

MINUTES

ANN ARBOR CITY PLANNING COMMISSION

REGULAR MEETING

7:00 p.m. – February 19, 2009

Time: Vice Chair Mahler called the meeting to order at 7:20 p.m.

Place: Council Chamber, Second Floor, 100 North Fifth Avenue, Ann Arbor, Michigan.

ROLL CALL

Members Present: Bona, Borum, Derezhinski, Mahler, Potts, Westphal, Woods

Members Absent: Carlberg, Pratt

Members Arriving: None

Staff Present: Bartha, DiLeo, Hancock, Lloyd, Rampson

INTRODUCTIONS

There were no introductions, but Vice Chair Mahler announced that he would chair the first part of the meeting, and Chair Bona would chair the second part.

MINUTES OF PREVIOUS MEETING

a. Minutes of January 22, 2009.

Moved by Derezhinski, seconded by Woods, to approve the minutes as presented.

A vote on the minutes showed:

YEAS: Bona, Borum, Derezhinski, Mahler, Potts, Westphal, Woods
NAYS: None
ABSENT: Carlberg, Pratt

Motion carried unanimously.

APPROVAL OF AGENDA

Moved by Westphal, seconded by Borum, to approve the agenda as presented.

A vote on the motion showed:

YEAS: Bona, Borum, Derezinski, Mahler, Potts, Westphal, Woods
NAYS: None
ABSENT: Carlberg, Pratt

Motion carried unanimously.

REPORTS FROM CITY ADMINISTRATION, CITY COUNCIL,
PLANNING AND DEVELOPMENT SERVICES, PLANNING COMMISSION
OFFICERS AND COMMITTEES, WRITTEN COMMUNICATIONS AND PETITIONS

Derezinski said the South Fifth Avenue Parking Garage was approved by a vote of 10 to 1 at Tuesday's Council meeting, and that there had been lots of participation. He also mentioned that the Council met on Wednesday with the University of Michigan Regents and Planning staff to discuss possible points of collaboration with the City. He noted the meeting was well attended, and that many promises of collaboration were made. He also noted that the City had submitted a number of shovel ready projects to the state for consideration under the federal economic stimulus package. He said many of the projects addressed immediate needs.

Lloyd, Planning and Development Services Manager, reminded the Commission that new software called Petitions Under Review was now live on the planning web page. He said it was a great way to share information, and that all items under review were viewable online by anyone accessing the web page. He noted that the software utilized TrakIT, and Microsoft or Google maps, synthesizing a project's address, status, and stage in the permitting process. He described the new service as part of the City's ongoing outreach and transparency efforts. He encouraged everyone to visit the new site and to share feedback.

Woods asked how often the site would be updated.

Lloyd said updates would be live, as soon as projects were inputted to the system by Planners and staff. He noted the software would allow information to be shared weeks, rather than days, in advance of meetings.

Potts asked whether the county's notice for request of release of funds in the agenda packet was a general request or for a specific project.

Mahler noted that the notice required no Commission action, and that it was more of an FYI.

Derezinski told the Commission that he announced his intention to introduce a resolution at the next Council meeting that would ask the Commission and staff to study R4C zoning in the City. He hoped this resolution would resolve some of the issues he had seen involving planned project variances in R4C zoning districts.

AUDIENCE PARTICIPATION

Alice Ralph, 1607 East Stadium Boulevard, said she appreciated Mark Lloyd's comments on access to project reviews. She noted she had made a request for something like this two years ago, and that this type of access makes public participation easier.

PUBLIC HEARINGS SCHEDULED FOR NEXT MEETING

Mahler announced the public hearings scheduled for the March 3, 2009 Planning Commission meeting.

REGULAR BUSINESS

(a) Public Hearing and Action on Parkwood Street Vacation. A request to vacate the portion of Parkwood Street (a platted but never constructed street) between Kingwood Street and Valley Drive to include this area with the surrounding parkland of Evergreen Park – Staff Recommendation: Approval

Alexis DiLeo explained the proposed street vacation.

Noting no speakers, Mahler declared the public hearing closed.

Moved by Woods, seconded by Borum, that the City of Ann Arbor Planning Commission hereby recommends that the Mayor and City Council approve the Parkwood Street Vacation.

Potts asked about the eyebrow shaped piece across the street from the vacation on Kingwood Street.

DiLeo said the small piece was the official platted park for Evergreens subdivision, platted in 1920s. She noted east-west portion of Kingwood Street provided access to homes in that area, and would not be vacated.

Potts asked if the park backed up to the freeway.

DiLeo said no.

A vote on the motion showed:

YEAS: Bona, Borum, Derezinski, Mahler, Potts, Westphal, Woods
NAYS: None
ABSENT: Carlberg, Pratt

Motion carried unanimously.

b. Public Hearing and Action on Foxfire Phase 2C Site Plan for Planning Commission Approval to revise the Wetland Mitigation Plan. A proposal to provide the mitigation of wetlands required by the approved site plan, for the site north of Dhu Varren Road, east of the railroad, at an off-site location because on-site mitigation was found to be practically infeasible – Staff Recommendation: Approval

DiLeo explained the proposed wetland mitigation plan.

