

MINUTES

ANN ARBOR CITY PLANNING COMMISSION

BUSINESS MEETING

7:00 p.m. – May 1, 2007

Time: Chair Pratt called the meeting to order at 7:05 p.m.

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

ROLL CALL

Members Present: Borum, Bona, Carlberg, Emaus, Lipson, Potts, Pratt, Westphal, Woods

Members Absent: None

Staff Present: Foondle, Lloyd, Marcarello, Thacher

INTRODUCTIONS

None.

MINUTES OF PREVIOUS MEETING

a. Minutes of March 20, 2007.

Moved by Carlberg, seconded by Lipson, to approve the minutes as presented.

Westphal asked that on page 14, the words “would benefit from it” be removed from the second line and replaced with “currently has light traffic because of similar connections in the area.”

A vote to approve the minutes as revised showed:

YEAS: Bona, Borum, Carlberg, Emaus, Lipson, Potts, Pratt, Westphal, Woods

NAYS: None

Motion carried unanimously.

APPROVAL OF AGENDA

Moved by Bona, seconded by Lipson, to approve the agenda.

A vote on the motion showed:

YEAS: Bona, Borum, Carlberg, Emaus, Lipson, Potts, Pratt, Westphal, Woods
NAYS: None

Motion carried unanimously.

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

Bona reminded Planning Commission members to provide her with their evaluation of the Planning and Development Services Manager. She would then compile the responses and provide them to the Community Services Area Administrator. She also reported that the City/DDA Partnership Committee met last week and discussed the First/Washington project as far as negotiations with the City on the amount of parking the City would purchase. She said the committee also discussed the Zaragon Place proposal on East University, noting that the developer of that project has approached the committee for a partnership grant.

Pratt reported that a number of meetings were coming up in May for the five subcommittees of the A2D2 work effort. He stated that the public could visit the City's website at www.a2gov.org and then go to Discovering Downtown for a status report on the various committees of the Ann Arbor Discovering Downtown work effort. He announced some of the upcoming meetings: May 2 at 7:00 p.m. at Conor O'Neill's on Main Street and on May 4 at noon in the DDA Conference Room at 150 South Fifth Avenue – public meetings to solicit input on the preliminary set of zoning changes identified by the Downtown Zoning Advisory Committee; May 10 at 8:30 p.m. in the City Council Chambers and May 23 at 7:30 p.m. at Bach School – Historic Guidelines Committee will be presenting its draft for review and comment; and May 10 at 6:00 p.m. in the Community High School Median Center – Parking Strategy Committee public meeting.

Potts also noted that the Design Guidelines Committee would be meeting on Wednesday, May 30. She announced that the next meeting of the Ordinance Revisions Committee was scheduled for May 11 at 9:00 a.m. in the Council Workroom.

Pratt reported that the Floodplain Subcommittee of the Ordinance Revisions Committee had been formed and would be meeting on June 11 at 3:00 p.m. in the Fourth Floor Conference Room. He said staff and the subcommittee would be prepared to begin working on a floodplain ordinance.

AUDIENCE PARTICIPATION

None.

PUBLIC HEARINGS SCHEDULED FOR NEXT MEETING

Pratt announced the public hearings scheduled for the meeting of May 15, 2007.

REGULAR BUSINESS

a. Public Hearing and Action on UrbEn Retreat Site Plan for Planning Commission Approval, 0.13 acre, 210 East Huron Street. A proposal to construct a 576-square foot addition to the existing roof – Staff Recommendation: Approval

Thacher described the proposal and showed photographs of the property.

Jane Talfer, 209 East Washington, stated that an alley was located behind this property and that she used this alley for access to her garage. She wanted to make sure that this access was not blocked in any way during construction. If the construction necessitated blocking her garage, she asked that the petitioner be responsible for paying the parking fees in the William Street parking structure. She wondered if there would be noise protection from this building's mechanical equipment.

Royce Disdro, 113 South Fourth Avenue, said he was mostly concerned about parking in front of the red post where his parking space was located and said he needed to be able to access his parking space during construction. He asked for confirmation that he would have access.

Noting no further speakers, Pratt declared the public hearing closed.

Moved by Bona, seconded by Borum, that the Ann Arbor City Planning Commission hereby approves the UrbEn Retreat Site Plan for Planning Commission Approval.

