

*R4C/R2A Advisory Committee Meeting
September 11, 2013, 7:00pm
Basement Conference Rooms, Larcom City Hall*

In Attendance:

Sabra Briere
Wendy Carman
Ray Detter
Jay Holland
Nancy Leff
Carl Luckenbach
Ethel Potts
Ellen Rambo
Ilene Tyler
Julie Weatherbee, Chair

Absent:

Anya Dale

August 28, 2013 Meeting Minutes

Received and Filed

1. Introductions

Weatherbee thanked Bonnie Bona for coming as a representative from the Ordinance Revisions Committee [ORC] and the City Planning Commission [CPC] to clarify areas of concern. Weatherbee, reading from a prepared document [attached to file], stated,

The following areas of concern reflect those portions of the draft R4C/R2A ordinance revisions that differ between the recommendations of the Citizen Advisory Committee (CAC) and the Ordinance Revisions Committee (ORC).

2. Bonnie Bona

3. Reaction and Discussion of Bona's Comments (round-table)

Bona said that she felt that every meeting of the R4C seemed to go round in circles, given the complicated subject of trying to find a black and white solution on a very complex issue. She said the struggle is in trying to come up with tools that are more creative instead of jamming these neighborhoods into something that doesn't make sense, adding that the Central Area Plan has not made sense for a very long time and it is time that we moved on.

Bona said she does not want to make the impression that all member on the Planning Commission were in support of all the recommendations when there were vast differences during the discussions. She said she would have to re-read the recommendations to help her remember the discussions. She said there were issues that she felt were important and should have been included but other member of the Planning Commission didn't feel they were that important; so there were differences of opinion on how this should work. She said she was glad that this issue was returning because the subject was very important.

Weatherbee asked Bona how the ORC had intended lot combinations would world.

- 1. How does the ORC's recommended solution result in predictable zoning standards that ensure appropriate scale and design of new infill developments?*

Bona answered that in reviewing the CPC summary of recommendations she thought the idea was to use lot combinations together with massing standards and design standards that would require Planning Commission approval when in conjunction with a site plan. She said she remembers attending a meeting where she came up with the reasonable solution that lot combinations should use original plats as the maximum allowable lot size. She said since then she has had second thoughts about that, pointing to Tom Fitzsimmon's project on Summit and how he combined and re-united those lots in order to get the desired project that people love. She said the question is what makes a lot combination okay, pointing to the comparison of the houses on Summit to the City Place project, what is the difference. She said the difference is that on Summit you have this cadence of scaled buildings, even though they are attached, they don't look attached, and on City Place you have these huge buildings where there used to be seven smaller buildings.

Bona said staff had done research on how other communities handle this, referencing Madison, WI, and Milwaukee, that have restriction that use the original property line as the markation that can never change and while the buildings have to fall within lots, the setbacks disappear. So, you can do exactly what Fitzsimmons did on Summit and combine all those lots but the old lot lines remain with the houses separated.

Bona said there are odd shaped lots and under-sized lots that could be combined to make them useable.

Weatherbee asked if the main intention was to use design standards in conjunction with lot combination.

Bona said, yes, that the Planning Commission was thinking of the Special Exemption Use that uses standards that have to be met before approval is granted; and the concept would instead be Special Exemption for lot combinations and 'we' as a

community would decide what would be required as part of those standards. She said she was thinking they would end up with something similar to the overlay district standards.

Bona assured the Committee that the Planning Commission had every intent on respecting the neighborhoods and not changing them.

Carman said there are other reasons for lot combinations and lot splits, and the City attorney's office is taking the position, since the State enabling legislation on lot splits and lot combinations, that they can't stop lot splits and lot combinations, and they have to be granted as the owners want them.

Briere commented that the impetus of the recommendation was built on that State change that the City didn't have a say on lot splits and combinations.

Carman said she would like to see changes made to the code such as adding restrictions to prohibit lot combination where they aren't zoned the same or prohibiting lot splits where they end up with odd parcel sizes remaining,

Carman said the Attorney's office has taken the position that currently lots can be created that don't meet the City's minimal lot size requirement.

Bona said that was news to her.

Carman said she wasn't sure the City Attorney's office has the right stand of the issue but they have been promising to look at it for a long time.

Briere said that R1B lots can be split and rezoned, noting that she is aware of that being done. She added that she had verified with Planning staff regarding lot splits on Traverwood that lots there could be split into lots that do not have to be buildable.