Richard Thomas, 2270 Hickory Point Drive, said Area G from the map was in his back yard. He stated he was speaking on behalf of the subdivision's property-owner organization. He said they did not support the plan for four reasons: first, there were unanswered questions in the staff report; second, there was no proof of adequate effort to mitigate the wetlands; third, the proposed plan violates City code; and fourth, there was no other on-site effort to mitigate. He said there was adequate hydrology before the project started in 2002, but when construction continued in 2006, the developer suddenly discovered that mitigation was only partly successful. He said the staff report mentioned no further effort by the developer, but mentioned a lack of water. He asked what happened after 2006. He said code required five years of effort to mitigate followed by five years of monitoring. He said the petitioner is seeking to amend the original use permit, but that the City is required to consider alternative methods to mitigate. He said there was no evidence of any such efforts. He also said code mandated efforts to mitigate first, on site; second, immediately adjacent to the site; and third, within City limits or within one mile of City limits. He said the proposal to mitigate off-site in Dexter Township was clearly beyond one mile, thus violating code. He said the neighborhood faced health risks and mosquito infestation, and that the proposal before the Commission did nothing to help the neighborhood or the City. He said the DEQ approval meant nothing to him – it was mathematical; an acre here for an acre there.

Danny Ignacio, 2290 Hickory Point Drive, asked what benefit homeowners would get from off-site mitigation. He asked what happened if a project like this failed. Would the site be abandoned? Would the builder be forced to correct the problem? He asked the Commission for answers and whether they would abandon the neighborhood.

Noting no further speakers, Mahler declared the public hearing closed at 7:55.

Moved by Westphal, seconded by Derezinski, that the City of Ann Arbor Planning Commission hereby approve the Foxfire Phase 2C Site Plan for Planning Commission Approval to revise the natural features mitigation plan including alternative mitigation measures.

Woods stated this was one of the most unusual issues she had seen as either a Commission or Council member. She assumed the Commission had always sought wetland mitigation on-site or within walking distance from a site, and said she had never seen Subsection C called into being. She said she, too, would have the same concerns as the speakers, if this were her neighborhood. She asked staff what the unmitigated areas were, and what would happen if the proposal were denied.

DiLeo said the unmitigated areas were common elements in the Foxfire subdivision, and would remain common elements. She said they would be similar to other park and open space areas, without wetland plantings.

Woods asked what it looked like, and whether it was muddy, like swamp or bottom land.

Jerry Hancock said that where the wetlands did not take, due to lack of hydrology, it would look like upland or prairie.

DiLeo said it would be a grassy area, and that a portion of the failed wetlands had prairie-like qualities.

Woods asked if the areas in question would be a breeding ground for mosquitoes. Hancock said no, these areas would be too dry for mosquito breeding.

Woods asked about benefits to homeowners. She said the Commission looked not only at individual property owners or homeowners, but also at the larger community and the City. She believed it was a stretch to approve mitigation in Dexter, which was pretty far from the development, and to rationalize it as a benefit. She was unclear as to what would happen if the developer did not own another property within the creekshed. She

also questioned whether the Commission would have approved an off-site improvement like this if it had been proposed at the outset of the project. She said she could not support the proposal at this point.

Potts shared some of the same reservations as Commissioner Woods. She commented that wetlands took care of storm water on the site before the project, but the addition of roads, houses, and impervious surfaces changed that. She noted the site was low in some parts and hilly in others, which results in difficulty when engineering water flow. She believed that grading for the benefit of roads and houses probably negatively affected water flow. She also believed the code was clear on the need to mitigate on or near the site, and that other creeksheds within City limits would love mitigation. She believed that mitigating outside of the City limits was a clear code violation, and she said she could not support the proposal.

Derezinski asked staff to address the first speaker and Commissioner Pott's concerns about the whether the proposal violated code. He also asked whether Dexter Township approval was necessary and, if so, whether they had signed off. He finished by asking what happened if the Commission denied the petition.

Hancock said code did allow for these types of situations, so long as three steps were followed: first, seeing if on-site mitigation is practical, which in this case it was not as the neighborhood was developed and further mitigation would require disturbing yards, properties, etc.; second, looking elsewhere within the watershed, which the petitioner did by approaching the City in regard to mitigation in either Broadway Park or the Leslie Park Golf Course, which the City was not interested in; and third, Item C allows the Public Service Administrator to approve mitigation off-site or outside of the City limits in cases where steps one and two are infeasible. He assured the Commission that staff would not have allowed the proposal to go this far if it violated code. He said it was up to the Commission to act on the proposal, and that Council action was unnecessary. He answered the second question by saying that there was no specific requirement for township approval, but that he had required the petitioner to obtain an actual permit from DEQ, and to provide evidence that Dexter Township was aware of and approved the proposal. He said Dexter Township committed to ensure that the site plan showed the proposed mitigation. With regard to question three, he said that the petitioner would have to go back and look for somewhere within other City watersheds to mitigate. He said the other option would be for the petitioner to go before City Council to ask for either a variance to be waived from the mitigation requirement or for the allowable amount of alternative mitigation percent to be bumped up. He noted the company gave 7.5 acres for parkland, but the City only required 22,000 square feet out of those 7.5 acres, or 15 times the required amount of land. He said the proposal before the Commission seemed better because it actually provided for more wetland.

