

MINUTES

**ANN ARBOR CITY PLANNING COMMISSION**

REGULAR MEETING

7:00 p.m. – June 17, 2008

Time: Chair Pratt called the meeting to order at 7:02 p.m.

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

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ROLL CALL

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Members Present: Bona, Borum, Carlberg, Emaus, Lowenstein, Mahler, Potts, Pratt, Westphal

Members Absent: None

Staff Present: Cheng, Foondle, Kahan, Kowalski, Pulcipher

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INTRODUCTIONS

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None.

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MINUTES OF PREVIOUS MEETING

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a. Minutes of May 20, 2008.

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

Borum asked that his statement on the middle of page four be changed to read: "Borum recalled the Planning Commission recommending approval of a definition of drive-through facilities and requiring a special exception use for them in all districts."

Westphal asked that on page ten, seventh line of first paragraph, the word "retail" be inserted after "maintaining."

Potts asked that the last sentence at the bottom of page 13 be changed to read: "Potts noted that this development would be taking care of its own access to water in the same service area."

Mahler asked that on page ten, second line of the second paragraph, the word "potentially" be inserted before "recommending."

A vote to approve the minutes as presented showed:

YEAS: Bona, Borum, Carlberg, Emaus, Lowenstein, Mahler, Potts,  
Pratt, Westphal  
NAYS: None

**Motion carried unanimously.**

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APPROVAL OF AGENDA

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**Moved by Emaus, seconded by Borum, to approve the agenda.**

A vote on the motion showed:

YEAS: Bona, Borum, Carlberg, Emaus, Lowenstein, Mahler, Potts,  
Pratt, Westphal  
NAYS: None

**Motion carried unanimously.**

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

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Potts announced that the next meeting of the Ordinance Revisions Committee would be held the week of June 23.

Pratt reported that the A2D2 Steering Committee met last week to go through the eight-item issue list. He said the committee was able to get through all of the issues and a recommendation from the group would be forthcoming.

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AUDIENCE PARTICIPATION

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Alice Ralph, 1607 East Stadium Boulevard, stated that she visited the City's website and tried to access the new TrakIT development tracking system. Although she could see how the system might be useful to people directly involved with development projects, she did not get a good sense of how the public would access this information. She thought it was worth looking into how to expand and maybe help assist with the citizen participation ordinance requirements that the City was considering. She said she has heard about this software having a great deal of potential and expressed concern about the City perhaps missing an opportunity. For instance, she said, in order to find a certain record, one would have to know a specific address or street number, otherwise the best that could be done was a list of 500 items, with the system requesting that the search be narrowed. Many people would be unable to narrow such a search, she said.

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PUBLIC HEARINGS SCHEDULED FOR NEXT MEETING

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None.

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REGULAR BUSINESS

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a. Public Hearing and Action on Amendments to Chapter 55 (Zoning Ordinance) and Chapter 59 (Off-Street Parking Ordinance) pertaining to standards affecting area, height and placement for single-family, two-family student dwellings, townhouse dwellings, multiple-family dwellings, hotels, office, research, office/research/limited industrial, commercial and industrial zoning districts. The proposed changes would reduce front setback requirements, increase height limitations, and (for non-residential districts) allow greater floor area ratios [postponed from 6/3/08 meeting] – Staff Recommendation: Approval

Kahan and Kowalski both explained the proposed amendments.

Eric Meves, 1706 Cambridge, stated that Planning staff has been very helpful working to explain the proposed amendments, but he thought more time was still needed. He thought it was a good idea to remove the front setback averaging section from the ordinance to allow more work. He referred to the corner of Cambridge and Baldwin where a new condominium building has been developed, stating that this was a good example of how front setback averaging does work. Under the proposed new language, he said, the condominiums would be set back 25 feet from the property line, but the existing homes along Baldwin were set back 40 to 50 feet. He believed more study was needed to see how the proposed averaging would look and work in the neighborhoods. It made sense to have the averaging in the new, small neighborhoods, he said, but not in the older neighborhoods where existing setbacks needed to be preserved. He believed a workable code could be created that would apply to both old and new neighborhoods.

Anya Dale, of Washtenaw County Planning and Environment, submitted a letter of support (on file) for the proposed amendments. She stated that the proposed amendments were consistent in many ways with the County Master Plan, such as the goal to maintain a sense of place, preserve resources, reduce sprawl, provide job opportunities, and invest in a transportation network that provides choices for residents and businesses and is not so reliant on cars. She said there were many different programs going on in Ann Arbor and the surrounding area that address sustainability and show how progressive we are, but she said many of them would be difficult to implement if the necessary tools to back them up were not available. These revised zoning standards would help provide those tools, she said, stating that they would encourage the mixed use development and transportation choices that the community needed. She stated that if one were to look at other successful communities across the country, communities that this area's educated new graduates were moving to, the difference would be that Ann Arbor did not have all of the tools in place to realize its vision. She stated that Washtenaw County encouraged the adoption of these revisions.

Gwen Nystuen, 1016 Olivia, representing Green Things, believed that a great deal of Ann Arbor was already developed and that the City should separate what was already developed from what was being developed. A separate initiative for the City, she said, was controlling storm water and improving the

quality of the Huron River. She said that initiative contained best management practices calling for the preservation of the natural environment, minimizing the amount of impervious surface, preserving open space, and minimizing land disturbance. She believed the proposed changes to the front setback averaging section would eliminate large parts of older areas that were not built to handle storm water. She did not think the City would want to lose the green and open spaces in front of the houses in these older areas. She stated that some cities had very good control over storm water for areas zoned single and two-family areas, but Ann Arbor did not. She opposed a revision to the ordinance that would change the front setbacks.