Lipson said it would be helpful if the petitioner addressed the concerns expressed by the neighbors. He spoke to the benefit of a green roof on this building. He asked about the heat pump system and wondered how deep the installation would go and if there were concern about future conflicts with underground utilities.

Robert Saxon, of A3C Architects, stated that with regard to noise, the proposed geo thermal system would be significantly quieter than the three existing HVAC units on top of the building that would be removed. With regard to how the geo thermal system would work, he explained that six cords would be drilled in the right-of-way, installed at an angle and squeezed as close together as possible to avoid conflict with any existing systems. He said they would be approximately 350 feet deep. They were currently in negotiations with a contractor, he said, and that they would work out access and parking with the neighbors.

Lipson asked if the geo thermal system would use the ambient ground temperature for heat exchange and not ground water.

Saxon replied that this was correct. He said piping would come up on the outside of the building and enter the building between the first and second floors, where it would be distributed to five heat pumps inside the building. There would be nothing under the building, he said.

Woods stated that this site was in the Allen Creek Watershed and asked if any of the creek's pipes were located underneath this building.

Dan Jacobs, of A3C Architects, stated that Allen Creek was located three blocks to the west of this site and that there was no part of the creek contained below the building. According to the testing done, he said, they would hit bedrock about 250 feet below the surface, which was good for a geo thermal field.

Potts expressed her appreciation of the environmental aspects proposed for this building. She was glad to see that the front façade would remain, stating that this was an historic building with good modern design. She stated that during the Historic District Commission meeting, neighbors who would look out their windows and see this addition expressed concern about the view. She wanted to make sure that neighbors had access to the alley.

Lloyd assured the Planning Commission that the internal staff process with the developer and contractor would involve the staging plan and how and where equipment would be located and the effect it would have on neighbors and businesses. He said the contractors would work with the neighbors on agreements as to how they would function. He appreciated the suggestion by one neighbor about utilizing a nearby structure for parking during the duration of this project.

Potts was sorry that this addition might be a visual obstacle for nearby residents, but thought the fact that this addition was pushed back on the roof was appropriate to avoid changing the façade of the building.

Carlberg stated that she spent time at the top of the old Ann Arbor Inn to the west and said the view of the roofscape to the east was unattractive and had no aesthetic value. She saw this proposal as a model for others pursuing building additions in the downtown. She believed this addition would be a visual improvement.

Saxon stated that they planned on opening their building to the community so people could see the different products they were using, thereby providing an educational benefit. He showed a sketch of what the neighbor who spoke at the Historic District Commission might see when looking out her windows to the east.

Pratt stated that theoretically, the petitioner could turn this into a four-story building, as the existing zoning would allow two more full stories. He said there were numerous sites in the downtown area that could do this without a zoning change. He appreciated the consideration given by the petitioner.

Bona asked if the geo thermal system was expandable if a larger building were put on this site.

Jacobs stated that if they wanted to enter into an agreement to use more of the alleyway, they could connect more geo thermal wells and make that available to a larger facility. He said the contractor installing this was looking to create geo thermal fields throughout the community to provide an alternate means of energy.

Westphal said it appeared that there would be vegetation on the roof.

Saxon replied that this was correct.

Westphal wondered if taller vegetation might be appropriate as a buffer for adjacent neighbors.

Saxon said they were limited by the frame of the building and said they have maximized the areas that could take a larger load.

Borum stated that this was a great project.

Lipson asked how much rainfall the green roof would hold and where the water would go.

Saxon stated that most rainwater would be soaked up by the green roof. During a heavy downpour, he said, a tray underneath the roof would channel water and allow it to drain into the storm system. He said they intended to catch the storm water and store it in a tank on the second floor of the building, using the water to irrigate the green roof. He said they were putting a second tank in front of the building to irrigate the trees.

Lipson asked if the petitioner would be keeping records during the lifetime of the building as far as performance so it could be used as a model for other buildings.

Saxon replied yes.

A vote on the motion showed:

YEAS: Bona, Borum, Carlberg, Emaus, Lipson, Potts, Pratt, Westphal, Woods
NAYS: None

Motion carried unanimously.

b. Public Hearing and Action on Amendments to Chapter 55 (Zoning Ordinance) to revise the definition and regulations regarding open space – Staff Recommendation: Approval

Marcarello explained the proposed amendments.