Jamie Gorenflo, Midwestern Consulting, said that a change in code precluded his company from counting some of the on-site mitigated area. He said that some of the uncounted areas would establish as on-site wetlands, but that his company could not count them toward the required mitigated area.

Westphal asked if developers were permitted to either make payments in lieu of mitigation or swap land.

Hancock said it was allowed, but that the 50 percent cap had already been reached.

Westphal asked if staff had reached a conclusion as to why the mitigation had failed.

Hancock said it was attributable to two things: timing and hydrology. He said Area N had expected an amount of water to flow from the expressway, but it just did not go that far. He also said that the development had been approved before the City had a wetland ordinance, so the original mitigation was designed through DEQ, and an amendment had been filed after the discovery of more wetland. He said most of the wetlands had been established before the City became involved.

Mahler asked what would happen if the Dexter mitigation plan was approved and failed to establish. He asked how the Commission would know.

Hancock said the best place to introduce wetlands was next to existing wetlands, and that the proposed site would be surrounded on three sides by wetland, resulting in a higher than normal probability of success. He said the DEQ required maintenance agreements and easements, so oversight would be provided by the state, without which he said he would be uncomfortable. He said if the proposed mitigation did not take, then the petitioner would be in violation of state law and would have to take whatever steps were necessary to meet the requirements, or else find a new location.

Mahler asked where another location might be, in the event of the proposal failing.

Hancock was unsure, but believed that the proposed mitigation was far more likely to succeed than on-site at Foxfire.

Mahler said the speaker doubted that alternatives on-site were sought. He asked staff to give some assurance that on-site alternatives were considered.

Hancock said that alternative was a defined term in the code. He said that alternative mitigation was land that was dedicated and given to the City, and that there was a specific section in the code that discussed mitigation. He said that few off-site alternatives were looked at, and that on-site mitigation was unfeasible.

Woods asked Mr. Hancock if staff had the opportunity to talk to the homeowners association. She noted that staff said on-site mitigation would disrupt homeowners' lives, but she wondered if they had been asked what their opinion was. She said it appeared that no discussion had occurred.

Gorenflo said he was unaware of any direct conversations. He said that the DEQ visited site several times and signed off, and that the DEQ felt that the intrusion of attempting to reestablish the failed mitigation would be detrimental to the already existing wetlands. Given current hydrology, he said they would not have supported any additional mitigation in Area G. He said Area N had no hydrology for wetland mitigation. Despite a four or five-year period to take, he said the wetland never established. In Area G, he said the natural hydrology simply did not cooperate as they had hoped.

Woods agreed that nature was nature, but she was troubled to hear the word hope being used. She said it was problematic for the Commission to look back and realize that a decision was based upon a hope that certain things would take place. She said she did not have much faith in the DEQ, and was not comforted by its signing off on the plan. She also said that she was troubled by the lack of discussion with residents in the area – she just did not understand that.

DiLeo said she spoke to half a dozen homeowners after the notice went out, some of whom lived at the end of Indian Creek Drive and on Hickory Point Drive. She indicated that there was no support for damaging back yards or disturbing woodlands. She said staff worked with the association on an unrelated drainage issue.

Lloyd commented that there were ongoing disputes between homeowners and the developer with regard to grading and paving. He said it had been problematic for a considerable period of time, and that staff supported the residents' concerns. He said the developer did re-grade a considerable portion of the site to alleviate drainage issues in back yards. He noted the City had helped settle a court case to resolve the drainage issue, and that the project was very close to completion. He said with large, multi-stage projects, issues pop up, and that to date, all issues between the homeowners and the developer, such as streets, drainage, and lighting, had been resolved. He said the developer had been helpful in resolving the mitigation issue, and that the City would not let him leave the site without resolution. He said that the developer had worked hard with the DEQ to address the issue before completing the development. He said the developer had worked hard to put mitigation on-site, but that it just was not feasible. To put wetlands in some of these areas, he said, would be worse than letting it go natural.

Potts asked the spokesperson for the subdivision's property-owner organization to share his comments. Richards said it was his understanding that the City helped bring a case against the Guenther Building Company only after significant harassment by the homeowners and after significant flooding. He said the City had misspent \$18,000 in planting trees, and that there had not been cooperation from the City.

Potts said that if mitigation was the only item left, and all other aspects of the site plan were complete, then she would favor allowing this plan to fall under code as written at the time of approval. She noticed a great absence of street trees, and had heard that the trees were delivered and left above ground, unwrapped, where they died. She was inclined to vote no on the plan unless all other components were complete.

Lloyd believed the street tree escrow for this project had been utilized in other parts of the City, as is allowed. He said he was not sure about the rumors.

Potts replied that there were no trees in the subdivision, and that maybe they were not required on the site plan.

Lloyd said the developer had met the obligation of putting money in the street tree escrow.

Potts said if the developer had met all other site plan requirements, then she would like to amend the motion so that the standards applied to the current project are the same standards that existed at original approval.

Mahler was not sure that would work.

Lloyd said it would mean that no wetlands were required.

Westphal believed they were debating in a vacuum, and said conversations should be held with the neighborhood. If wetlands were viewed by the neighbors as a value-added, then some of in-kind investment should be made, he said. He was uneasy about reviewing this further without neighbor input. He moved to postpone and asked staff for guidance.

DiLeo said it might take a very long time for the developer and homeowners to reach agreement.