Edith Nickel, 904 Lincoln, expressed concern about the revisions to the front setback averaging section and how they would affect the property where the fraternity recently burned. She said the front setback for that fraternity was 60 feet and if this new ordinance language were approved, only about a 15-foot front setback would be required for a new structure. This was horrifying to her because the setbacks in this area were magnificent and she would hate to see them compromised. She read a letter from Ellen Ramsburgh, a neighbor, which also expressed concern about the proposed revisions for front setback averaging (letter on file).

Alice Ralph, 1607 East Stadium Boulevard, stated that she has attended some of the meetings regarding these proposed changes, noting that so many of the revisions involved complex details, thereby making it difficult to understand and comment on them. She said the new R1E zoning district was described as a downtown zoning district, but the downtown was not defined, she said, so it was difficult to know which areas might bear an impact. Pedestrian orientation in residential areas was very different from concentrated commercial or employment districts, she said, adding that the volume of pedestrian traffic and needs were different and created a different relationship to the street. With regard to the front setback averaging, she did not believe that historical, developed neighborhoods should be forced into new patterns through spot, infill or redevelopment zoning, specifically in relation to the street. She stated that the older historical patterns of development should not be tampered with lightly and, while not politically easy, it was close to smart growth planning principles. She reiterated that there were far too many proposed changes for the public to understand the impact and suggested caution.

Andrea VanHouweling, 920 Lincoln, stated that most of her concerns were already identified this evening. She encouraged the Planning Commission to look at the front setback averaging issue more closely and also proposed that older established neighborhoods be looked at differently than newly developed areas.

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

**Moved by Potts, seconded by Westphal, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the proposed amendments to Chapter 55 (Zoning) and Chapter 59 (Off-Street Parking) regarding Area, Height and Placement Standards.**

Bona stated that one of the concerns about the front setback averaging issue was that when this ordinance amendment work effort began, she was under the impression that everything except the R1 districts would be dealt with. This obviously affected the R1 districts, she said, which may be a reason for more time for consideration. She would not like to see this one neighborhood, which seemed to have a reasonable concern, dictate what happened everywhere else in the City. She would support removing the front setback averaging section for those two reasons.

Carlberg asked how a new development on the site of the burned fraternity house would be handled as far as a front setback if the new ordinance language were in effect.

Kowalski stated that if the burned fraternity were to be demolished and a new building constructed, the front setback for the new building would be averaged based on the front setbacks of the parcels along the street. He said the average setback would have to comply with the setbacks of the adjacent parcels.

Pratt asked if there would be any difference between what currently existed in the ordinance for averaging front setbacks and what was proposed.

Kowalski replied yes, that under the proposed revisions, a 25-foot front setback would be allowed, rather than setting the building back further.

Carlberg said she could see a challenge with a fairly large area, where some houses were close and some were set back quite a ways from the street. It would be difficult to set a standard that did justice to the existing character of the street if an arbitrary minimum were set, she said, adding that she understood the neighborhood concern that houses with a 10 or 15-foot front setback could be built next to existing homes with 40-foot front setbacks. She did not have a problem with a five or ten-foot difference in setbacks, but a larger difference would have a considerable impact on how a street felt, which was important in these older neighborhoods. She was not sure how to address this, except to give more thought on how to achieve flexibility that respected what currently existed. She said there were some situations where a standard like this would not impact the feel of a street. She also said that she did not like the fact that the Zoning Board of Appeals (ZBA) would have to spend a lot of hours arguing over one or two feet because a neighbor might insist on averaging the setback.

Lowenstein agreed, stating that it appeared the Planning Commission was moving toward tabling the front setback averaging section of the amendments. Instead of averaging a setback, which she said was difficult to do mathematically and logistically, she suggested taking an area, such as a two or three-block area, and designating it as a consistent neighborhood, with the provision that if there were any new construction in that area, the structure could not be any closer to the street than the closest house in that area. This way, she said, averaging was not involved, but if there were a little variation in setbacks along the street, new construction setbacks would not be any larger than what currently existed. She thought this would protect some of these existing areas so there would not be a jagged edge or something totally out of character with what already was there.

Potts stated that what disturbed her was there seemed to be a complete reversal of philosophy. She could see that the proposed ordinance amendments intended to increase density and decrease frontages in a general way throughout the City and incorporate as much land use as possible. However, she said, the proposed revisions for front setback averaging seemed to show a major lack of respect for beautiful, old neighborhoods in the City, neighborhoods that were livable and walkable. She distributed proposed language to the ordinance that would simplify the front averaging wherever it occurred.

Pratt did not believe the averaging would really affect density. Although staff expressed opinions on density, he said, there was not an actual change in the density in any of the residential districts other than four zoning districts, which involved very few parcels. He wanted to make sure that people understood that, especially related to the storm water concern. What staff has done, he said, is encourage putting parking under buildings to reduce pavement and increase open space, which would improve the storm water issue. He wanted to be sure that no one had the idea that there would be many areas in town where the density would be increased.

Emaus stated that the averaging was not meant to change the residential density in any way. He stated that as a member of the ZBA, he found the averaging requirement to be extremely problematic throughout the City. Whatever someone had in mind when the averaging component was originally introduced, he said, probably was thinking of straight streets, which made sense. However, he said, for

some of the curvilinear streets, it was almost impossible to come up with an averaging formula that made sense. He said a neighbor building something on one of those streets would automatically be out of conformance. There was no accurate setback line when that line curved throughout a street. If looking at a zoning code and it said an R2A-zoned lot must provide a 25-foot front setback, he stated that this is what would then be done. If there were a district that needed a different setback, he said, perhaps a new district might be needed. He stated that what was proposed in the ordinance would probably work for 99 percent of the parcels in the City, but he did not object to removing it from this set of amendments because it was not part of what they originally had intended to do, noting that Commissioner Bona pointed out that the amendments originally were not to affect single-family districts.

