



City of Ann Arbor

100 N. Fifth Avenue
Ann Arbor, MI 48104
<http://a2gov.legistar.com/Calendar.aspx>

Action Minutes City Planning Commission

Tuesday, January 5, 2010

7:00 PM

G. C. Larcom, Jr. Municipal Bldg. 2nd Flr.

Commission public meetings are held the first and third Tuesday of each month. Both of these meetings provide opportunities for the public to address the Commission. Persons with disabilities are encouraged to participate. Accommodations, including sign language interpreters, may be arranged by contacting the City Clerk's Office at 794-794-6140 (V/TDD) at least 24 hours in advance. Planning Commission meeting agendas and packets are available on the Planning page of the City's website (www.a2gov.org) or on the 6th floor of City Hall on the Friday before the meeting. Agendas and packets are also sent to subscribers of the City's email notification service, GovDelivery. You can subscribe to this free service by accessing the City's website and clicking on the red envelope at the top of the home page.

These meetings are typically broadcast on Ann Arbor Community Television Network Channel 16 live at 7:00 p.m. on the first and third Tuesdays of the month and replayed the following Wednesdays at 10:00 AM and Sundays at 2:00 PM. Recent meetings can also be streamed online from the CTN Video On Demand page of the City's website (www.a2gov.org).

CALL TO ORDER

Chair Bona called the meeting to order at 7:01 p.m. in the Guy C. Larcom Jr., Municipal Building, 2nd Floor Council Chambers, 100 N. Fifth Avenue.

1 ROLL CALL

Present 8 - Bona, Pratt, Carlberg, Woods, Derezinski, Briggs, Westphal, and Giannola

Absent 1 - Mahler

Staff Present: DiLeo, Kahan, Pulcifer, Rampson

2 INTRODUCTIONS

None.

3 MINUTES OF PREVIOUS MEETING

3-1 [09-1272](#) Planning commission Meeting Minutes of December 1, 2009

A motion was made by Carlberg, seconded by Woods, that the Minutes be Approved by the Commission and forwarded to the City Council, due back on 4/5/2010.

A vote on the motion showed:

Yeas: 8 - Bonnie Bona, Evan Pratt, Jean Carlberg, Wendy Woods, Tony Derezinski, Erica Briggs, Kirk Westphal, and Diane Giannola

Nays: 0

Absent: 1 - Eric A. Mahler

Motion carried.

4 APPROVAL OF AGENDA

A motion was made by Woods, seconded by Westphal, that the agenda be Approved.

A vote on the motion showed:

Yeas: 8 - Bonnie Bona, Evan Pratt, Jean Carlberg, Wendy Woods, Tony Derezinski, Erica Briggs, Kirk Westphal, and Diane Giannola

Nays: 0

Absent: 1 - Eric A. Mahler

Motion carried.

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

a City Administration

b City Council

c Planning and Development Services Manager

d Planning Commission Officers and Committees

Bona announced that the Planning Commission retreat was cancelled and that it would be rescheduled to most likely discuss the work program.

Pratt announced that the A2D2 Steering Committee would meet on January 14 at

5:30 in the Sixth Floor Conference Room to discuss design guidelines.

e Written Communications and Petitions

- e-1 [09-1273](#) (1) Email from M. McGehee regarding Gallup One Stop Gas Station Proposal - Distribute.

6 AUDIENCE PARTICIPATION (Persons may speak for three minutes about an item that is NOT listed as a public hearing on this agenda. Please state your name and address for the record.)

Jim Mogenson, 3780 Greenbrier, spoke regarding transportation, referring to the Transportation Plan adopted in 1974. A regional bus route plan was created at that time, he said, and the plan has continued to be implemented throughout the past 35 years. He noted that everyone was excited today about regional transportation, but pointed out there already was a regional transportation system in place. He referenced the University of Michigan's significant parking needs and how those who have the most parkers create the most impact.

Tom Luczak, 438 South Fifth Avenue, spoke regarding the newly proposed Heritage Row project along South Fifth Avenue. He stated that that while what the petitioner was proposing was moving closer to something the neighbors could endorse, the height of the proposed building was too high. He believed removing one story from the building would move the proposal much closer to neighborhood support.

Kim Kachadoorian, 206 East Davis, mentioned an issue that has arisen due to the Public Library parking lot on Fifth Avenue closing. What was happening, she said, was people would stop on Fifth Avenue in front of the library to let children out, creating an unsafe situation for children. People were also stopping on the street to wait while someone ran into the library to drop something off or pick something up, she said. She proposed that the City either come up with a way to allow people to safely drop off or pick up children and other passengers, or that could not be done, install a sign indicating that stopping in that location was prohibited and enforced with a \$500 fine. She believed the City could make money this way and that people would no longer drop their children off on this busy street.