Noting no further speakers, Pratt declared the public hearing closed.

Moved by Carlberg, seconded by Lipson, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the amendments to Chapter 55, Section 5:1, Definitions, and Sections 5:32 through 5:36, regarding open space.

Potts stated that the goal of these amendments was to make the open space requirement more realistic, which would no longer allow developers to use steep slopes or protected natural features in the calculation for open space, as these spaces were unusable.

Carlberg stated that the proposed amendments were tested against recent development proposals to see if they would meet the new standards. The developments met the standards, she said, which meant that the proposed amendments were not creating a new set of standards that could not easily be met. She believed the new standards would provide valuable guidance to developers in maintaining truly usable space for residents of multiple-family developments.

Emaus asked if the proposed open space definition included storm water detention areas as open space.

Marcarello replied yes, it was included as general open space, but not active open space.

Emaus asked if green roofs would count as open space.

Marcarello replied that up to 25 percent of a green roof could be counted toward general open space, not active open space. She stated that a rooftop deck could be counted as active open space.

Emaus stated that there was a specific definition for woodlands and asked how it was different from a natural features forest.

Marcarello stated that the definition of woodlands, found in Chapter 57, was based on basal area and size and density of trees.

Emaus stated that the Burton Commons proposal on Burton Road was preserving the woodland area in the center of the site and asked if it would count as active open space.

Marcarello said the woodland was not counted toward active open space because outdoor recreational activities were difficult to do in the woods. She said trees were sometimes far enough apart so people could play and walk around in them, but because active open space was a subset of overall open space, it was determined that woodlands could be counted for general, not active, open space.

Emaus asked how gardens were classified.

Potts replied general open space.

Emaus questioned why gardens were not included as active open space, stating that gardening was a good form of exercise. He wondered if there were support to add gardens to the active open space list.

Potts agreed that gardening was an activity, but generally was not a place for activities, other than planting things. She said it would be undesirable for children living in a multiple-family development to play ball in a garden or to place a picnic table in a garden. Garden activities were too limited for active open space, she said.

Lipson said there was no doubt that gardening was great exercise. The proposed amendments would still allow gardens, he said, but as part of general open space. He said active open space was considered for activities, such as barbecuing or playing, and that gardens were considered more of a natural feature. Gardens would still be counted as open space, he said, and he did not see the need to further amend the ordinance.

Westphal asked what the underlying motivation was for the change.

Pratt stated that the ordinance amendment would set some type of minimum because one of the concerns has been developments that propose a three-foot wide strip of land between a building and property line and counting it as usable open space. That type of space had little value, he said. He said using the term "active" would require the provision of space in which people could play.

Westphal expressed concern that perhaps there was not enough space for activities and that perhaps more square footage should be required where games could actually be played. He was concerned that the regulations might not go far enough in terms of encouraging contiguous space for active recreation. With regard to not including woodlands in calculating active open space, he wondered if this meant a developer could cut down trees in a woodland in order to meet the definition of active open space.

Marcarello stated that if the woodland area met the definition of a woodland, it would be a protected natural feature and the developer would have to go through the required steps to justify the impact if removing any of the trees were proposed. She stated that removing smaller trees and scrub vegetation could occur, adding that this could perhaps be a positive move in order to create a manicured lawn. She said the site plan process would address this.

Potts stated that at one point, protected woodlands were included in active open space, but that it was removed. If the woodland did not qualify as a protected natural feature, she said, then it should be fine to play in the woods and sit at a picnic table, so perhaps it should be included.

Bona stated that the staff report spoke to this, adding that previously approved site plans that were tested met the proposed requirement, making it seem that this would not be necessary. She said an important aspect of this was to provide assistance in identifying what was usable. She also thought it was important to maintain some flexibility. While having gardens and playing in the woods were significant activities, she said it was also important for each site to provide open space in different ways, such as a lawn or private decks. She called attention to the importance of not having too much manicured lawn. She thought having trees more than six feet apart would provide adequate space for active recreational use. With regard to gardens, she did not think they should be included as active open space for the same reason sidewalks were not included. Sidewalks were great for walking and running, she said, but they were not places to put tables or chairs for outdoor gatherings. She believed the amendments as proposed provided good balance. One issue that was discussed at length, she said, was how much roof area to include as active open space. She said the committee and staff did not know how much would be enough or too much while at the same time encouraging green roofs, so 25 percent was believed to be reasonable.