Westphal referred to the concept of median versus mean, which would get rid of anomalies. He understood that not every street was a grid and that some parcels near a corner may start fitting in the streetscape around the corner, but he was not sure there was a primary way to deal with this. There was a lot of ambiguity, he said, and perhaps there was a better solution to be found.

Mahler stated that based on the comments this evening, he would be in favor of tabling the discussion about the front averaging. He said he would like more clarification from staff as to whether these amendments were originally going to involve the R1 zoning districts.

Pratt stated that he would favor removing the front averaging setback revisions from consideration this evening and setting them aside for further clarification and consideration.

**Moved by Mahler, seconded by Borum, to remove all proposed revisions to Section 5:57 of the Zoning Ordinance.**

Potts would support this for further discussion, but she said averaging was very important to her and she would be upset if there were discussions to eliminate the concept entirely. She said people counted on this for the integrity of neighborhoods that had certain zoning and produced certain expectations. She agreed that it needed to be made more workable and hoped it would be put back on the table soon.

A vote on the amendment showed:

YEAS: Bona, Borum, Carlberg, Emaus, Lowenstein, Mahler, Potts,  
Pratt, Westphal

NAYS: None

**Motion carried unanimously.**

Commission discussion then followed per each page of the proposed amendments.

Page 1

Mahler asked how a 34-foot lot width was arrived at for the R1E district when all of the other lot width measurements ended in a "0."

Kahan stated that staff and the Ordinance Revisions Committee looked at the required side setback and what the width of a one-car garage would be and then determined that a 34-foot width was a reasonable requirement.

Bona stated that taking into account the side setbacks for the R1E zoning district and the width of a garage, it resulted in a house that would be 20 feet wide on a 34-foot wide lot. This seemed reasonable to staff and the ordinance revisions committee, she said.

Potts asked about active open space, stating that she thought having a minimum amount of usable space was one of the reasons for these amendments.

Pratt stated that minimum usable open space would apply to residential development going through the site plan process. Creating a minimum open space requirement for someone building a residential home without having to go through the site plan process would create an undue burden, he said.

Kahan agreed, stating that the open space requirements came into effect starting with the R3 district, where the minimum amount of usable open space was 65 percent.

Potts asked where the active open space requirement was located.

Bona stated that this was located in a different part of the code. She said it did not have to be in this portion of the ordinance because it was the same for every district that required open space.

#### Page 4

Mahler asked how many properties were zoned R4C/D.

Kahan replied none.

Westphal noted that the 580-square foot minimum lot area per dwelling unit for the R4E district was the same as the minimum for the R4C/D district that was being eliminated. He asked if there were any consideration for reducing that number.

Kahan replied no. He said the R4C/D district had existed for quite some time, with a 40 percent open space requirement and a 25-foot front setback requirement. He believed it was essentially a suburban high density district intended for the downtown, but said that front setback was not intended for downtown lots today.

Emaus provided background on the intent for inclusion of the new R4E district. He said the R4C district allowed 25 units per acre, which calculated to 150 individuals per acre or 300 square feet per person with six unrelated persons per unit. He said this provided no incentive to create units with a bathroom and kitchen and that were workforce affordable for a couple or two unrelated people. The R4C district seemed to be intended more for student use, he said. He noted that the R4E requirements, such as 75 units per acre and 580 square feet per dwelling unit, would still require around 300 square feet per person, but there would be separate kitchen and bathroom facilities. He also pointed out that looking at the City over time, density has been decreasing even in the higher density areas, which was now about 17 people per acre. He stated that 20 people per acre was the statistic needed to sustain a viable mass transit according to studies done. He saw a need for more workforce units that were not necessarily for students and he believed the new R4E district would help to encourage that. He believed the City needed more than just the R4C zoning district to create this type of housing.

Carlberg stated that when the Northeast Area Plan was being discussed, discussions were also occurring about land outside of the City where large tracks of undeveloped land could, without any damage to existing neighborhoods, create dense housing in a nice setting. She said there also were discussions about allowing smaller units on those suitable tracts of land.

Potts stated that she had no reason to object to the new R4E district, saying she would be willing to give it a try. Her experience in the past as to why the City did not have more workforce housing was because of the parking ordinance. When requiring only 1.5 parking spaces per unit, she said, a developer could achieve more by putting in less parking and using the space for dwelling units. She noted that developers also say they have to build six-bedroom units for economic feasibility.

Borum recommended that in the text for the R4E district, the words “for the downtown area” be removed.

**Moved by Emaus, seconded by Carlberg, to amend the proposed language for the R4E zoning district to read, “The R4E multiple-family dwelling district is intended to permit high-density, multiple-family development along mass transit corridors with nearby access to public land, schools, shops and personal services outside the DDA boundary. The elements of land use planning and site design should be such as to ensure that the impact of such intensity of land use on adjacent property and on the community as a whole is minimized.” In addition, the front setback requirement for the R4E district be changed to 15 feet.**

A vote on the amendment showed:

YEAS: Bona, Borum, Carlberg, Emaus, Lowenstein, Mahler, Potts,  
Pratt, Westphal  
NAYS: None

**Motion carried unanimously.**

#### Page 5

Borum stated that the minimum gross lot size for the office district was 6,000 square feet and the minimum gross lot size for the R4B district was 14,000 square feet. He asked about this because the office district allowed permitted principal uses in the R4B district subject to the R4B applicable use regulations.