Mahler asked whether Westphal was proposing to postpone until an agreement was reached, or simply until the developer and homeowners had a chance to speak.

Westphal suggested postponement for 30 days.

Lloyd said 30 days was not a very long time, and that it would only be enough time to bring folks together, not necessarily find agreement. He believed that postponing to a date certain and expecting agreement would be difficult. He asked Commission to provide some sort of guidance regarding timelines.

Mahler agreed with Lloyd, asking what the Commission hoped to achieve or hoped to hear by postponing.

Westphal said that postponement, as opposed to outright denial, would allow staff to work with the homeowners and developer to look at alternatives.

Mahler said if the proposal was denied, staff would have to look at alternatives, whereas if the Commission postponed without asking for revisions, per se, that would simply require them to meet, but not necessarily address Commission's concerns.

Lloyd said staff would need 60 or 90 days.

Westphal withdrew the motion.

Woods was interested in seeing a conversation take place between the petitioner and neighborhood about mitigation and the street tree issue, perhaps coming to a decision to install 5 or 10 trees. She said if it took 60 days, it would be fine with her, because as the deciding body, she wanted the Commission to be comfortable.

Mahler asked if she was looking for conversations or agreement.

Woods said she was looking for conversations at minimum, but hopefully with agreement. She said to this point, she had seen no evidence of conversations. She said a motion to postpone would be with the understanding that at least one public meeting be held within the next 30 or 60 days.

Moved by Woods, seconded by Potts, to postpone action to the meeting of April 21, 2009.

Potts said her goal was to avoid a violation of code. She was disappointed that the proposed mitigation was so far from City limits. She was unsure whether postponement would help.

Derezinski asked to hear the petitioner's thoughts on postponement, since those opposed to the proposed mitigation had been given the opportunity to speak.

Gorenflo said his company had been working with staff and the DEQ for months to establish the mitigation plan, and with all due respect to Commissioner Woods and the neighborhood, he said he was not required to meet with the neighborhood. He asked the Commission to decide on the motion before them, which was approved by the DEQ and staff, so that they could begin work. He said his plan was code compliant, and that mitigating within City limits was a preference, not a requirement.

Mahler asked DiLeo to talk about the public notice process.

DiLeo said that the petition was noticed in the usual manner for public hearings, meaning that all property owners within 300 feet, as well as neighborhood groups in the area, were sent direct mail notices by the City roughly 3 weeks prior to this evening's meeting. She said the Citizen Participation Ordinance (CPO) was not in effect at the time the petition was submitted. She noted that if the petition were filed today, the CPO requirements would apply, and the petitioner would be required to notify everyone within 500 feet at the time of submittal. She said that notification would be in addition to the usual public hearing notice sent by the City.

Mahler said he was unsure that a clear consensus existed among property owners. He noted the neighbors who were present and spoke against the project, as well as the 6 who called staff to state they wanted no disturbance to their properties. He asked if the neighborhood wished to speak once more.

Richards thanked Commissioner Mahler, and noted that those who called staff to express support had failed to show up to the meeting to be heard.

Mahler repeated that he was not hearing consensus among neighbors.

Richards said those present were the elected representatives of the association, and he repeated that code was clear in mandating mitigation on or near the site.

A vote on the motion to postpone showed:

YEAS: Bona, Potts, Woods
NAYS: Borum, Derezinski, Mahler, Westphal
ABSENT: Carlberg, Pratt

Motion to postpone failed.

Mahler asked Commissioners if there were any additional comments on the main motion. Hearing none, he called for a vote.

A vote on the main motion showed:

YEAS: Bona, Borum, Derezinski, Mahler
NAYS: Potts, Westphal, Woods
ABSENT: Carlberg, Pratt

Motion failed.

c. Public Hearing and Action on Downtown Plan Amendments – The Downtown Plan, adopted as an element of the City Master Plan in 1988 and amended in 1992, provides guidance for future land use and zoning, development character, open space, circulation and parking in the downtown. Amendments to the plan have been drafted to support the recommendations of the Ann Arbor Discovering Downtown (A2D2) initiative. Planning Commission will consider adoption of the proposed amendments – Staff Recommendation: Approval

Rampson explained the proposed Downtown Plan.

Ray Detter, Chair of the Downtown Area Citizens Advisory Council (DAC), said DAC members were involved with the Downtown Plans in 1988 and 1992, and that it took a lot of work. He believed they were still very good documents, and he was pleased to see that although the proposed Plan was thinner, much of the original content remained. He said these were complex issues, and that Rampson did an excellent job involving the public. He noted improvements had been made, even up to last week, and he was glad to see it back before the Commission. He believed the more illustrations in the Plan, the better, to make it as user friendly as possible. He also believed, whenever possible, the Plan should reference the supporting zoning. In the past, he said the Plan was policy, but that zoning did not always support it. He viewed the process leading to the new Plan as a chance to fix that. He also hoped zoning would reflect what the City wanted to do in terms of policy in the Central Area Plan. He wanted to be sure that developers could not use loopholes, such as PUDs to circumvent R4C requirements, to rip out homes and increase density.