Borum stated that up to 100 percent of storm water detention was allowed to be counted as general open space and questioned why only 25 percent of a green roof was allowed. He agreed that it was important to encourage green roofs, but thought allowing 100 percent of a green roof would be acceptable for general open space. With regard to a garden, he said, the definition was a little vague in comparison to a lawn. He said a lawn was allowed as active open space, yet he could plant all kinds of different things in his lawn. If a lawn could be counted as active open space, he did not know why a garden would be excluded. He said he would support adding gardens to the active open space definition. He believed the intention behind the 300 square feet of minimum active open space in the R4C/D zoning district was good, but he did not think the City would want to start limiting the density in the zoning district where higher density was allowed.

Marcarello stated that there were no areas of the City that were actually zoned R4C/D, which was intended for high density development. She said other zoning amendments currently being considered contained the elimination of this zoning district. In the meantime, she said, the Planning Commission could consider changing the 300 square foot minimum active open space to 150 or 200 square feet.

Carlberg stated that with regard to the garden issue, no one would be policing what happened to a private open space once it was turned over to an occupant, so someone could choose to saturate it with plants. If the open space were designated on a site plan as an extensive vegetable garden, she said, the situation would be different. What a person chose to do with their individual open space was up to them, she said.

Pratt stated that how a development chose to use its active open space would vary from proposal to proposal.

Potts agreed that individuals could use their private open space however they wished, such as planting a garden. She did not oppose including gardens in general open space. She said one of the goals sought was to be sure each residential unit had some outdoor space to use. With regard to using the green roof in calculations, she said, they did not want to encourage developers to build from lot line to lot line because they were allowed to use the whole green roof as open space. For this reason, she said, she would not want to see 100 percent of green roofs allowed to be counted toward open space. She did not want to see the only green on a site be located on the roof.

Pratt stated that gardens were not expressly prohibited and thought the language “examples may include” provided enough flexibility to exercise judgment. If the word “garden” were added, he said, it would have to be defined with measurable terms. He would not object to changing the green roof maximum to 50 percent, or to keeping it at 25 percent and see how this related to future site plans. If it were determined that the maximum should be raised to 50 percent, he said, it could be done at a later time.

Marcarello stated that the Ordinance Revisions Committee believed a 25 percent maximum would still encourage the provision of green roofs.

Commission decided to leave the measurement at 25 percent.

Woods asked if the Park Advisory Commission had an opportunity to comment on the open space definition.

Marcarello replied no, stating that staff did not work with parks planners on this.

Emaus said one of his concerns was that the minimum lot area per dwelling unit was specified as minimum gross lot size, which varied depending on the zoning district. The schedule of minimum active open space was proposed to be fixed at 300 percent, he said, which did not seem to go along with the minimum lot area per unit. He said he would prefer to see a minimum of ten percent of the lot area for active open space per unit.

Potts asked if replacing “decorative plantings” with “landscaping and gardens” would help to address the concern regarding gardens.

Emaus said he would support that.

Moved by Potts, seconded by Emaus, to remove “decorative plantings” from the general open space definition and replace it with “landscaping and gardens.”

A vote on the amendment showed:

YEAS: Bona, Borum, Carlberg, Emaus, Lipson, Potts, Pratt, Westphal, Woods
NAYS: None

Motion carried unanimously.

Bona said she would not support changing the minimum active open space to a percentage of the minimum lot area. She thought 300 square feet of space was adequate and she did not want to encourage more than what was needed. She stated that 300 square feet per unit on the City’s most dense sites was feasible and she did not want to require more. With regard to the percentage of active open space for the R4C/D zoning district, she would be in favor of changing it to 150 square feet.

Moved by Bona, seconded by Borum, to change the 300-square foot minimum active open space requirement under the R4C/D zoning district to 150 square feet.

Potts stated that she could not support 150 square feet, stating that this was a very small space. The rule of thumb that was considered, she said, was requiring enough space for a table and chair and/or a grill. She said the percentages proposed in the ordinance were minimums and that nothing precluded a developer from providing more space.

Carlberg thought this was a sensible alteration to make based on reality.

Westphal thought it would be important for parks staff to review these amendments since recreational activity was the primary motivator.