7 PUBLIC HEARINGS SCHEDULED FOR NEXT BUSINESS MEETING

None.

- 8 **REGULAR BUSINESS - Staff Report, Public Hearing and Commission Discussion of Each Item (If an agenda item is tabled, it will most likely be rescheduled to a future date. If you would like to be notified when a tabled agenda item will appear on a future agenda, please provide your email address on the form provided on the front table at the meeting. You may also call Planning and Development Services at 734-794-6265 during office hours to obtain additional information about the review schedule or visit the Planning page on the City's website (www.a2gov.org).)**

(Public Hearings: Individuals may speak for three minutes. The first person who is the official representative of an organized group or who is representing the petitioner may speak for five minutes; additional representatives may speak for three minutes. Please state your name and address for the record.)

(Comments about a proposed project are most constructive when they relate to: (1) City Code requirements and land use regulations, (2) consistency with the City Master Plan, or (3) additional information about the area around the petitioner's property and the extent to which a proposed project may positively or negatively affect the area.)

- 8-1 [09-1274](#) a. Public Hearing and Action on Gallup One Stop Gas Station Rezoning, Site Plan and Special Exception Use, 0.50 acre, 2955 Packard Road. A request to rezone this site from C1 (Local Business District) to C2B (Business Service District) to allow the gasoline station/convenience store by special exception use approval and a proposal to construct a 464-square foot addition and reconfigure the site - Staff Recommendation: Approval

Kahan explained the proposal and showed photographs of the property.

Brad Micas, a resident of Chelsea Circle, thought it seemed odd to rezone the property and then ask for a special exception use. He questioned why C3 zoning was not being sought here, since the other gas stations in the vicinity were zoned C3. He expressed concern about what appeared to be inconsistent setback applications, about mitigation of any leakage into the Mallets Creek, and about poor condition of the pavement.

Todd Quattro, of TS Quattro Company, representing the petitioner, stated that they were proposing C2B zoning because the C3 zoning district allowed many more uses and, during the citizen participation meeting, the neighbors expressed a desire for something more restrictive. With regard to storm water runoff, he stated that all storm water would be retained on-site and that the storm water management plan met the City's requirements. He stated that a variance was granted in 1983 which allows the rear setback of 15 feet.

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

Moved by Derezinski, seconded by Pratt, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Gallup One Stop Gas Station Rezoning from C1 (Local Business District) to C2B (Business Service District).

Moved by Derezinski, seconded by Pratt, that the Ann Arbor City Planning Commission hereby approves the Special Exception Use for an automobile service station pursuant to the standards of Chapter 55 (Zoning), Section 5:104, subject to City Council approval of the Gallup One Stop Gas Station Site Plan and C2B Zoning.

Moved by Derezinski, seconded by Pratt, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Gallup One Stop Gas Station Site Plan dated 12/21/09, subject to the Zoning Board of Appeals granting two variances from Chapter 62 (Landscaping and Screening) regulations and subject to receipt of a street tree escrow of \$188.50 prior to the issuance of building permits.

Kahan explained that the C3 zoning district allowed gas stations and drive-through facilities as permitted principal uses. The C2B district allowed these uses only with special exception use approval, he said, which meant a petitioner was required to provide additional information to justify that the proposed use or expansion of use was consistent with the special exception use standards contained in the zoning ordinance. He said staff believed the proposed C2B zoning district provided that extra layer of review for this proposal.

Bona asked staff to explain creeksheds, noting that every piece of property in the City was located in a creekshed, so all gas stations would be an issue.

Kahan stated that a watershed or creekshed was a basin into which storm water flowed. This particular piece of property was in the Mallets Creek watershed, he said, noting that the petitioner proposed to regrade the site so all storm water would remain on the site. He stated that some regrading would be necessary to capture all the water on the site and store it in subterranean tanks, as some storm water currently flowed off the site to the east. With regard to setbacks, he said, the C2B zoning district required a minimum 40-foot front setback and no side or rear setbacks. He noted that the staff report referred to the required conflicting land use buffer of 15 feet, which was required of commercial uses abutting residential property. In this case, he said, residential uses existed to the north, east and west, so the petitioner was required to provide the 15-foot land use buffer on all these sides, or obtain a variance from the Zoning Board of Appeals.