Bona said she felt it was less important to solve that problem than to figure out what they want. She said the recommendation is just an idea and if they want they can just say, No lot combinations.

Several Committee members responded at the same time, No, that is not what we are saying.

Carman said the reason they came up with the suggestion they came up with is because it does meet a standard for the R4C and it doesn't need these other things that have risks attached.

Detter said that the whole intent was to maintain the character and scale and to say that there weren't people on the Planning Commission who wanted to change that, simply isn't the case. He made reference to Derezinski's support to combining lots to allow for

construction of larger projects. Detter said that he can see lots of Easy Street and other neighborhoods that are tiny that would have to be combined to be able to build on the, however those tiny lots are very much a part of that neighborhood.

Briere said she had questions about creating standards that could be used to determine what could be used if someone met the requirements. She said it seemed to her that this was something that was part of the site plan approval process that the developer would have gone through all of these reviews right up until Planning Commission and then could be told that they didn't think the developer met all the standards or the residents of the community could say they don't think they meet the standards, which doesn't move the committee closer to those stated goals of eliminating those kind of conflicts and making it clear, and predictable. She said it makes her concerned that they would be adding a layer of complexity instead of simplifying the process. She asked how does, not setting a maximum lot size in the code make it more predictable and reliable, which is the goal the Planning Commission wanted.

Bona said, predictable for both sides, those looking at it as well as the developer. Bona said the overlay district idea is ultimately what this is talking about, and the language of that is up to them as to how firm or soft they make it. Lot combinations are a way to use that as a form of design standard tool to make it happen. She said an overlay district criteria could be used to determine a threshold for lot combinations or other proposed districts that the Planning Commission wants to consider. She said they could use it to affect lot combinations, or to affect new buildings on any lot.

Bona said she felt the predictability is up to 'us', as a group to decide if they fairly firm standards or not.

Tyler said, while you are in favor of overlay districts and if we wait for overlays, we won't have predictability and insurances that provide protect is in place, and in the interim we need to set standards until the overlays can be established. She said setting this as a form of protection for the near downtown felt right while waiting for a future study that might take another 4 years to address the overlays. She said she felt the overlays should be a separate effort and in the interim we should set standards that protect the neighborhoods and provide the predictability for the people who want to develop within the configuration of what we have.

Leff stated that the way they came up with the numbers, it brought many lots into compliance with the zoning so that was one of the goals and charge as well. She said so many of the properties are out of conformance so in setting this maximum lot size restriction we brought them into compliance.

Potts said that overlays are sort of the theoretical perfect way of creating what they are looking for in characteristics, height, size, and mass in a neighborhood, but then she

said they were told it would take about a year for the R4C areas to be detailed. She said they then discovered that there are things in the D1 and D2 overlays that are not enforceable, such as the atmosphere of the streetscape; items that are not measured or numbered and result in fluffiness. She said she is in favor of picking a number for lot combinations that don't leave room for openness or interpretation of the atmosphere of a neighborhood.

Holland said that he tends to agree with the ORC recommendations that are pending approval, such as the massing and maximum lot sizes, as he feels going in another direction would take away creativity and projects such as Fitzsimmons' wouldn't happen. He said he felt there are people on the committee that are over obsessing with the City Place project. He said Heritage Row was a creative re-development possibility for that site but the developers were told no, so they ended up with City Place.

Leff asked Holland how the group housing standard overlays would conform to the existing character of the neighborhood.

Holland said the group housing seems to be a real issue, which he is confused about, but he felt it would be a conditional use issue that should be dealt with by the Planning Commission.

Weatherbee said that while people say limiting lot combinations will limit creativity, but she said what they end up seeing is usually not creative. She said she lived in Boulder, Co. where they have lots of restrictions with lots of creative buildings as a result. She said when people come into the district they know what the limitations are.

Detter said that he was involved in every inch of the City Place project, and that the project used R4C as a threat. He said they asked the Planning Commission for a Planned Unit Development which was rejected. He said all you have to do in situations like this is limit the lot combinations by size or by platted lots so they can't threaten us with what they are going to produce. He said there is still the option available to developers to ask for a Planned Unit development based on the benefits of the project. He said all they are trying to do is limit the character and scale of the neighborhood.