Kahan stated that the language in the office district for permitted principal uses was related to uses only and that intent was for all uses in the office district to meet the office standards, which included the 6,000-square foot lot size minimum.

#### Page 6

Pratt expressed concern with residential being allowed as a primary use in the research district, only because the research zone existed in so few areas. He did not have a problem with residential as a mixed use in these research zones, but he was not convinced it made sense as a primary use.

Bona assumed that mixed use was what was intended for residential in the research district. She did not believe it was intended as a primary use.

Kahan stated that multiple-family residential use was proposed for the first time in the research district. He said the intent was to encourage a mixture of uses to create a live-work environment. He stated that property zoned for commercial/research/office use typically was much more valuable than residential property.

Pratt wanted to make sure the City did not lose some of the potential value of research property on the tax roll.

Kahan stated that a developer would not be likely to pay a premium price for research land and then develop it as residential.

Pratt said allowing residential as part of a mixed use on research land would be a good tool to have if someone had a unique idea.

Carlberg wondered how a situation would be handled where someone wanted to develop just residential on research-zoned property.

Pratt stated that perhaps a maximum percentage could be applied.

Potts said there were two alternatives for housing in the research district: principal use or accessory use. She did not think it should be included unless it was what was intended.

Bona suggested that a statement be added as follows, "Residential use is encouraged above other uses in mixed use buildings."

Pratt also suggested that a cap of 60 percent be added for residential use so a research-zoned property did not end up with 100 percent residential development.

Emaus referred to under-utilized research and industrial parks, with one most recently having a school developed, and stated that allowing conversion of uses according to the market demand made sense. He thought there needed to be other options available in order for people to make use of these zoning districts.

#### Page 7

Potts stated that perhaps the 2,000-square foot lot size requirement for the C1 district would allow small family-run stores.

Bona stated that the revision to the C1 zoning district that would make a small family-run store more feasible in an urban neighborhood was elimination of the side and front setbacks. So, in theory, she said, something like the Big City Small World bakery would likely be allowed, whereas it would not be without these changes.

#### Page 12

Westphal asked about how the FAR revisions and perhaps the setback revisions might impact how a developer chose to arrange parking in a fringe commercial district.

Kahan suspected that parking at the front of a site would become less desirable. What he thought would likely occur over an extended period of time was that as commercial districts became redeveloped one site at a time, older commercial buildings with parking in the front would be replaced with buildings closer to the sidewalk and parking on the sides and toward the rear. He thought it might also result in a few cases where a developer would propose a mixture of vertical uses. He pointed out that the increase in floor area and the reduction in front setback standards would likely encourage redevelopment of sites that currently did not have any storm water retention, so the City would see environmental benefits with storm water being captured for the first time.

Westphal asked if there would be any implications for assembling parcels.

Kahan suspected that looking into the future 20-30 years as property values increase, people would likely use land more efficiently. He said the City was already seeing developments with a mixture of commercial and residential uses, such as Upland Green and Plymouth Green Crossings, and that it would not be unreasonable to see more of these over the next decade. He expected to see redevelopment happen one parcel at a time, rather than a flurry of redevelopment in commercial districts.

Pratt thought allowing four times as much density in the C3 district was a great move, stating that it might spur more development. His only concern with this was making the zoning change before getting some incremental financing districts in the Jackson/Maple and Washtenaw areas. As contained in the access management study, he said, a boulevard on Washtenaw Avenue, which seemed feasible, could improve the entry into town, but he noted that it would not happen without funding and the only way to obtain that funding was the additional revenue from this upzoning. He suggested that the Planning Commission work to assist City Council in moving in that direction before providing a developer with the gift of upzoning. He said he would be inclined to put this portion of the amendments on the back burner until staff and Commission could look into this.

Westphal added that the area of Plymouth Road, while not primarily zoned C3, contained a mix of PUD districts as well as potential areas of activity including the University's North Campus. His concern would be that redevelopment would begin to happen incrementally, which could affect the vision the City has for these areas.

Potts questioned whether the City should have the zoning shaped the way it wanted and then determine what the ramifications were, or should there be a plan in place first to test the zoning. She said the amendments have come this far and she would hate to delay them without understanding what the ramifications might be.

Emaus believed that the proposed revisions would provide the tools that have been recommended in various master plans, such as the Northeast Area Plan and Non-motorized Transportation Plan. Practically, he said, the feedback received during this process was that developers did not see themselves changing their development proposals according to the proposed parameters. What they were concerned about, he said, was being able to reconfigure existing buildings if they expanded into the parking areas. He said there was a lot of trepidation about trading increased FAR for no parking at the front of the site. He agreed that the revisions provided an incentive to increase the amount of building but, on the other hand, it took away from parking in front of the site.

Bona stated that when they were reviewing both the C2B and C3 districts, both of which proposed a 10-foot minimum front setback, the discussion centered mainly around the worst case scenario where a sidewalk used the entire right-of-way and the property line was then situated five feet from the curb. She stated that the major streets were important and she would not like to do something unintentional, so she may support increasing the setback from 10 to 15 feet for the short term.

Mahler asked about clarification regarding the incremental financing issue and applying incremental financing to properties already zoned C3.

Pratt stated that this process would take a while. He stated that any increase in property value from the time the district was established would be captured.

Kahan did not think the proposed changes would preclude the ability to implement a tax increment financing authority. He said it would not happen right away and, in the meantime, he would be concerned about the lost opportunities by not putting the amendments in place.