Carlberg stated that although this gas station existed before the adjacent residential development was built, the greatest impact seemed to be on the residences to the east where the doors and windows actually looked out at the gas station. She stated that light intrusion could be a significant problem, when lighting from a building shone directly into people's windows, and questioned why the light on the east side of the building was needed. She understood the necessity of lighting for security reasons, but noted that there were street lights and the building's own lights. She urged the petitioner to remove the exterior light on the east side of the building.

Quattro did not think it would be a problem to remove this light. He believed a small directional light on the back of the building could be provided in its place to provide security.

Carlberg asked about the 15-foot conflicting land use buffer to the west.

Quattro stated that the existing space on the west was too tight for tankers delivering gas and the proposed reconfiguration allowed improved maneuverability.

Carlberg noted that there currently was a great deal of trash behind the building.

Quattro stated that this would be cleaned up as part of this project.

Carlberg asked if the fence around the site would be replaced.

Quattro replied that the fencing at the rear of the site would be replaced.

Briggs wondered about the possibility of partnering with the property owner to the west to expand the buffer space.

Quattro stated that they contacted the property owner about using that area for access, allowing for increased maneuverability, but it would have involved a much greater amount of money. He said one of their main objectives was to get the gas station to a profitable status. He said the neighboring property on the west was zoned office, with residential behind it. Had there been office to the rear, he said, the conflicting land use buffer would not be required. He noted that they increased the buffer zone on the other side and at the rear, pulling the building back in an effort to meet the conflicting land use buffer requirement where it actually abutted residential use.

Briggs spoke about the pedestrian experience, stating that it appeared that bushes were going to be planted along the Packard Street frontage.

Quattro replied that this was correct. He said currently there were railroad ties situated 2.4 feet from the front property line and that they intended to expand that greenbelt area. He noted that the variance they were seeking would allow them to make the existing condition more compliant by increasing the landscaping.

Briggs urged the petitioner to consider planting a type of bush or shrub that was more pleasant for pedestrians, perhaps a flowering species. It appeared to her that there was ample space on the east side of the property to add a sidewalk from the sidewalk on Packard, connecting to the sidewalk at the building so pedestrians would not have to cross the parking lot and asked the petitioner about this.

Quattro stated that they considered this, but it would have required using the conflicting land use buffer space. This would have required a variance, he said, and would have also meant that the loss of a parking space. He said they were attempting to reduce the amount of impervious surface in an effort to be more environmental and said they could work with staff on this.

Briggs stated that, overall, she was glad to see the proposed improvements. She asked staff if there might be an opportunity to provide a sidewalk from Packard to the building.

Kahan stated that the petitioner was correct in that a variance would be necessary to do this, as the ordinance did not allow a sidewalk within the conflicting land use buffer. He said they could explore the possibility of removing a parking space to allow the sidewalk.

Quattro stated that there was another conflict involved in this, which was the existence of a storm water detention device that cleaned the storm water. He said this would have to be relocated because they have to provide first flush, bankfull and 100-year storm water detention.

Derezinski asked if the storm water detention tanks were new.

Quattro replied yes, noting that there currently was no storm water detention on this site.

Derezinski asked if the gas tanks would be changed at the same time the digging was done to install the storm water detention tanks.

Quattro replied that the gas tanks have all been repaired and upgraded, according to Michigan Department of Environmental Quality standards, which did not require site plan approval. He said new piping would be installed with the second phase of the project.

Derezinski asked about the timeframe for this project and the hours of operation.

Quattro said they hoped to apply for building permits in March, with construction then starting in April. The gas station would be open from 6:00 a.m. until midnight, he said.

Giannola asked if the petitioner looked into the possibility of closing the west driveway and connecting to the adjacent driveway on property to the west.

Quattro replied yes, stating that they spent eight months working on this. However, he said, it was determined to be infeasible because of maintenance, topography, and other prohibitive costs.

Briggs said it appeared that someone at the public meeting expressed concern about music playing from the speakers located in the canopy, adding that the petitioner's response was that the music could be restricted. She assumed it was a neighbor who expressed this concern.

Quattro replied yes. He believed this could be restricted through the special exception use approval, but said there would still need to be communication available between the attendants inside the building and the customers at the gas tanks.

Briggs said it appeared that the times the public meetings between the petitioners and neighbors were held were at the discretion of the petitioner and she wondered if staff has considered implementing guidelines for holding weeknight or weekend meetings to encourage better public attendance.