Chris Crockett, 506 E. Kingsley Street, served on the Design Review Committee for A2D2, and believed the new Plan both encouraged good design and new development. She said thousands of dollars were spent to bring staff and developers together to talk about design. She said the community was weary of new boxy buildings being installed, and that was why so much money and public interest was involved. She believed good design had to be connected to good zoning and tied together in a good policy statement. She believed design was important to the community, and the public needed to be educated as to how the process works. She said Ann Arbor was a special community, and that everybody wants to improve it.

Alice Ralph, 1607 E. Stadium Boulevard, also served on the now defunct Design Review Committee. She said if illustrations were helpful, but not currently included in the Plan, then she expected them to appear in new review process guidelines. She also said one of the reasons A2D2 was instituted was because people expressed a lack of admiration for buildings that were being built. She believed people wanted more trees, fewer ugly buildings, and stable and connected neighborhoods. She believed the old Downtown Plan did that, but the new one might not. She noted that design guidelines, not urban design, were the focus. She believed that zoning was driving the Plan, and that it should have been the reverse. She finished by saying that although what has happened cannot be changed, the old recommendations should be recognized.

Jim Mogenson, 3780 Greenbriar, said that because the Plan was developed during boom years in development and financing, he believed some of the previous assumptions would no longer be possible. Given the complexity of the Plan, he also believed it was important to stop and see the big picture to make sure everyone understood what was being approved.

Susan Morrison, of the Michigan Historic Preservation Network, said her organization held permanent federal easements on three downtown properties. She said there were some lofty historic preservation goals in the Plan, but she believed there was a gap in the Plan. She said the Plan lacked a way to show the locations of nationally registered, historic properties outside of historic neighborhoods. She said you could not protect these properties if you did not know where they are located. She proposed an amendment to Figure 3 to show national historic properties, so that future bodies can find them. She also recommended two text changes, which she read from the letter submitted to the Commission.

Rita Mitchell, 621 Fifth Street, said she wants Ann Arbor to be a welcoming, walkable city with ample green-space, but she was unsure whether the proposed Plan adequately covered those elements. She also wanted the A2D2 plan to prohibit new development in Allen Creek, to improve rain quality runoff to the Huron River, and to give developers an incentive to increase bicycle parking spaces and setbacks. She wanted to see a reward go to those who do not drive downtown, and proposed no more than 10 stories in height in D1 Areas, 6 stories in D2, and 3 stories in residential. She wanted to see more trees for cleaner air, and believed the downtown should be designed to encourage people to be outside, using fewer resources.

Noting no other speakers, Mahler closed the public hearing at 9:40 p.m.

Moved by Westphal, seconded by Borum, that the City of Ann Arbor Planning Commission hereby adopts the Downtown Plan, as amended, as a subplan of the City Master Plan and hereby incorporates the Future Land Use Map and Zoning Plan for the downtown into the Central Area Plan.

Moved by Westphal, seconded by Borum, that the City of Ann Arbor Planning Commission hereby recommends that the City Council adopt the Downtown Plan, as amended, as a subplan of the City Master Plan and thereby incorporate the Future Land Use Map and Zoning Plan for the downtown into the Central Area Plan.

Potts pointed the Commission toward two proposed amendments she had written, and which were included in the agenda packets.

Moved by Potts, seconded by Woods, to amend the first paragraph on page 29 of the Draft Ann Arbor Downtown Plan by adding the following language from the original Plan: “Avoid the discontinuity which results when larger buildings and intensive uses are located immediately adjacent to smaller residential structures.”

Derezinski asked staff to comment why the language in Commissioner Potts amendment had been removed from the Plan.

Rampson said a lot of narrative was removed from the last Plan, and that no conscious decision had been made to remove that particular language.

Mahler said the goal was to pare down narrative in order to focus on action strategies, and to ensure that introductory language was supported by action strategies. He assumed it had been removed because it was not associated with an action strategy.

Derezinski was concerned that the proposed language might contradict other language in the plan, i.e. mixed uses, or prohibit a future use when a bigger building near a smaller building might be desirable. He was afraid that this amendment might become a basis for opposing good plans.

Bona stated the end of the paragraph in question read “ideally development in this district should blend into residential neighborhood.” She said she got the same sense from that as the amendment, and believed the concept was already addressed.

Woods agreed with Chair Bona, noting that she believed the proposed amendment was already covered in other language in the Plan.

A vote on the amendment showed:

YEAS: Potts
NAYS: Bona, Borum, Derezinski, Mahler, Westphal, Woods
ABSENT: Carlberg, Pratt

Amendment failed.

Potts proposed an amendment to replace “large scale” with “commercial” in the second paragraph on page 31 of the Plan, because she believed it was usually large scale residential projects that crept into neighborhoods, not commercial projects. She said developers often claim that their projects are residential, not commercial.

There was no second to this amendment.

Moved by Potts, seconded by Borum, to amend Figure 3 on page 28 of the draft Plan to indicate properties listed in the National Historic Register, whether or not the properties are located within an historic district.

Borum asked staff whether there was a reason not to do this.

Rampson said no. She said staff supported the idea, but did not have time to make the changes in GIS.

Westphal asked for clarification between listed and eligible properties.

Rampson said those currently on the historic register (listed) would go on the map, but not eligible properties.

Derezinski asked if staff would support this amendment.

Rampson said yes.

Mahler asked if Figure 3 would show these properties.

Rampson said yes, that dots would be put on the map to designate historic registry properties, and that addresses would be listed in the legend. She said there were maybe half a dozen properties.