Mahler said he would be in favor of looking into it, but questioned how long it would take and the legal issues involved in setting up a tax increment financing district that has not previously existed.

Westphal stated that there were areas near the expressways that had the potential to be developed at a larger scale and if the uses were going to start to be mixed with condominiums, there was a risk of these high density transit areas incentivizing piecemeal development without a vision for the area. He did not know if it would be possible to move on a parallel track with this while excluding some of those areas.

Pratt believed the C3 zoning was the only district where this issue applied.

Westphal stated that there was a grouping of research and office property near Plymouth and Green Roads and he thought there may be some potential for them to be derailed if there was private ownership before the City had a plan.

Pratt stated that he would like to solicit input about this from Commissioners Carlberg and Lowenstein as past and present Council members.

#### Whole Amendment Package

Bona was excited about the potential opportunities these amendments would create, stating that they were progressive and reasonable. Her concern with making a recommendation of approval this evening was that there were no urban design guidelines to go along with this. She gave an example of the hotel that was proposed at the previous meeting and how it was set back from the road, yet there was no motivation to provide a sidewalk from the front door. She thought how a sidewalk worked and how buildings were connected to a public sidewalk were very important and if there were no mechanism to provide this, she said, the City did not have the ability to negotiate for it. Another issue that came up at the last meeting, she said, was the issue of transparency on a street with blacked out windows, adding that she thought some level of transparency was important. She thought the difficulty in adding a few statements about this in the ordinance was that there was no place to put them. She thought this was a complicated issue, noting that stakeholders seemed to like the idea of pedestrian friendly access, but were resistant. She said she would like to take a little time to consider what would be involved in creating some urban design guidelines to deal with site design issues to go along with the proposed amendments. She stated that these new amendments would give property owners a lot of added value to their property and she did not think adding a few alterations would be asking too much. She would like to look at what it would take to add a chapter about urban design guidelines because once these amendments were in place, there would be huge resistance from the development community if the City were to go back at a later date and ask for more.

Pratt asked if Commissioner Bona were suggesting that the proposed amendments be delayed to consider this.

Bona replied yes, for a month.

Emaus stated that when the work on the amendments first began, the committee developed alternatives to respond to suggestions contained in the Non-motorized Transportation Plan for inter-site pedestrian alternatives. He wondered if this could be used to convert into urban design guidelines.

Bona stated that this was her intent.

Emaus recalled the committee discussing this issue and deciding that the amendments needed to proceed and that the committee could then go back and work on the guidelines.

Bona agreed that a discussion about this occurred and said she recalled a different conclusion. She stated that what she was suggesting was contained in the Non-motorized Transportation Plan.

Westphal thought it would be worth spending some time on the guidelines before providing property owners with incentives that could break up important contiguous pedestrian orientation.

Bona stated that she has brought this issue up several times and said she would like to have an official staff response.

Lowenstein thought Commissioner Bona had some great ideas about what was needed to be done globally. As a matter of process, she said, the Planning Commission just spent three hours on the proposed amendments this evening, resulting in other agenda items being postponed. She objected to delaying action on this tonight to address issues that are more ephemeral, noting that this was the second time the amendments have been on a Commission agenda. She preferred voting on the amendments tonight with the issue of urban design guidelines being investigated simultaneously. If this wasn't the appropriate time to have this discussion, she said, it should have been done at a working session. She thought it was unfair to the public to have them sit here the entire evening only to take no action.

Pratt stated that a denial recommendation from the Planning Commission did not mean that the ordinance amendments were over. If there were enough Commissioners to vote to move forward, he said, then that is what would happen.

Potts was inclined to vote on this tonight, stating that she did not think additional time would do anything to change the basic intent of the amendments.

A vote on the main motion, with amendments made to the ordinance, showed:

YEAS: Borum, Carlberg, Emaus, Lowenstein, Mahler, Potts, Pratt  
NAYS: Bona, Westphal

**Motion carried.**

b. Public Hearing and Action on Proposed Citizen Participation Ordinance that addresses the implementation of an early notification stage for citizens. The purpose is to improve communications between real estate developers who are proposing projects, City staff who will be reviewing projects and citizens who may be affected by their plans. The proposed ordinance codifies a collaborative process that is a result of stakeholder outreach [postponed from 6/3/08 meeting] – Staff Recommendation: Approval

Pulcipher explained the proposed amendments.

John Eaton, 1606 Dicken Drive, representing the South Maple Group, expressed support for the concept of a citizen participation ordinance. He commended staff for the work that had gone into the draft ordinance. Regarding the finished product, he expressed two concerns: (1) That staff did not seem to understand citizen participation, as the amount of citizen participation that was proposed involved just one meeting. He said there was no back and forth dialogue between staff and the stakeholders as part of

this. (2) His second concern was that the proposed ordinance was unnecessarily complex. For example, he said, in both chapters, there were paragraphs that addressed different kinds of projects. One required 10 days prior notice to interested parties, and the other required five days, he said. He also noted that one required the petitioner to explain to citizens how the process worked, but the other did not. He suggested that it would be much easier to understand and enforce if there were one simple, uniform process in which to involve citizens. He encouraged the Planning Commission to send the proposed ordinance back to staff for more streamlining and consistency. A simple, consistent process would work best and be easier for staff to administer, he said.

Jim Mogenson, 3780 Greenbrier, said it was his understanding that one of the reasons for this ordinance was to formalize the public participation process so differences between what happens at a Planning Commission meeting and a City Council meeting could be reconciled. He gave the example of long public hearings at the Planning Commission stage and a recommendation of approval, and then a proposal becoming a political issue at the Council stage, with a breakdown in the process. He questioned what would happen if there were irreconcilable differences, stating that some people will never be able to reconcile a project design, so there may still be three-hour-long public hearings and the same problems. He also expressed concern about the way people are notified of upcoming items, noting that he was not on the list of those interested in planning issues, but learned of a proposal by attending a different meeting. There should not be an assumption that everyone should be able to figure out what was going on, he said.