Pulcipher responded that there were guidelines that suggested meeting times most appropriate for achieving the best attendance possible. She noted that these were not ordinance requirements and that there was not a lot of control over how petitioners set up the meetings.

Briggs suggested that an issue of discussion for the future might be ways to make this more of a recommendation.

Woods asked if packaged liquor would be sold in this store.

Quattro replied no.

Woods asked if vehicles exiting this site could make both left and right turns onto Packard.

Quattro replied yes, stating that this issue was discussed with the City engineers.

Kahan showed a map of the area to indicate the proximity of this site to the Packard/Platt intersection.

Quattro stated that there was a significant amount of distance between this gas station and the intersection.

Bona agreed with the suggestion to install a sidewalk between the building and Packard. With regard to being more environmentally conscious, she noted that the petitioner could be even more so by providing fewer parking spaces, adding that only eight spaces were required, yet 14 were proposed. She said she would let City Council decide which was most appropriate here. She stated that there currently was an ice machine and several other things stored on the sidewalk in front of the building, which impact barrier free access. She asked where these items would be stored with this new plan.

Quattro replied that they would be placed inside the building, with the exception of the propane tanks, for which they would need a variance. He stated that the east side of the building would be an appropriate location for the propane tanks.

Bona said she previously thought it might be good idea to add a restriction to the special exception use for storage of the propane tanks, but she noted that a five-foot width was required for barrier free access, so this was already in place. With regard to canopy lights, she visited the renovated Citgo gas station just south of Briarwood and concluded that no one else in town was using those types of lights. She said there were more of them, but they appeared very dim from the street while providing adequate illumination from the pavement, which she liked. She noted the concern raised by neighbors about the uses allowed in the C2B zoning district and asked staff to comment on the uses allowed in both the C1 and C2B districts.

Quattro noted that they originally proposed C3 zoning for this site, but that it was then changed to C2B because it provided the level of protection of uses for the site that the neighbors were interested in seeing.

Kahan summarized the permitted principal uses for the C1 (Local Business) and C2B (Business Service) zoning districts. He said the C1 district was intended to provide service primarily to those who lived and worked in the immediate vicinity and the C2B district tended to serve individuals on a more broad scale. The uses allowed in the C1 district, he said, were multiple-family residential, office, and retail sales in buildings that did not exceed 8,000 square feet in size, and the uses allowed in the C2B district were all that were allowed in C1, plus retail sales with service repair and leasing characteristics, and drive-through and auto service businesses with special exception use approval. He stated that the gas station on this site was established 43 years ago while in the township and that it received its zoning classification upon annexation into the City. He said this was an established use and staff believed the C2B zoning district was the most appropriate, noting that C2B zoning existed in multiple locations at the Packard/Platt intersection.

Bona stated that while she sympathized for neighbors who were bracketed by two gas stations, she pointed out that they had already been in existence when the residences were constructed. She believed it was better use of energy for an established business seek to make improvements, rather than a use going out of business, being torn down, and then something less desirable built in its place. She was more comfortable with the C2B zoning, she said. She asked if any Planning Commission members were interested in placing restrictions on the special exception use relative to exterior storage and music at the canopy.

Pratt said he was more interested in a sound restriction being placed on the special exception use, as he did not know if he wanted to restrict music. He believed having the hours of operation as part of the special exception use would be to everyone's benefit, because it would then be clear.

Bona asked staff to propose wording for the motion that would address the issue of sound.

Westphal said he would favor the restriction of the sound outside. With regard to this site becoming nonconforming as soon as it was zoned, he suggested that these types of situations be handled more comprehensively, rather than on a site-by-site basis, as he has seen similar situations where the nonconformance becomes less of an issue as time passed. He asked about the canopy placement in the setback.

Kahan stated that canopies had to adhere to setback requirements unless a variance was received. In this case, he said, the petitioner received a variance for the placement of the canopy.

Westphal asked about this zoning classification and how it fit in with the proposed revisions to the area, height and placement regulations. He wondered in terms of the building's placement relative to Packard.

Kahan stated that this was explored for gas stations, noting that the proposed revisions to the area, height and placement regulations called for a minimum and maximum front setback for the C2B zoning district. It was the hope, he said, that new gas station convenience stores, or those that replaced existing gas station stores, would be brought closer to the sidewalk, since much of the business related to convenience. He believed this would still allow for successful operation.

Carlberg stated that there were two other gas stations to the east of this station along Packard and she wondered how they have managed to stay in business.

Quattro believed the other two stations were experiencing problems. This petitioner, he said, was of the opinion that the pump reconfiguration and site improvements would attract new business. He said it was this petitioner's goal to become more profitable.