A vote on the amendment showed:

YEAS: Bona, Borum, Derezinski, Mahler, Potts, Westphal, Woods
NAYS: None
ABSENT: Carlberg, Pratt

Amendment carried unanimously.

Woods asked for explanation about the other recommendations from Ms. Morrison, representing the Michigan Historic Preservation Network.

Rampson explained the other two recommendations.

Potts made a motion to amend the list of the “Recommended Action Strategies” on page 28 of the draft Plan by adding the following item: “(7) Develop requirements in the zoning ordinance to protect historic properties

and historic districts from the effects of looming, shading and incompatibility of nearby new construction and additions, by requiring adequate setbacks, transitions in scale and height, height limits, and design and massing standards within a historic consideration buffer area.”

There was no second to this amendment.

Moved by Potts, seconded by Borum, to amend draft Downtown Plan by revising the last sentence of the second paragraph on page 32 to read: “This designation constitutes an ‘overlay’ zone which (a) requires Historic District Commission review and approval of applications for construction and the alteration, repair, demolition or moving of structures within a historic district, and (b) requires application of the standards for new construction within the ‘historic consideration buffer area’ adjacent to both historic districts and Designated Historic Properties.”

Potts suggested that specific numbers would be added to this language in order to flesh out the intent of the amendment.

Westphal believed this amendment was significant enough to deserve a separate working session for discussion. He said the present meeting was for discussing larger issues.

Derezinski believed this amendment added a potentially huge new concept. He said if the amendment to page 28 were rejected, then so too should the amendment to page 32. He believed that the Commission should not inject fairly capacious language into the draft Plan.

Mahler said his concern was that a buffer area, no matter how big or small, would affect something, and believed serious discussion was needed.

A vote on the amendment showed:

YEAS: Potts
NAYS: Bona, Borum, Derezinski, Mahler, Westphal, Woods
ABSENT: Carlberg, Pratt

Amendment failed.

A vote on both main motions showed:

YEAS: Bona, Borum, Derezinski, Mahler, Potts, Westphal, Woods
NAYS: None
ABSENT: Carlberg, Pratt

Motions carried unanimously, read as follows:

Moved by Westphal, seconded by Borum, that the City of Ann Arbor Planning Commission hereby adopts the Downtown Plan, as amended, as a subplan of the City Master Plan and hereby incorporates the Future Land Use Map and Zoning Plan for the downtown into the Central Area Plan, subject to amending Figure 3 on page 28 of the draft Plan to indicate properties listed in the National Historic Register, regardless of the properties being located within an historic district.

Moved by Westphal, seconded by Borum, that the City of Ann Arbor Planning Commission hereby recommends that the City Council adopt the Downtown Plan, as amended, as a subplan of the City Master Plan and thereby incorporate the Future Land

Use Map and Zoning Plan for the downtown into the Central Area Plan, subject to amending Figure 3 on page 28 of the draft Plan to indicate properties listed in the National Historic Register, regardless of the properties being located within an historic district.

d. Public Hearing and Action on Revisions to the Downtown Rezoning and Amendments to City Code to Implement the Ann Arbor Discovering Downtown (A2D2) Recommendations. (Properties within the Downtown Development Authority District (DDA) boundaries, excepting those zoned R2A, R4C, O, PL or PUD; properties zoned C2B on the west side of South Ashley between West Madison and West Mosley; properties zoned C2B on the south side of East Madison between the railroad and South Fifth Avenue; properties zoned C2B on the east side of South Fifth Avenue between East Madison and Hill; properties zoned C2A on the north side of Willard between East University and South Forest; properties zoned C2A on the east side of South Forest between Forest Court and the DDA boundary; and property zoned C2A on the south side of South University east of the DDA boundary.) A revised proposal to implement the recommendations of the A2D2 initiative, to include: 1) text and map amendments to Chapter 55 (Zoning) to eliminate the C2A, C2A/R and C2B/R districts and their references; 2) text and map amendments to Chapter 55 (Zoning) to add downtown core and interface base district uses and area/height/ placement requirements; 3) text and map amendments to Chapter 55 (Zoning) to add downtown character overlay districts and related design standards; 4) text amendments to Chapter 55 (Zoning) to revise floor area premium options; and 5) text amendments to Chapter 59 (Off-Street Parking) to revise requirements for the downtown special parking district – Staff Recommendation: Approval

Rampson explained the proposed revisions to the Downtown Zoning and Amendment to City Code.

Mark Gerstein, 1321 Forest Court, reminded the Commission that he had previously spoken before them regarding 601 Forest and A2D2 rezoning. He asked the Commission to consider, as they deliberate, the effect that rezoning would have on them and those who live near them on South University. He asked the Commission to consider a mandatory 30-foot setback for bases and towers of new buildings. He believed that anything less than that was a threat to their privacy.

Jim Mogenson, 3780 Greenbriar, warned that in the plan that just passed and in the rezoning before the Commission, nobody was keeping track of core campus islands that are being rezoned. He believed developers would parse whatever final documents were passed in order to find loop holes. He also warned that parcel assembly on the edges of newly zoned districts could pose problems, noting that the new zoning did not precisely follow DDA boundaries.