A vote on the amendment showed:

YEAS: Bona, Borum, Carlberg, Emaus, Lipson, Westphal, Woods
NAYS: Potts, Pratt

Motion carried.

Westphal raised the issue of shared open space being adjacent to a slope, which could prevent it from being usable.

Pratt agreed that something should be done to address the slope issue. Perhaps not a specific number, he said, but language that allowed staff to evaluate the proposed use. For example, he said, a ten percent slope would not be a fun location for kids to play soccer.

Potts predicted there would be more grading done if more of a flat area were required.

Pratt thought it was reasonable to place a limit on the size of a slope if the goal was to provide a place where recreational activities could be undertaken.

Westphal stated that in his neighborhood where there were different sized slopes, the difference between usable and unusable was quite fine.

Pratt thought it would be reasonable to have parks staff review this.

Borum stated that with regard to the roof percentage, it would never be as high as 100 percent because each of the zoning districts in question had setback requirements, so a development would never be built from lot to lot line if 100 percent of a roof were counted toward general open space. He was not opposed to the 25 percent maximum, but did not see a reason to limit it to 25 percent.

Moved by Borum, seconded by Potts, to amend the definition of open space by allowing the roof to be considered in the calculation of minimum usable open space permitted without a percentage attached.

Potts noted that commercial zoning districts that allowed residential uses allowed buildings to be built lot line to lot line and she did not want to encourage green space in the downtown being limited to a roof.

A vote on the amendment showed:

YEAS: Borum, Carlberg, Emaus, Pratt, Westphal
NAYS: Bona, Lipson, Potts, Woods

Motion carried.

A vote on the main motion showed:

YEAS: Bona, Borum, Carlberg, Emaus, Lipson, Potts, Pratt, Woods
NAYS: Westphal

Motion carried.

Pratt asked the Ordinance Revisions Committee to review the slope issue before the amendments were transmitted to Council.

Marcarello suggested “devoted to and suitable for outdoor recreation.”

CPC felt comfortable moving forward with that.

c. Public Hearing and Action on Master Plan Review (whether elements should be studied for possible change or new elements added to the master Plan) – Staff Recommendation: Approval

Pratt explained that there was a Master Plan Revisions Committee that currently was working with staff to undertake an overhaul of the entire Master Plan.

Lloyd stated that this was an opportunity for the public to provide suggestions about the master planning process.

Brian Shorkey, transportation planner with the Washtenaw County Road Commission, said he compared the City’s plans with the goals and policies of the Road Commission. With regard to Chapter 7 of the Northeast Area Plan, which contained language regarding the closing of the M-14/Barton Drive interchange, he referenced Road Commission Resolution RC05-364 where the board requested the City to remove from the plan the proposed closure of this interchange. He said the language was not contained in the goals and objectives of the plan, but having it in Chapter 7 created a potential conflict. Other than that, he did not think the City’s master plan documents conflicted with any of the Road Commission’s plans.

Pratt stated that the majority of the Planning Commission favored removing the language about closing the M-14/Barton Drive interchange. He asked staff to check the document on the website, which apparently still contained the language.

Jim Mogenson, 3780 Greenbrier, spoke about the two-year process to evaluate the master plans for consolidation into one master plan. He suggested that there were both external and internal considerations that needed to be addressed during this process. He said the Pfizer property likely would be redeveloped, with some of it occurring within the two-year review process, and that information or direction from the City likely would be required during that timeframe. He questioned whether the City needed to identify what was happening in certain neighborhoods and suggested that this should be included in the plan. For example, he said, Miller’s Creek was located around the Pfizer property and he questioned what would happen to the creek and how could the City insure that the Miller’s Creek plan

was carried out. He believed the same was true for the Transportation Plan, stating that an effort to relook at the plan had begun. Before you know, he said, there would be a millage for mass transit. He said there were many things coming out of the planning process related to transit and he could envision all kinds of battles.

Noting no further speakers, Pratt declared the public hearing closed.

Moved by Lipson, seconded by Bona, that the Ann Arbor City Planning Commission hereby approves the “City of Ann Arbor Master Plan Resolution,” dated May 1, 2007.

Emaus asked if the Non-motorized Transportation Plan superceded the Bicycle Master Plan.

Lloyd said he would follow up with a response to this.