Holland asked if it was not the duty of the Planning staff and Planning department to put together those standards.

Bona said it would be a next step to track those points. She agreed that if they were to pursue an overlay district, it would take some time, adding that with the current economy she feared that they would soon see new developments in the R4C district.

Bona said she hopes that when the Committee does send recommendations to City Council that those recommendations will help them make a decision, rather than paralyze them.

Detter asked what she thought would be happening in the near future in the R4C district.

Bona responded that she believed there were developments that would affect the R4C district greatly, that had been pent up due to the economy and demographics of living downtown, could now come to fruition. She urged the Committee that if there was something that could be done in a phase 1, such as the items on the Committee's priority list such as lot combinations and parking, that it move quickly before City Council, then she would promote among Planning Commissioners a moratorium on development in the R4C district .

Detter reiterated that limiting the lot combination is what they want.

Tyler said that they are saying don't make City Place the standard; and that they are not able to force anyone to set limits.

Bona agreed that even Planning Commission can't set the limits; only Council can do that. She said she has ideas in her mind of where they want to be but how they arrive there is a different matter.

Carman said that Group Housing needs to be dealt with now.

Detter stated that what they want is to protect the near downtown neighborhoods and not tearing down buildings.

Weatherbee asked about the Phase 1 and Phase 2 recommendations from the ORC.

Bona responded that there were issues that were very straight forward, such as area, height and placement that could be done through the Phase 1 and the issues such as the overlays would be in a Phase 2, in order to be able to move forward quickly. She said the Planning Commission would like to start with a small area for the overlays to see how it goes.

Carman asked for a definition of Group Housing.

Bona said it is unfortunate that the term 'group housing' gets used, since it was used as a reference to a neighborhood area in the Central Area Plan. She read from page 2 of the ORC report to City Council. She said, as with the lower Burns Park rezoning, it was so important to look at a cohesive neighborhood. She said what is so difficult is that so many of the R4C neighborhoods are so different in setbacks, heights etc. She said she wanted it to be called 'flexible housing ordinance' instead of group housing.

Bona gave an example of a friend's house in a historic district in the R4C district that is all chopped up in order to allow her to use the house as a rental unit to fit the code. She asked why they couldn't allow a house to be what it was intended to be; the owner living in a house with 8 rooms rented out. She said; let's not talk about the bedrooms but about the massing and size.

Weatherbee said that what she sees is that after they set up a scenario as mentioned by Bona, the existing houses get torn down and new ones are put up that max out the housing limitations. She said she doesn't see where changing the zoning for that will help the existing housing, but become a worst case scenario instead. She said that she can speak from experience that living next door to a 5 bedroom house is harder than living next door to a 2 bedroom house.

Bona explained that part of what guides the City is the Climate Action Plan, which encouraged the re-use of existing buildings, and part of the challenge becomes in figuring out how they can improve and enhance the buildings that are already in existence without encouraging demolition of those buildings. She said some communities say you can demolish but you won't be able to re-build very much there.

Leff said she would like to hear from Holland how buildings can be retro-fitted to become boarding houses and if developers would consider that scenario.

Holland responded that from a developer's standpoint to convert these existing houses into multi-family housing units it becomes almost impossible with building code issues. He said they usually go to fraternities and sororities.

Bona said all fraternities and sororities are through Special Exemption Use permission.

Carman said that no one came to the meetings clamoring for coops.

Bona said she would like to encourage smaller units, and to be flexible in how the units are laid out. She said why would we care if they are a bunch of studio apartments or boarding house rooms or apartments with 6 bedrooms. She said she believes there is a real value to having a local property and they should all be encouraging their friends to live downtown.

Tyler said the definition of the family unit already seems discriminatory by identifying one type of family unit in one part of the City and another type in another part. She said if you want to encourage the eclectic diversity of the neighborhood then you raise the number of unrelated individuals can congregate in one unit. She said it has nothing to do with zoning but with the definition that is the problem.

Potts said that she remembers discussion about density because of basements being used and attics being squared off. She said all these things change the massing and

physical appearances of the houses as well as the neighborhoods themselves with more density in the neighborhoods.

Leff said that the infrastructure can't accommodate 8 garbage bins in front of the house.

Bona reiterated that the term was not meant to be a 'student group housing neighborhood', but that it was just the term picked.

Briere said that the term 'group housing' makes one thing you are referring to people with special needs.

