more spaces needed to meet requirements. Amount of commercial space needs to be reduced or developer needs to limit types of businesses to those that will not have a greater parking requirement than the 20 spaces available; parking needs of these business would need to be verified before allowing. Note: providing UH community space would reduce parking need due to walking and off-hours use of space.

2. Rear Building 2

Residential

59 residential units @1.5 spaces per unit = 89 required
112 underground private spaces provided, plus 3 surface visitor parking spaces =115
Spaces provided (26 excess private spaces)

GENERAL

1. ***Storm drain outlet and piping shown on UI property to north needs easement.***
2. ***Need easement or right of way provided along main access drive north to UI property to provide legal and physical access for future development of UI property to prevent it from being landlocked.***
3. ***Exit drive onto N. Sunset is 15ft wide -- will not prevent right-turning traffic from Melrose onto N. Sunset from entering exit drive (two cars could pass). Signing seems inadequate.***
4. ***The new portion of N. Sunset will become a public street and the street and sidewalks within the proposed right of way on both sides will need to be constructed to UH standards. Detailed construction plans are needed, including construction of the sidewalks on both sides, repair of the Belgium driveway and lawn, etc., and provision made for the right of way to be transferred to UH. This area will be maintained by the City in the future since it is within the right of way. These plans in particular will need to be reviewed by the City Engineer.***
5. ***Part of the retaining wall at intersection of the exit drive and N. Sunset will be within proposed right of way and needs to be constructed to UH standards. Detailed construction plans are needed including guard rail on top of retaining wall to protect pedestrians (retaining wall about 7-8ft. high on property side). Plans need to be reviewed by the City Engineer.***
6. ***The sidewalk on the north side of Melrose is partially within the right of way and partially on the building site. Will the right of way be widened or will the portion of walk on the site have an easement?***
7. ***Who will be responsible for paying for and maintaining the on-site bus shelter and walk within the right of way leading to it? Who will be responsible for***

walks in the right of way providing access to the front building? Where does the developer's responsibility begin and the City's end for constructing and maintaining the front building and Chautauqua plazas?

Sheet C-102: EXISTING CONDITIONS PLAN (Application p. 3)

Existing tree varieties need to be named and diameter of trunks provided so development impact can be understood.

Sheet C-103: GRADING & EROSION CONTROL PLAN (Application p. 4)

- 1. City Engineer should verify that a storm water detention pond is NOT required (initial developer presentation indicated a storm water detention pond would be provided).***
- 2. Apparently, nearly all of the area NW of the rear building will involve disturbance of steep and critical slopes listed in the UH Sensitive Slopes ordinance. A protective chain link construction fence should be provided around small area that apparently could be left undisturbed. The retaining wall at end of main access drive varies from 5-8ft in height, but no pedestrian or vehicle protection is being provided.***
- 3. Construction of the retaining wall at end of drive to the rear building, the north side terrace, grading in the area, and perhaps construction of the rear building itself apparently will require construction access on UI property to north, but no construction easement is indicated.***
- 4. Existing trees along Melrose are shown to be saved and apparently can be according to the grading plan, but there doesn't seem to be enough room to construct building 1 without damage to the trees. A chain link construction fence should be placed around the trees to keep contractor away from trees and roots.***
- 5. All existing trees to be saved should be protected by a chain link construction fence placed around the trees to keep contractor away from trees and roots.***
- 6. Place chain link construction fence around rim of east ravine and across ravine north of proposed retaining wall at the exit drive/N. Sunset intersection during construction to keep contractor away. The existing trees to be saved in that area should be inside the fence***
- 7. It appears that two of the three trees in the east ravine near the retaining wall proposed at the exit drive/N. Sunset intersection CANNOT be saved as indicated due to retaining wall construction.***
- 8. A storm drain outlet and piping is shown extended to the bottom of the east ravine cutting through a protected slope. It appears the outlet can be relocated to near the retaining wall at the exit drive/N. Sunset intersection in an area that will be disturbed by retaining wall construction anyway (but away from trees to be saved).***
- 9. The storm drain outlet in the east ravine will need outflow attenuation to***

prevent erosion--special design and careful installation will be need to be taken around trees to be saved to prevent tree damage. The drain outlet in UI property to the north also will need outflow attenuation.

- 10. As suggested by note on sheet C103, steep slopes proposed along the west side of the main entrance drive at the Melrose entrance will need to be reinforced/stabilized and protected from erosion.**

Sheet C-104 & C-105: GRADING & EROSION CONTROL PLANS (Application pp. 5 & 6)

These plans would be easier to understand if existing and proposed contours were also shown in accordance with format used on Grandview Court PUD plans.

Sheet C-106: UTILITY PLAN (Application p. 7)

- 1. Electrical and natural gas services not shown.**
- 2. A sanitary sewer connection to an existing sanitary sewer manhole is proposed to be constructed along the north side of Melrose from this site to the University Athletic Club property. Since it will be within the Melrose right of way, it will be a public utility and must meet UH sanitary sewer construction standards and developer will need construction approval. Detailed plans are needed, including impact on trees and existing wide sidewalk retaining wall in the ravine west of the main entrance drive and how access will be maintained to Birkdale Ct. and Athletic club entrance during construction.**

Sheets C-107 & C-108: DIMENSION PLANS (Application pp. 8 & 9)

Dimension of curb shift southward on south side of Melrose needs to be shown, including dimension of parking lawn between walk and curb. The amount of shift southward of sidewalk in the area of the Timmerman residence (corner lot) needs to be shown also.

Sheet A-2: NEIGHBORHOOD COMMERCIAL/CONDO BUILDING SITE CONCEPT ILLUSTRATION (Application p. 10)

- 1. Site materials, street furniture and proposed plantings are shown only conceptually. Also, note that plaza paving will be colored stamped concrete (not pavers).**
- 2. On-site walk on east side of buildings is listed as a trail--if it is to be a bike trail it is not wide enough at 6ft to meet trail standards (10ft-wide). If this walk is to provide access to properties to the north and the UI Athletics Club, there should be a public easement.**
- 3. Will there be public easement for use of the plaza in front of front Building 1?**

ARCHITECTURAL ELEVATIONS (Application pp. 11 & 18)

- 1. Drawings are too small to understand details of architecture. Plans need to be larger and more detailed indicating material types and where located on buildings. They should be as detailed as those submitted in support of the Grandview Court PUD plan.**

2. *Will there be functional balconies on the Melrose side of the front building (noise would impact on neighboring residences)?*
3. *Will roof garden be located only on the sixth level of the rear building (have the other roof gardens been eliminated)?*