Alice Ralph, 1607 East Stadium Boulevard, said she has missed meetings that she would have been interested in attending because of a lack of notice, so she was happy to see a citizen participation ordinance proposed. She said this process was something that needed to be clarified and made more orderly. She thought the proposed ordinance would help reduce late, costly conflicts and help minimize expensive delays. She stated that transparency also related to public record and said the public notification should be unlimited and should happen during the first hour that staff began spending on a proposal. She thought the public record should begin with notification and then be followed by consistent opportunities to the public. She also thought a digital record of everything should be available. Early information was a good path to informed citizens, she said, adding that it was important to make this a streamlined process so it could be fairly and consistently applied.

Peter Pollack, 515 Detroit Street, stated that while he was in general support of the ordinance, he had comments on some of the contents. He said this was labeled as a citizen participation ordinance, but said it was really about communication and the ordinance language seemed to be weighted to the citizen. There was no reference to the petitioner having a chance to speak and have a say, he noted. The ordinance asked for the petitioner to record comments/issues/problems/negatives, he said, adding that the language of the ordinance should be revised to address a two-way communication process. With regard to notice required, he said, there was language that was appropriately directed toward keeping staff neutral. He stated that if the petitioner were required to send out notice, there automatically would be an instance where someone would not receive a notice and the petitioner would be the guilty party. He stated that the City was responsible for sending notices and should be in this case as well. With regard to notice about what to be provided, he said, if the City had a generic form of the rules and regulations, this should be provided to the petitioner for the petitioner to send, but he strongly recommended that the City should provide the notice. With regard to a final citizen participation report, he said, the language and clarity would be important, advising that recording every comment and responding to each would be an onerous task. He asked the Planning Commission to look at the proposed language, assume there would be a two-way conversation, and be cautious about the requirements to be applied.

Laura Strowe, 1327 Broadway, said she felt like she represented hundreds of people who have come before the Planning Commission concerned about a project, yet feeling as though they did not learn of the project until the last minute. She believed a petitioner already had an advantage, adding that she disagreed with the last speaker. She felt this ordinance would correct that advantage and give a voice to people in a neighborhood who did not have that advantage. She stated that an ordinance like this was needed to create a structure that major developers would be required to meet. There was a need to reduce the often troublesome friction that ensues when a major development came before the Planning Commission, he said. She thought requiring the pre-meetings would result in a more efficient process and improved plans. Her main concern was that concerns expressed by neighbors not be glossed over, that a petitioner be required to respond to them. She understood that people could not be forced to participate, but this ordinance encouraged people to do so.

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

**Moved by Carlberg, seconded by Westphal, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Citizen Participation Ordinance amendments to City Code.**

Carlberg stated that the noticing portion of the ordinance seemed to have notices being sent to the property owner. She expressed concern about property owners many times living out of town and not having contact with the tenants of the building.

Pulcifer stated that staff would change the ordinance to require notices to be sent to the address of the property in addition to the property owner.

Carlberg expressed concern that occupants may not open the mail because it was not specifically addressed to them. If the City provided a list of the names for the petitioner to use in mailing notices, she could envision people coming to the meetings saying they weren't notified. She thought there needed to be a way for the City to verify that someone was notified, as she thought this would be an ongoing dispute or discussion. Perhaps there was a way to list who was notified on a webpage, she said. She thought it would be helpful to see a summary of issues raised by neighbors and how the petitioner intended to address them. She thought it would also be helpful for this summary to be made available to all who attended the meeting for follow-up. She did not know how to address the need for neighbors to continue to express their concerns about issues, stating that if this were left to the petitioner to do after the required meeting, it may not happen. Perhaps a blog site for each petitioner to record the issues might be appropriate, she said, to allow this continuing dialogue.

Potts did not think this proposed ordinance would guarantee that problems between a neighborhood and petitioner would be solved. What it would do, she said, was provide people in the community a sense of being included early enough to have an effect. She thought the chances were that the community would ask for things that were impossible or, if possible, things the petitioner was not inclined to do. She was not very optimistic that this new citizen participation procedure would result in changes to projects. There were apt to be irreconcilable differences, she said. Regardless, she said, the City would be giving people a chance to learn about projects much earlier in the process. She stated that she would like to amend the ordinance by formalizing the opt-in email distribution list.

Pulcifer noted that under #2b, there was a requirement that notification be forwarded to other interested citizens registered with Planning and Development Services, which would be another form of notification.

Mahler asked for clarification on Steps A-D under Chapter 57. He wondered if all of these steps would have to be completed prior to the pre-petition conference. He also asked if the pre-petition conference was different from the preliminary meeting under Step A.

Pulcipher stated that the preliminary meeting in Step A was intended to provide direction to the petitioner regarding the citizen participation requirements. The pre-petition conference was a meeting between a petitioner and staff for any project that was required to have a public hearing in order to determine whether the petition complied with submittal requirements.