Carlberg noted that it was not within the Planning Commission's purview to make a decision based on economics, but she wanted to use this as a learning opportunity.

Quattro added that the petitioner has had 60-70 years in this business and has a great deal of experience in running and operating successful businesses.

Rampson suggested the following language for the amendment to the special exception use: "subject to prohibition of sound emitting from the exterior station area."

Bona stated that it was continuous sound of music that caused concern for the neighbors. Attendants inside the building should still be able to communicate through the speaker system at the pumps in order to talk to customers, she said.

Pratt suggested that hours of operation also be added to the amendment.

Quattro stated that the hours of operation were shown on the site plan drawings.

Bona asked staff to make sure the hours of operation were part of the special exception use approval.

Rampson suggested the following amendment: "subject to the prohibition of the use of exterior speakers for broadcasting music and/or advertising."

Bona wondered if perhaps the amendment should just limit the use of the speakers at the pump to communication with customers.

Moved by Derezinski, seconded by Pratt, to amend the main motion for the special exception use by adding the following language, "subject to limiting the use of exterior speakers to customer communication only."

Woods stated that Commission could not control people playing music from boom boxes and said she wanted to make sure that they did not try to stop something Commission could not control. She also stated that she has not experienced the problem of loud music being played at gas pumps.

Quattro stated that the neighbors specifically expressed the concern about music being played from the speakers at the pumps.

Derezinski shared Commissioner Woods' concern about trying to enforce something that was out of the Commission's control; however, since the petitioner had agreed to limit the sound at the gas pumps, he thought the amendment would work in this situation.

A vote on the amendment showed:

Yeas: 8 - Bonnie Bona, Evan Pratt, Jean Carlberg, Wendy Woods, Tony Derezinski, Erica Briggs, Kirk Westphal, and Diane Giannola

Nays: 0

Absent: 1 - Eric A. Mahler

Motion carried.

A vote on all three motions, as amended, showed:

Yeas: 8 - Bonnie Bona, Evan Pratt, Jean Carlberg, Wendy Woods, Tony Derezinski, Erica Briggs, Kirk Westphal, and Diane Giannola

Nays: 0

Absent: 1 - Eric A. Mahler

Motions carried, as follows:

Moved by Derezhinski, seconded by Pratt, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Gallup One Stop Gas Station Rezoning from C1 (Local Business District) to C2B (Business Service District).

Moved by Derezhinski, seconded by Pratt, that the Ann Arbor City Planning Commission hereby approves the Special Exception Use for an automobile service station pursuant to the standards of Chapter 55 (Zoning), Section 5:104, subject to limiting the use of exterior speakers to customer communication only and subject to City Council approval of the Gallup One Stop Gas Station Site Plan and C2B Zoning.

Moved by Derezhinski, seconded by Pratt, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Gallup One Stop Gas Station Site Plan dated 12/21/09, subject to the Zoning Board of Appeals granting two variances from Chapter 62 (Landscaping and Screening) regulations and subject to receipt of a street tree escrow of \$188.50 prior to the issuance of building permits.

8-2 [09-1275](#)

- b. Public Hearing and Action on The Moravian PUD Zoning District and PUD Site Plan, 0.85 acres, 201 East Madison Street. A request to rezone this site from R4C (Multiple-Family Dwelling District) and M1 (Limited Industrial District) to PUD (Planned Unit Development District) and a proposal to construct a 62-unit (150 bedrooms total), five-story multiple-family residential building with 90 parking spaces underground (postponed at 10/6/09 meeting) - Staff Recommendation: Approval

DiLeo explained the revised proposal.

Beverly Strassman, representing the Germantown Neighborhood Association, referenced petitions opposing this project, which had been signed by residents and landlords of both Fourth and Fifth Avenues. She expressed concern about the notice the residents received about this public hearing; the homes proposed to be removed dating back to the mid 18th century; the intrusion of the proposed building into this neighborhood and its massiveness being out of scale with the neighborhood; the proposed building towering over the Fingerle lumber yard; this PUD being a complete rewriting of the existing zoning; the illusory benefits of this proposal; no real gain in affordable housing, noise; and safety issues because of the proposed terraces.

Tom Luczak, 438 South Fifth Avenue, expressed his opposition to this proposal, stating that there already was a great deal of affordable housing in this neighborhood, referencing Baker Commons at the corner of Main and Packard, and calling attention to the size of this project and how it compared to the existing houses in the neighborhood. He believed there would be an actual loss of affordable housing due to this project because it would displace the existing affordable housing on this site.