Dan Mooney, 255 E. Liberty Street, believed the proposed rezoning could endanger efficiencies through diagonals and unforeseen consequences to things like premiums. He said that diagonals were perceived as too restrictive, and so were expanded. When applied to plans, however, he said the new guidelines may result in poor design. As buildings go up, he said, floor plans become inefficient. He believed some developers may pass by opportunities to build due to diagonal requirements. He also said premiums can be problematic, because the buildings had to first be built in order to receive credit for compliance. He referred to several studies stating that 700% was necessary to achieve Gold recognition. He finished by saying penalties may be too harsh.

Alice Ralph, 1670 E. Stadium Boulevard, read from a handout she gave to the Commission titled "Zombie Zoning."

Ray Detter, Chair of the Downtown Area Citizens Advisory Council, said the original intent was to include review guidelines and design standards. He believed the project failed to do this, and that there was a lack of emphasis on design review in terms of referencing zoning to changes to design review. He believed that approving zoning should be contingent on completion of a design review process. He was afraid that zoning would change, but design guidelines would never be adopted. He suggested inviting back the consultants to train staff and to integrate the documents. He also called for public education regarding the documents and

processes. He believed buffer areas adjacent to residential and historic districts, and historic buildings were important, and that providing them would help accomplish the goals of protecting significant historic structures.

Chris Crockett, 506 E. Kingsley Street, said that zoning had to follow a policy statement, which was just passed in the form of a new Downtown Plan. She opposed box developments, and believed guidelines, as part of zoning, would help to clarify intent. She was concerned not only with new buildings, but also their look, including diagonals and their relationship to residential and historic areas. She urged the Commission to get the design guidelines process underway in order that all residents understand what is being talked about. Eleanor Linn, 1321 Forest Court, said that 30-foot rear setbacks were important, and that the recommended 15-foot rear setback was not enough. She noted that New York City, the densest city in the country, required 30-foot setbacks when large buildings abutted residential neighborhoods.

Sean Zieta, 633 Church Street, believed design was important, and said his focus was on South University. He believed this process was an opportunity to change the perception that this area was a student slum. He asked the Commission to keep in mind that decisions made today would impact development for the next 20 to 30 years, and the community and environment for longer than that. He believed higher density would allow for a variety of retail and office space, and attract young professionals. He also believed it would reduce traffic by allowing people to live near their jobs. He asked the Commission to consider the competitive advantage of density, and also the environmental advantage of building up, not out.

Susan Morrison, of the Michigan Historic Preservation Network, said other speakers quoted positive statements in Downtown Plan about preserving historic structures, but she asked where that language was in the new zoning. She said the zoning was silent, and that the new Metro 202 plan would allow taller structures near an historic building. She encouraged the Commission to send this plan back to planning staff to talk about how historic buildings will be protected. She mentioned the text she drafted to create an historic preservation buffer area. She believed that once higher density was out of the box, there could be unintended consequences, unless the issues were addressed now.

Ted Kennedy, 213 E. Kingsley Street, said zoning and design review guidelines were rules for future people to argue or wage wars about what they want the City to look like. Without clarity, he believed those with the greatest resources or concentrated interest would win out. He said clarity in rules protects individuals and the under-resourced.

Noting no further speakers, Mahler closed the public hearing at 10:47 p.m.

Moved by Derezinski, seconded by Westphal, that the City of Ann Arbor Planning Commission hereby recommends that the Mayor and City Council approve amendments to Chapter 55 (Zoning) and Chapter 59 (Off-Street Parking) to implement the Ann Arbor Discovering Downtown recommendations.

Moved by Derezinski, seconded by Westphal, that the City of Ann Arbor Planning Commission hereby recommends that the Mayor and City Council approve the proposed D1, D2, and PL District Rezoning, the Character Overlay Zoning District Rezoning, and the Building Frontage Rezoning as shown on the attached maps.

Moved by Derezinski, seconded by Westphal, that the City of Ann Arbor Planning Commission hereby directs Planning staff to collect data about the impacts of the Downtown Rezoning and Amendments to City Code and further, that staff report back to the City Planning Commission about these impacts one year from adoption of the amendments.

Bona said the Executive Committee met and, given the complexity of the proposed amendments, believed that it would be helpful to offer Council and the public an explanation of the Commission's rationale for supporting

the changes. With the assistance of Commissioners Mahler and Westphal, she drafted a memorandum (Memo) detailing a list of facts about the proposed amendments, based on past topics. She said she would read the memorandum, and the Commission could offer amendments to it as she proceeded. She noted that the memorandum was not meant to be all inclusive, and she wanted the public to know that the Commission read all of their emails and listened to all of their comments.

Moved by Borum, seconded by Mahler, to amend the draft ordinance to add the following text to the end of the second sentence of the “Usable Floor Area, Nonresidential” definition: “...except those portions of a parking structure used for required premium or PUD parking.”

A vote on the amendment showed:

YEAS: Bona, Borum, Derezinski, Mahler, Potts, Westphal, Woods
NAYS: None
ABSENT: Carlberg, Pratt

Amendment carried unanimously.

Bona read Item 1, South University Character Area, from the Memo, and summarized the Commission’s position as follows: the Planning Commission continues to support the previously recommended compromise of maintaining D1 density while restricting the maximum height to 120 feet (accompanied by an elimination of the tower diagonal limits) and clarifying the building setback requirements adjacent to residential districts. Should the height limit prove to be too restrictive for any specific site, a Planned Project could be pursued if an acceptable public benefit is provided.