Weatherbee said the term 'flexible housing' would have been more appropriate.

Bona clarified that the goal is to preserve the actual existing buildings and their character.

Detter said that realtors are marketing their area as a student neighborhood, which they don't want.

Bona said it was not the intent to be specifically student.

Weatherbee reviewed the following question:

- 1. Would the change in zoning—through the overlay district—result in a new infill process that more closely resembles the current D1/D2 process? Using premiums and FAR limitations in exchange for pedestrian-friendly design and architectural design standards appears to expand the D1/D2 zoning process.*

Bona said she wasn't sure what the question was asking.

Briere said that it seemed to her that the infill process could closely resemble the D1-D2 process for approvals and was that the intent? Do they have to have a Design Review Board review? She said they put a lot of premiums out there for pedestrian friendly design but no one is using them.

Bona said that they had planned to establish more rigid standards than soft and fuzzy ones, adding that the intent statements are incredibly important when developers are only looking at the numbers. She hoped that it won't get as complicated as the D1 and D2 districts and probably wouldn't go as far as setting design guidelines.

Briere said that having seen what happens with D1 zoning, it seems to her that the more they talk about how they are going to do overlay standards the greater the opportunity for those standards to fail them. She asked why she should trust these overlay standard when they haven't worked in the past.

Bona said that what she believes is that the design factor is something that zoning can not handle for them, whereas massing, scale is more appropriate to use as a prototype. She said form based zoning is what they could use.

Briere said she likes form based zoning.

Bona said part of the discussion is dumping the Euclidean zoning, but she would not try it in the whole R4C area.

Weatherbee asked how it isn't arbitrary.

Bona said if there is another neighborhood picked, she would like to try something different, but the neighborhood identified had already been identified as needing attention.

Potts said that what they saw were those living in a particular neighborhood didn't like to be picked out.

Bona asked how the area got picked in the first place referencing the Central Area Plan; was it by public input?

Weatherbee said yes, maybe 40 years ago. She said these areas or overlay districts were not set in stone.

Bona said that the intent was to be more defined when the report was written but then there would not have been anything for anyone to react to. She said she wouldn't want anyone to take what was written and think it couldn't be changed before City Council makes the final decision by passing the ordinance.

Briere asked how the Planning Commission would look at lot combinations and a project that meets the current standards but might not meet tomorrow's standards.

Bona said they would have to approve their project based on the current code. She said they don't have to go with what was written in the report, but they can make tweaks and changes.

Holland asked if developers need approvals for lot combinations from the Planning Commission.

Briere said no, all they have to do is go to the City Assessor's office and combine lots.

Holland said then the City needs to set forth that lot combinations need to be approved by the Planning Commission.

Tyler said developers don't need to say they have a site plan in mind when they combine lots, which allows them to move ahead without Planning Commission review and approval.

Potts said that the committee was in anticipation that standards would come in time, but until then setting a maximum lot size would take care of the scale and massing until an overlay district is in place and that will protect the quality of the neighborhoods. She said that could change 10 years down the road.

Weatherbee said it was unfortunate that the discussion was coming so late when they had such limited time for discussion.

Carman asked what the justification for downsizing the lot sizes in the R2A district since the ORC had discussed that they didn't want changes in the R2A district.

Bona said she thought it had to do with the fact that R2A had a minimum lot size based on 2 units, and the idea was to make more of those lots conforming to the code.

Briere said there are a lot of big lots in the R2A district, and they reasonably could hold 2 duplexes. She said if you decrease the size of those lots, you could split one lot into 3 lots, and then put 6 people on the same size that used to hold 1 family home. She said decreasing the size of the lots mayor may not create more conforming lots but it will create an incentive to split lots to demolish existing houses and to put more units on previously large lots. She said this has happened in her neighborhood.

Bona said not so in her neighborhood because the lots are small to begin with and there are many lots smaller than the required minimum lot size.

Bona said that part of the issue with non-conforming lots is that there is non-security attached to them.

Holland added that they cannot get insurance when the use is non-conforming.

Bona said the trend in Ann Arbor is to live lighter on the planet and downsize.

Holland said that developers look at cheapest available options.

Bona referenced a chart showing how many bedrooms are in each unit in the D1 district. It showed the most dominant is the 2-bedroom while the code encourages the 6-unit build. She said they need to think about this; that they are working with the market.