Kim Kachadoorian, 206 East Davis, also expressed opposition to this proposal, agreeing that its scale was inconsistent with the existing neighborhood. She noted that Germantown was the last intact near downtown neighborhood and dismembering it for student housing was disheartening. She also expressed concern about this proposal generating a potential 300 more cars in this area.

Tom Whittaker, 444 South Fifth Avenue, said the zoning ordinance stated that the PUD district shall not be used to avoid the standards of other zoning districts, adding that the City was supposed to receive a benefit in exchange for granting PUD approval. He believed this PUD would harm the surrounding area, not benefit it, noting that the benefits must outweigh the impacts. He also believed that the Planning Commission need only determine that this project could be built elsewhere in the City, not determine if other parcels are available. He stated that the Planning Commission had one option here, which was to recommend denial of this project to the City Council.

Walt Spiller, 548 South Fifth Avenue, adjacent homeowner to the north, asked that appropriate buffering be provided between his property and this project. He believed the petitioner's representation of his comments were a misinterpretation, adding that he told the petitioner he would not bring this up in a public forum if the petitioner would redact the entire statement under his name. It was not done, he said. His main opposition to this proposal was that it was out of scale and character with the existing neighborhood.

Ethel Potts, 1014 Elder Boulevard, expressed concern about the proposed height being twice what was permitted in the R4C zoning district and about the block-long mass of the building not fitting in with the neighborhood or the R4C zoning. She also expressed concern about the loss of existing affordable housing, inadequate setbacks, lack of proper open space, access from South Fifth Avenue causing dangerous conditions, flooding, and departure from the recommendations of the Central Area Plan.

Claude Vincense, 545 South Fifth Avenue, did not believe the revised plan contained anything new and expressed surprise that the assessment in the staff report had changed, noting that it did not evaluate the arguments made by the neighbors. As a result, he believed the staff report continued to mischaracterize the neighborhood as partly an industrial wasteland inhabited by temporary residents, which was not true. He was opposed to this project and stated that the petitioner owed \$50,000 in back taxes.

Jim Mogenson, 3780 Greenbrier, asked that the Planning Commission consider density and public transportation in relation to the 90 underground parking spaces being provided, as well as the issue of water seepage problems that could occur underground. He expressed concern about this project not really providing affordable housing because many of the features being proposed might make the housing more expensive.

Shirley Simple, 434 South Fourth Avenue, thought this could be a nice project in the appropriate location, but not here. She believed it would overwhelm everything around it and would cause traffic problems on these already fast-moving streets.

Ellen Ramsburgh, 1503 Cambridge, expressed her support of all the previous speakers' comments. She hoped the Planning Commission would remember that there were two study committees working on the R4C zoning classification and on a potential historic district designation for the homes along Fourth and Fifth Avenues, which likely would have an impact on this property. Even though this was not a protected area, she said, it certainly was an historic area and the loss of historic properties in this neighborhood would be just as regretful as anywhere else.

Richard Jacobson, 538 South Fifth Avenue, stated that the homes in this area were charming, historic structures and said he did not agree with the portrayal of this neighborhood as an industrial wasteland. He expressed concern about this project

turning into a huge dormitory for students.

Amy Mitchell, a resident of the Old West Side, stated that this project would appear to be on steroids compared to the apartments that were built in her neighborhood. She believed the scale of this project was so disjointed with its surroundings and that it did not provide sufficient benefits to override the concerns.

Jeff Helminski, petitioner, said he was unaware of owing the City \$50,000 for taxes. He stated that many changes had been made to the plan since the last time it was before Commission, adding that after 24 months of review, staff has confirmed that this proposal is consistent with the Central Area Plan, meets the standards of the PUD ordinance, and is compatible with this very diverse neighborhood. He hoped the Planning Commission, in its deliberations, would evaluate this project based on the PUD standards and would recognize the balance achieved between the level of variances being requested and the level of benefits being provided. He said they exceeded the standard for affordability by nearly 30 percent and noted that this was the greenest project of its type to ever be constructed here. He also noted that the storm water management plan being provided would be a tremendous enhancement to the floodplain in this area. He said it was important to consider the fact that this project would generate over \$200,000 in tax revenue for the City. This was a much better project now than when it was first submitted, he said.

Alice Ralph, 1607 East Stadium Boulevard, expressed the following concerns about this proposal: 1) making approval subject to adoption of new flood zone maps, 2) allowing rooftop terraces as active open space, and 3) provision of the little pocket park on what basically is private lawn.