Bona stated that with regard to the A2D2 Zoning Overlay Committee efforts, it was her understanding that along with proposed zoning changes, there would also be proposed changes to the Downtown Plan. She asked how this coordinated with consolidation of the various master plan documents.

Lloyd stated that the City needed to move forward with consolidating the master plan elements without including the Downtown Plan. Exclusion at this time would have no effect, he said, adding that forthcoming revisions would be incorporated into the Downtown Plan.

A vote on the motion showed:

YEAS: Bona, Borum, Carlberg, Emaus, Lipson, Potts, Pratt, Westphal, Woods
NAYS: None

Motion carried unanimously.

d. Action on Resolution regarding Floodplains.

Potts said she continued to have major problems with building in the floodplain. Until the maps were completed, she said, there would be uncertainty as to the elevations of flooding. She stated that building over the predicted height of a flood did not make sense to her. She did not believe construction should be allowed in those areas.

Emaus stated that based on the current map, there were 773 parcels and 263 structures in the floodway throughout town. If the City were to prohibit new development in the floodway, he said, there would be approximately 500 parcels that could not be developed. He expressed concern about this because there would need to be compensation made available to those property owners.

Pratt asked about restrictions for construction in floodways.

Lloyd confirmed that there were restrictions in place that both prohibited and limited the ability to develop residential structures in the floodway. Moving forward with further restrictions would enhance those that already existed, he said, rather than add regulations.

Lipson said he would like to know the total number of structures in the floodplain.

Pratt said the floodplain subcommittee would look into this.

Westphal wondered if the current YMCA site was in the floodway and, if it were damaged in some way, wondered if it could be redeveloped as it currently existed.

Pratt said this would be difficult to conclude based on the proposed language, as it did not firmly indicate one way or another. It was partly because the Y building was flood-proofed, with it being situated on pillars, so it might fall into category 7d. He said the floodplain subcommittee could review this for further clarification.

Westphal said he was trying to think of ways the proposed resolution might possibly preclude good development in the floodway, development that might help the hydrology of the area.

Pratt stated that the current recommendations in the resolution would not allow the current Y to be rebuilt as a brand new building. Although it could be proven on paper that a building on stilts would not have a significant impact, he said, it would preclude some things. He said the greenway plan contemplated three different alternatives for three City sites, all which kept the structures out of the floodway. Detention was provided for each individual site, he said, and water quality improvements were conceptually intended to be provided. He said the intent was to demonstrate that there could be good development while at the same time providing a greenway and accomplishing storm water goals. He would not totally preclude good development, but he would not want the good development to be in the floodway. He said there were plenty of good things that could be done in the floodway.

Lipson said it was easy to say no to new development in the floodway and that an important question to ask was how much redevelopment should be allowed in the floodway. Technically, he said, the Y building was a redevelopment project because there was a building that previously existed on the property. It was an improvement over what previously existed, he said, noting that it reduced the size of the floodplain.

Emaus asked if the University of Michigan would be subject to this ordinance.

Lloyd did not believe so.

Emaus said he would like to see the University involved in this effort, stating that the University had a significant number of buildings in the floodway. He stated that passing an ordinance that prohibited new construction in the floodway could result in the University purchasing undevelopable parcels in the floodway and then developing them if they were not subject to the ordinance. He thought the University needed to be on board with this in some way.

Lipson said there was a new federal regulation that required the University to at least deal with storm water, which would have an effect here because so much of the University's property was within the floodway.

Potts believed the University had a storm water and flood plan for the central campus and said it would be helpful to have a copy of it.

Carlberg asked if the subcommittee would work with Attorney's Office staff in terms of what legal implications might be involved in #7e of the resolution, which dealt with the removal of structures in the floodway via attrition or purchase policy.

Pratt replied yes. He asked if it would be most appropriate for Attorney's Office involvement before or after the ordinance revisions committee reviewed the ordinance.

Lloyd thought the best approach would be to have guidance provided by the Attorney's Office early in the process.

Lipson said a big issue he envisioned was the taking of land. He said a property owner could not be precluded from reasonable use of his/her land without compensation. Having input from the Attorney's Office at the outset would be important, he said.

Potts wondered to what degree the City might be liable if it issued permits to build in a hazardous location.

Pratt said this was a good question to pose to the Attorney's Office.