Weatherbee asked if anyone had questions on the land-use buffers.

Bona explained that there was a recent change (in 2011) to require a 15 foot landscape buffer; she said the land-use buffers change was done broadly across the City and the R4C district was included in that change since they are residential. She added that with a 12 foot building setback it doesn't work with the 15 foot buffer requirement. She said the intent was not as it turned out and now the ORC is simply trying to back up and correct the mistake made.

Carman asked if the recommendation outlined by the ORC would do away with the 15 foot buffer between 2 parking lots.

Bona said it is intended to deal with the buildings only, and to buffer the R4C parcels from the lesser zoned ones, not as it turned out, buffering the R4C from the R4C. She said the option for a berm or fence is always there. She said she didn't think this item was an issue and could be correctly.

Weatherbee posed the following questions to Bona:

1. *Why should setbacks be based on lot area rather than on lot frontage?*
2. *Why should setbacks be based on occupancy?*
3. *How would these proposed changes preserve the underlying rhythm of the street frontage?*

Bona said the larger lots always get larger buildings on them and it seems appropriate to require a larger setback.

Luckenbach said he disagreed with the relevance of the lot area, and the setback pales in relevance to the width of the lot. He said somewhere buried in the zoning code there are increases required in the setback based on ?? (inaudible).

Bona said getting a side setback that is more consistent with the neighborhood is important but she acknowledged that half of the ORC were fighting for side yards while the other for setbacks.

Holland asked if they have tried enforcing ??(inaudible).

Bona said it turned out to be something very difficult to enforce, so while it sounds good, staff has a really hard time with it.

Carman said the committee needs another 1.5 hr to talk about parking.

Bona commented that if it helps them any, the ORC was all over the map on parking.

4. Wrap up and Next Steps

Carman said she felt the Committee needed to prepare a written response and how they were going to formulate such.

Weatherbee said since they had had some good back and forth discussion at this meeting she felt it had given them something guidance. She said they have one more meeting where they can come up with their response and following the last meeting put that into writing and circulate it as needed or they can see if they can have another meeting; however she didn't want to move in that direction.

Briere commented that she is really good at writing things on the fly, so she was fine with spending all of the next meeting writing a document while Weatherbee officiates.

Weatherbee said she was fine with that.

Potts said she wanted at least 15 minutes to discuss parking since it makes all the difference in the world with what developers put in.

Weatherbee said she didn't think they would be able to solve parking.

Potts said that she didn't want to go back to their original report since it had items in there that didn't represent the Committee.

Weatherbee said they could make edits but felt they should start with the document they had.

Briere suggested that those on the Committee that had suggested changes, from the original report, that they submit those to Weatherbee between now and the next meeting (in 2 weeks).

Holland asked if they were going to react to the ORC's recommendations report.

The Committee said, yes.

Carman asked if the Committee was in favor of the Phase 1 and Phase 2 approach to this, adding that they didn't design the report, Matt Kowalski did.

Weatherbee said she had some issues with it, but felt they need to react to it and see what changes Council can make now.

Carman said she felt there were items that they could take from their report and put them with the ORC's report, and she was willing to make a stab at it until the next meeting.

The Committee was obliged to Carman's offer.

Carman said she would try for September 19th to have something to forward to the Committee for their edits and additions.

Weatherbee said members could send questions, comments or reactions to her and she would edit.

Leff asked if Carman could get the WORD file from Kowalski.

Carman said she would reach out to staff as needed.

5. Public Commentary

Ellen Ramsburgh said that those who have watched the long process would like to see something done very quickly and to wait for the overlay districts would take too long. She said some of the issues mentioned seem anecdotal and she has seen in some R4C districts like in Kerrytown where smaller buildings have been torn down to make room for larger ones. She said there should be averaged setbacks used throughout the R4C district.

Carman responded that they are, but there is limited ability in calculating them.

Ramsburgh said when the recommendation was to help a particular neighborhood; you can't just pick another neighborhood as Bona suggested. She added that it's hard to save the existing housing when you are encouraging demolition.

Ann Reichenbach stated that she felt they ought to be flexible and set standards for families as well as students.

Nancy Kaplan said that she hopes that whatever they are writing (new code) is required to be revisited after 2 years or so and that they don't wait several years before correcting potential mistakes.

Notes recorded by Mia Gale,

Planning Department, City of Ann Arbor