Brad Micas, resident, expressed concern about the net loss of affordable housing, this project being out of scale with the neighborhood, traffic, and flex rooms. He stated that this project should be postponed or denied.

Ann Eisen, a resident at Fourth Avenue and Packard, agreed with the points raised by her neighbors. She commented on the massive size of this project, noting that this neighborhood consisted of front porches and front yards, thereby prohibiting the interaction between existing residents and the residents of this building.

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

Moved by Briggs, seconded by Derezinski, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve The Moravian Planned Unit Development PUD Zoning District and Supplemental Regulations, PUD Site Plan dated December 11, 2009, and Development Agreement

Carlberg stated that approval of this PUD site plan was subject to the adoption of modernized flood insurance maps, which were not due to be completed for several months. She asked if this meant this project would be on hiatus until the maps were completed.

DiLeo replied that this was correct, stating that building permits could not be issued until the floodplain maps were adopted. She said the petitioner was aware of and in support of this, as having site plan approval would allow the petitioner to proceed with the financing element of the project. She said the petitioner was aware that it could be approximately six months before all conditions were met.

Carlberg asked if the new flood maps would change the floodplain boundary lines.

DiLeo replied no, only boundary changes to the floodway would occur.

Carlberg asked the petitioner to speak to how this project would improve floodplain function.

Helminski stated that capacity of the floodplain was defined by the volume that could be accommodated on the site today. When they remove the buildings and continue excavating for the underground parking, he said, they would increase the volume of flood storage capacity on the site. Currently, he said, all rain that fell on this site during a major storm event immediately ran into the general system. He stated that the new system would capture all storm water on the site, as well as additional storm water from off the site, and store it in their system for 24 hours before it was released.

Carlberg asked if the underground parking area would be flooded during a major storm event.

Helminski replied that if a storm were to reach that level, there would be standing water, but no flooding of the cars.

Carlberg wondered about the impact a couple of feet of standing water would have on the parked cars.

Scott Betzoldt, of Midwestern Consulting, representing the petitioner, stated that over half of the area in the lower level parking would experience one foot or less of standing water during a major storm event. From east to west, he said, it would taper from zero up to one foot, then it would drop off quite rapidly. He stated that the site currently provided for 17,500 cubic feet of floodplain storage and, with the addition of the parking and floodplain storage they were proposing, the storage would be increased by 45 percent.

Carlberg asked if water would be taken from the sites uphill.

Betzoldt replied yes, stating that this was required through the County Drain Commissioner standards.

Derezinski stated that some speakers questioned the safety of the parking situation in terms of the entrance being located on Fifth Avenue. He asked staff to respond to this concern.

DiLeo stated that the City traffic engineers evaluated the petitioner's traffic impact statement and agreed with its conclusion that there would be no decrease in the existing levels of service and that the location of the driveways were appropriate and met sight distance and spacing requirements.

Betzoldt added that this proposal would not generate the requisite number of peak hour trips that would require additional study for traffic impact.

Bona stated that the open space section of the supplemental regulations indicated 20 percent open space; however, the PUD site plan indicated 28 percent open space. She asked the petitioner if there were a reason for the discrepancy.

Helminski stated that this could have been an error and that he did not have a problem with the supplemental regulations showing the open space as 28 percent.

Bona asked that this change be made to the supplemental regulations. In response to public comments this evening about the scale of the building, she asked the petitioner to address why this proposed five-story building did not look too much taller than the University's three-story building to the west.

Scott Bonney, of Neuman Smith Architects, representing the petitioner, stated that they matched the rendering as best they could, noting that this was not an exact science. He stated that the three-story building to the west was taller floor to floor than their building, which would reduce the scale somewhat. He stated that the most accurate drawings would be the street elevation drawings.

Helminski added that they spent a great deal of time trying to make sure the renderings and elevations were as exact as possible. While the building to the west was just three stories in floors, he said, if it were projected across the street, it came up to almost the top of the fourth floor of their proposed building.

Briggs asked if the terraces would be open to all residents and if the colorful umbrellas in the picture would actually be provided.

Helminski replied that, yes, they were open to all residents and that they anticipated providing some type of outdoor furniture.

Briggs asked what the breakdown of units was in terms of the number of bedrooms.

Bonney stated that there were 6 three-bedroom units with the flex room, 36 two-bedroom units with the flex room, 8 two-bedroom units, 9 one-bedroom units, and 3 efficiency units. He said they believed the Planning Commission suggested that if there were going to be a building like this, there should be some flexibility provided to allow different purposes, which was why they came up with the flex rooms to allow for dens, libraries, home theaters, etc.