Mahler stated that with regard to the final citizen participation report, he thought Step D(i), which was a detailed description of the petitioner's efforts, was ambiguous, and Step D(ii) did not contain any guarantees that it was done. He found Step D(iii), which required a statement of how the petitioner addressed the concerns, problematic because some of the concerns may have been resolved via a telephone call or perhaps there was an invalid concern that was not worthy of a response. He found the 1,000-foot measurement for notification to be overly burdensome, stating that 1,000 feet was a great distance. This may involve neighborhood groups having influence on a project that was so far away that they may never see it or be affected by it, he said. He would favor reducing the requirement to 500 feet. He did not know if this process would be overly burdensome on a petitioner, but said there was nothing prohibiting a petitioner from having a say. The ordinance was slanted toward the citizen, as it should be, he said, but it did not preclude the petitioner's issues from being made known. He stated that he would not agree with language allowing citizen participation at the idea stage, noting that this was the petitioner's project and once the final idea was in place, then it should be presented to the citizens. He liked the tone of the ordinance and the way it was slanted, but suggested that some of the language needed to be reworked, such as changing the 1,000-square foot requirement.

Emaus said his basic feeling was that the proposed ordinance would inject politics early in the process for a project that should be following the zoning codes and law and planning principles. Right from the beginning, he said, it was turned into a political process. He believed it was moving in the wrong direction. However, he thought it was perfectly valid to notify people early about a proposed development so they would have the time to assess what was being proposed, attend the public hearing and tell the Planning Commission their thoughts about it. He agreed with having the petitioner describe the project to others, but he did not think it was the responsibility of the petitioner to hear and manage the concerns of the citizens. He believed that was the City's responsibility. Also, he thought the 1,000-foot measurement was too much in some situations and not enough in others. Fundamentally, he did not think this was moving in the right direction.

Lowenstein stated that she was a co-sponsor of the Council resolution directing staff to prepare a citizen participation ordinance. She stated that the 1,000-foot measurement was for notification to neighborhood groups, not each resident within that span. She said this provided the opportunity for contact through a neighborhood association and was a way of reaching out. She also noted that this was a citizen participation ordinance, not a citizen decision-making ordinance. It would provide a way for citizens to be informed and allow participation, she said. With regard to a petitioner providing a summary report, she said, the intent was for staff to create a standard form for use by petitioners. The form would assist in summarizing what happened during meetings with citizens, she said, and should help streamline processes. She was hopeful that forms and summaries could be loaded into the City's new TrakIT system for each project to provide accessibility. She stated that some of the concerns people have had have been considered by the committee and incorporated into the ordinance. She believed they have covered most of the issues as to how transparent and onerous the process will be.

Pratt said he also had concerns with the 1,000-foot boundary contained in the ordinance. He stated that some neighborhoods may be more than a quarter-mile from a project site and if the edge of one of those

neighborhoods happened to be within the 1,000-foot boundary and the neighborhood extended a great deal further away, a larger area away from the project site would be notified. While he would prefer something other than 1,000 feet, he said, he would be willing to support it the way it was proposed.

Westphal stated that anyone participating in a citizen meeting with a petitioner would likely submit their email addresses, thereby allowing quick receipt of the petitioner's report.

Bona stated that she was very supportive of this ordinance, adding that it has been needed for a long time. Having had experience presenting a petition before the Planning Commission, she said, she understood how a petitioner seeking public participation at an early stage could be beneficial. She was not concerned about the 1,000-foot boundary for major projects, noting that there should be no problem with this if projects were accurately sorted between major and minor. She supported a 500-foot boundary for public notification for minor projects.

**Moved by Bona, seconded by Borum, to amend the ordinance by changing the 1,000-foot notification requirement in Chapter 55, Section 5:113(3)(a) to 500 feet.**

Potts stated that if an opt-in email distribution list were used, the 500 or 1,000-foot boundaries would not be necessary. She stated that 1,000 feet would normally only notify one or two neighborhood groups.

Carlberg said it was difficult to know the impact of a site plan. If it was a sizable plan and did not fit any of the categories, she said, it could have a considerable impact. She would rather err on the side of too much and then assess the process after a year as to whether it may be oppressive or unnecessary. She said there was quite a difference between category 1 and 2 and was not favor of changing it.

A vote on the amendment to the ordinance showed:

YEAS: Bona, Emaus, Lowenstein, Mahler, Pratt  
NAYS: Borum, Carlberg, Potts, Westphal

**Motion carried.**

Mahler asked when the final report provided by the petitioner would be reviewed. He wondered if it would be reviewed to make sure all of the requirements contained on the form had been met or reviewed to make sure the petitioner had actually responded to the citizen concerns.

Pulcifer stated that it would be reviewed by the petitioner and staff prior to formal submittal of the petition. She stated that there would be a dialogue as to what the petitioner could do to address citizen concerns. If staff believed a petitioner did not fully address concerns, she said, it could be noted in the staff report to the Planning Commission.

A vote on the main motion showed:

YEAS: Bona, Borum, Carlberg, Lowenstein, Potts, Pratt, Westphal  
NAYS: Emaus, Mahler

**Motion carried.**

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**Moved by Carlberg, seconded by Potts, to continue with the meeting by considering Item 8f and then Item 8d.**

A vote on the motion showed:

YEAS: Borum, Carlberg, Emaus, Lowenstein, Mahler, Pratt, Westphal  
NAYS: Bona, Potts

**Motion carried.**

f. Public Hearing and Action on Penske Truck Leasing Annexation and Zoning, 1.20 acres, 1621 Plymouth Road. A request to annex this site into the City and zone it C1 (Local Business District) – Staff Recommendation: Approval

Cheng explained the proposal.

Robert Kerr, representing the petitioner, stated that he was available to answer questions.