Woods believed the issue of transfer of development rights (TDR) needed further discussion. She could see where it might become an issue with regard to whether property owners had a right to increase the number of stories on buildings in historic districts and whether this right could be transferred to a different part of town. She said the Attorney's Office might need to be involved in that discussion.

Pratt said the TDR issue has been brought up in the past by the Planning Commission, but it was not pursued. He said he has never heard any City decision-making group express enthusiasm about this issue.

Lipson said the TDR issue was a difficult issue, stating that part of the difficulty was if the receiving zone was outside of the City's jurisdiction. There was no clear state statutory authorization, he said. He believed incorporating TDRs in the floodplain ordinance would be difficult, but suggested that they may be useful in the future where a property owner had land both in the floodway and in another part of town.

Bona said she was opposed to removing this, stating that it was a suggestion at this point and not something that necessarily had to be done now. She said the Zoning Overlay Committee for the A2D2 effort was actively considering it as an option for premiums.

Potts stated that an ordinance was a law and if that ordinance prohibited construction in a floodway or floodplain, then a property owner did not have a development right to transfer. She said an individual could only transfer development rights if he/she had those rights.

Emaus stated that if the City were going to the trouble of regulating space and making it essentially open space, the place that provided the most benefit to people was along the open space area, so he would like to see the current development rights transferred.

Woods said the point she was trying to make was that TDRs had not yet been defined, yet it was being discussed. She did not really know at this point what the TDR was, she said, adding that it was a very complex issue. If the other committees were talking about it, then so be it, she said, but she preferred removing it. She thought it was premature at this time.

Pratt said the goal in bringing this resolution forward was to identify areas where there was Commission consensus. If Commission members did not agree with the direction of this, he would prefer leaving that part out at this time.

Lipson stated that with regard to the long-term policy of removing structures, federal funds should be included because these funds were available for removing structures from floodplains. With regard to the TDR, he did not think there was a problem making reference to it. He agreed that it was a difficult concept, but one that may prove to be useful.

Woods said it was unclear what exactly this document was doing, because it talked about a draft format of what the floodplain ordinance should address, but there were also policy decisions of the Planning Commission.

Pratt said the intent was to provide direction on some of the key points and on what the Planning Commission was likely to support. It was to provide guidance, he said. He would suggest that the City Clerk include the resolution as a communication to City Council so Council was aware of the Commission's opinions on what the ordinance should contain.

Woods stated that since the title indicated a consensus among Planning Commission members, it may be helpful to change #7e to a new #8, as she thought there needed to be more discussion before it came to a consensus.

Carlberg stated that because this was an informational piece for Council, she thought the details should remain in #7e because it would assist Council in understanding the approach. There were no conclusions listed in #7e, she said.

Pratt did not object to changing #7e to a new #8.

Potts stated that floodplains and floodways were hazards. She stated that #4 talked about projects that may require extensive analysis in the future and that future construction would be permitted under certain conditions, with which she could not agree.

Lipson said there was a significant percentage of the community that also believed there should not be any new construction anywhere in a floodplain. This was an issue for discussion, he said, stating that nothing in this resolution was set in stone. He thought this was a good start for setting the tone of the direction in which to head.

Westphal stated that the language in #7a was strong and he thought it should be, but he was trying to think of instances where the City would gladly exchange a development that would not hamper water flow for a community benefit.

Lipson stated that the word "development" was a vague term, noting that a park could be a development. He said the word should be clarified to define a "building." He believed that no new development meant no new structures.

Potts said she strongly objected to using the word "consensus," which implied that everyone agreed.

A vote to approve the "Resolution of Consensus Positions of the Ann Arbor City Planning Commission with Regard to Floodplains" showed:

YEAS: Bona, Borum, Carlberg, Emaus, Lipson, Pratt, Westphal, Woods

NAYS: Potts

Motion carried (attached).

Pratt stated that he would make some corrections and forward it to Commission members prior to distributing it to City Council.

AUDIENCE PARTICIPATION

None.

COMMISSION PROPOSED BUSINESS

None.

ADJOURNMENT

Pratt declared the meeting adjourned at 10:42 p.m.

Mark Lloyd, Manager
Planning and Development Services

Bonnie Bona, Secretary

Prepared by Laurie Foondle
Management Assistant
Planning and Development Services