Potts said she was disturbed by the current D1 zoning and limit on height.

Bona said the current height limit was 120 feet.

Potts said 15 feet was not enough for a setback.

Moved by Potts, seconded by Woods, to amend Table 5:10.20C – Downtown Character Overlay Zoning Districts Building Massing Standards in the draft ordinance by increasing the minimum Side and Rear Setbacks in the South University Area from 15 feet to 30 feet for a building base of up to 30 feet.

Westphal asked staff to clarify what the existing setback was in that area, under current zoning rules.

Rampson said the rear setback was 30 feet and the side setback was 14 feet. She said that where the C2A boundary area is, the size of the setback depends on whether it is a side or rear property line.

Westphal asked, specific to Forest Court, whether the boundary was a side or rear property line.

Rampson said it depended on the nature of the development proposal.

Potts was interested in this issue because there was a greater setback from buildings over three stories. She believed a 15-foot setback was unlivable.

Bona asked staff to clarify setback uses.

Rampson said no buildings could be constructed in a setback space, and that parking would require a conflicting land use buffer.

A vote on the amendment showed:

YEAS: Borum, Potts, Woods
NAYS: Bona, Derezinski, Mahler, Westphal
ABSENT: Carlberg, Pratt

Amendment failed.

Westphal asked staff to address comments from the South University Area Association, and whether the 700% and 900% premiums could be attained with zoning as it stands now.

Rampson replied that as a practical matter, the Association said they could not do the buildouts. Theoretically, she said they could by maximizing the footprint on site.

Bona noted the Courthouse Square as an example, at 120 feet tall and just under 900%.

Westphal asked for staff comments on the height of the modified 601 Forest project.

Bona said it was 163 feet in height and 14 stories.

Rampson believed she saw 140 feet, but she was not sure which was final.

Westphal believed someone had rounded the number to 170 feet. He hesitated to suggest redrawing the original recommendations, because lots of thought went in to it. But he said the 601 Forest project served as a kind of recent test case. He believed the project demonstrated a compromise between no height limit and a 120-foot height limit. If the City wanted affordable housing and to encourage people to go after premiums, he believed it was counterproductive to water down that ability with restrictive height limits. He believed that the 601 Forest project was a pretty good indication of where staff, council, and the community have netted out regarding height limits.

Moved by Westphal, seconded by Mahler, to amend Table 5:10.20C – Downtown Character Overlay Zoning Districts Building Massing Standards in the draft ordinance by increasing the Maximum Building Height in the South University Area from 120 feet to 170 feet.

Mahler supported the motion, because he said competitiveness and environmental soundness require flexibility. He said projects need to be profitable and provide some benefit to the area. He believed that the 170 foot height limit would add more businesses, residents, and transactions, and would help establish South University as a business core.

Potts had a real problem with the proposed height increase, stating that if South University were truly core, she would consider the proposed height. However, she said there was no buffer between core and neighborhoods, and she wanted to do everything possible to make D1 look residential.

Bona said that looking at the numbers on projects where premiums were met indicated that the projects were being built lot-line to lot-line. She believed the additional 50 feet was significant, and would add variety to the area and help avoid a solid mass of buildings on South University, which she believed was important.

Borum noted that when the height limit was imposed, diagonal requirements were removed. He asked whether the proposal to increase height limits should be accompanied by a reintroduction of the diagonals. He believed diagonals would be reasonable since the height was being increased by 50 feet.

Bona asked staff at what point diagonals made sense again.

Rampson said it was a judgment call.

Bona recalled the diagonal as being smaller. She asked Commissioner Borum if he wished to reintroduce diagonals. She also said Rampson determined the actual height of the 601 Forest project, which was 163-feet.

A vote on the amendment showed:

YEAS: Bona, Derezinski, Mahler, Westphal
NAYS: Borum, Potts, Woods
ABSENT: Carlberg, Pratt

Amendment failed.

Moved by Borum, seconded by Woods, to amend Table 5:10.20C – Downtown Character Overlay Zoning Districts Building Massing Standards in the draft ordinance by reintroducing diagonal requirements for the South University Character Area of 200-foot maximum for the lower tower and 120-foot maximum for the upper tower.

Mahler asked Commissioner Borum to help him understand the rationale for diagonals.

Borum explained that with no height limit, diagonals help to decrease the footprint of a tower. He said a diagonal on short buildings severely limits upper floor area, and that higher buildings are more conducive to diagonal requirements.

A vote on the amendment showed:

YEAS: Bona, Borum, Derezinski, Westphal
NAYS: Derezinski, Mahler, Potts
ABSENT: Carlberg, Pratt

Amendment failed.

Bona made a motion to continue the meeting beyond 11:00 p.m.

There was no second, so Commission Action on Revisions to the Downtown Rezoning and Amendments to City Code to Implement the Ann Arbor Discovering Downtown (A2D2) Recommendations was postponed to the March 3rd Commission Meeting.

ADJOURNMENT

Bona declared the meeting adjourned at 11:24 p.m.

Mark Lloyd, Manager
Planning and Development Services

Kirk Westphal, Secretary

Prepared by Steve Bartha
Management Assistant
Planning and Development Services