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

**Moved by Carlberg, seconded by Westphal, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Penske Annexation and C1 (Local Business District) Zoning.**

**Moved by Carlberg, seconded by Westphal, that the Ann Arbor City Planning Commission hereby waives the requirement for an area plan because no new construction is proposed.**

Bona stated that it appeared there were township properties adjacent to this site, on the railroad and on Plymouth Road. She wondered if when there was a piece of right-of-way in the township, whether it was annexed at the same time the adjacent property was annexed, or if these individual township parcels were annexed at some point in the future.

Cheng stated that he would have staff clarify the status of these parcels to determine whether they were in the City or the township.

Bona stated that if the adjacent property were in the township and there was a way to annex it as part of this petition, it made more sense to do that than asking the railroad to annex it later.

Potts stated that this could be a complex piece of property with Traver Creek on the other side of the railroad. She asked if the petitioner were planning any changes or development at this time.

Cheng replied no, adding that any development in the future would have to be site planned. The purpose for annexation at this time, he said, was to connect to City utilities.

A vote on the motion showed:

YEAS: Bona, Borum, Carlberg, Emaus, Lowenstein, Mahler, Potts,  
Pratt, Westphal  
NAYS: None

**Motion carried unanimously.**

d. Public Hearing and Action on Briarwood Lots 12 & 13 Hotels PUD Zoning and PUD Site Plan, 8.28 acres, south side of Briarwood Circle west of South State Street. A request to amend the Briarwood Lots 12, 13, 14 and 15 PUD to allow for the development of two hotels on Lots 12 and 13. Both hotels will be 4-5 stories in height. Hotel A (the west hotel) will have 130 rooms and a restaurant, and Hotel B (the east hotel) will have 97 extended stay rooms and kitchens – Staff Recommendation: Approval

Kahan explained the proposal and showed photographs of the property.

Jeff Kraemer, of Raymond Management Company, petitioner, stated that he and the project team were present this evening to answer questions.

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

**Moved by Carlberg, seconded by Mahler, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Briarwood Lots 12 & 13 PUD Zoning and Supplemental Regulations, and PUD Site Plan and Development Agreement, subject to providing adequate sanitary sewer capacity, and subject to contributing to the cost of mitigating traffic issues.**

Potts did not see any problems with this proposal, stating that this seemed to be a suitable use for the area. She expressed her support.

Carlberg said she would like to support staff's recommendation for brick on the first and second floors and suggested that this be added to the supplemental regulations.

Kraemer stated that when this project was presented at a Planning Commission working session, the exterior consisted of split-faced block and brick on the first floor. He said they were asked to enhance that look, which was what they believed they had done with the current design. They believed the proposed design, which included masonry, split-faced block and brick, provided a sense of permanence using quality materials, he said, adding that they would prefer keeping the proposed architectural design, which has been reviewed and approved by the mall and franchise owners.

Carlberg asked what the light tan-colored material was at the ground level.

Kraemer replied that it was split-faced decorative block.

Pratt asked what wrapped around to the back.

Kraemer replied that the north elevation consisted of split-faced block along the bottom and brick above.

Bona recalled that when the Planning Commission reviewed the previous proposal for this property, there was a requirement to match the materials of other Briarwood buildings, which became part of the PUD. She believed the original intent was for the whole building to be masonry and said she would be supportive of that for this proposal.

Westphal asked if the pedestrian access from the hotel site would be aligned with the pedestrian path on the Briarwood Mall site.

Kahan replied yes, showing how the pedestrian access on the interior of the site would align with the sidewalk on the Briarwood site.

Westphal stated that based on similar projects where alignment of pedestrian access was important, he was looking for more of a stronger link for the pedestrian access on this plan. He said there was access across the street on the mall site where stamped pavement would signal that access. He liked the fact that this was on the AATA bus route and that there would be shared parking, but he was hoping to see a stronger pedestrian orientation.

Kahan stated that the petitioner explored the possibility of installing stop signs at the crosswalk, but said the owner of the mall was opposed. He said the petitioner was proposing a striped sidewalk across Briarwood Circle Drive to let motorists know that pedestrians would be crossing in that location. He also noted that this was not a heavily used corridor. The petitioner shifted the buildings as far north as possible, he said, but there were limitations because of a utility easement along Briarwood Circle Drive.

Kraemer asked that the Planning Commission consider the fact they had requirements by the franchise to use variations in building materials and that they were trying to be complementary to the mall and surrounding uses.

**Moved by Carlberg, seconded by Potts, to require a brick exterior for the first two levels of the buildings.**

Mahler stated that since this planned project site plan would allow the petitioner to exceed the building height by 12 feet, exceed the floor area ratio, and provide fewer parking spaces than required, he thought the least the petitioner could do was provide two levels of brick.

Potts did not necessarily care for franchises having materials requirements, as it tended to make the developer and municipality feel obliged to go along with it. She did not see how providing two stories of brick would interfere with this project.

Borum stated that he preferred the vertical articulation of the proposed design, stating that having the additional third story of brick material totaled two stories. He said he opposed the amendment, as he preferred the elevation as proposed.

Bona stated that if this amendment were to pass, she would prefer that there be a minimum of two stories of brick and allow the petitioner to decide which two stories.

Carlberg withdrew her motion to require brick on the first two stories of the building.

A vote on the main motion showed:

YEAS: Bona, Borum, Carlberg, Emaus, Lowenstein, Mahler, Potts,  
Westphal

NAYS: Pratt

**Motion carried.**

Pratt stated that he voted against this, as he would have liked to have seen the previous development agreement for the previously approved PUD.

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ADJOURNMENT

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Pratt declared the meeting adjourned at 11:46 p.m.

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Mark Lloyd, Manager  
Planning and Development Services

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Jean Carlberg, Secretary

Prepared by Laurie Foondle  
Management Assistant  
Planning and Development Services