Briggs appreciated that change. She asked if the material used for the garage door would be transparent.

Helminski stated that the door would be see-through in some way, such as wrought iron, to allow for ventilation and a sense of security.

Briggs cautioned making it too see-through, as it was not a particularly pleasant experience to see parked cars while walking by. She would like to see the parking shielded as much as possible. She asked if there would be secure storage for bicycles.

Helminski replied yes, stating that there would be a bicycle storage room.

Briggs commented on the tone of the supplemental regulations, stating that at times it seemed to read like a marketing brochure, as if the petitioner had written it. She believed it would be appropriate to remove some of that. She was curious about what the penalties would be for non-compliance with the PUD standards.

DiLeo stated that there were minimum credits a petitioner needed to earn for LEED certification and that a penalty was measured by how much a petitioner fell short of meeting a premium.

Rampson added that the penalties contained in the A2D2 zoning revisions were based on the penalty system used in Seattle, which were adopted by City Council.

Briggs stated that when she first saw the previous version of this, she was impressed with the changes that had been made, as it seemed to work with the community, it was scaled down to try and make it blend in with the neighborhood, make it more green, and provide more affordable housing. In terms of the affordable housing, she was glad to see the existing dilapidated housing being removed and replaced with new, more flexible construction. She noted the City's desire for more dense projects in the downtown and getting people closer to public transit. However, it was disturbing to her when she saw an entire neighborhood come out and say they did not want this next to their homes, and when she heard one neighbor express concern about his statements being mischaracterized by the petitioner. In looking again at the composition of the bedrooms, she did not necessarily agree that this was really for young professionals. She stated that when you were young, you did not normally have enough money to afford these larger units. Considering the neighborhood opposition and the lack of buffering between this and the adjacent homes, she did not believe this project was in scale with the existing neighborhood.

Westphal did not see an actual breakdown of the bedrooms in the supplemental regulations.

DiLeo stated that the configuration of the units was not a requirement; however, there was a maximum number of units and a maximum number of bedrooms contained in the supplemental regulations. She said 160 maximum bedrooms would be allowed and that the petitioner was proposing 150 at this time, so there was a small amount of flexibility. She stated that the previous three-bedroom units are now two-bedroom units with a flex room.

Westphal stated that specifying demographics of occupants was outside of the Planning Commission's purview and asked that any reference as to who would be living in these units be removed from the supplemental regulations.

Carlberg stated that she saw a reference to the size of rooms in the supplemental regulations, but no limitation on the number of units or bedrooms.

DiLeo explained that within the maximum floor area allowance, a minimum lot area of 440 square feet shall be required for each dwelling unit and 230 square feet of lot area shall be required for each bedroom shown on plan. She said a total of 92 units could be achieved by dividing the lot area by 440 square feet and a total of 160 bedrooms could be achieved by dividing the lot area by 230 square feet.

Westphal asked for clarification on the staff report's statement that the benefit to storm water would be greater with this development than if this site were redeveloped separately.

DiLeo stated that there were two thresholds for the storm water code: one was that single-family and two-family units were currently exempt from providing storm water management, so if these properties were to be developed separately as single or two-family units, no storm water detention would be required. The second threshold was that storm water management was required if there were a minimum of 5,000 square feet of impervious surface on the lot and she said it was unlikely that these lots would fall under the storm water management requirements. She stated that the larger the site and development, the greater amount of storm water needed to be provided for. The size of this development required first flush, bankfull and 100-year storm water management, she said.

Westphal asked if incorporating the R4C-zoned parcels within this development was an upgrade in storm water treatment for all of the parcels.

DiLeo replied yes.

Westphal asked staff to elaborate on the statement in the staff report that innovation of land use was one of the benefits of this PUD.

DiLeo said it was staff's opinion that the parking underneath the building was an innovation of land use because it was efficient and more of a modern design that was not generally done. She stated that LEED certification was also innovative because this was not seen historically.

Westphal stated that one of the PUD standards was encouraging alternative transportation and he wondered if there had been any discussion about parking.

DiLeo stated that there was a maximum established for the underground parking, which would help insure that it did not become a parking structure. She recalled on previous versions of the proposal that staff was hesitant to support a project that had no maximum amount of parking, but was also hesitant to have a minimum amount of parking that was too low such that it was unrealistic. She said staff believed the proposed parking provided a good balance.

Bona believed the intent of the permitted uses in the supplemental regulations was that the 1,200 square feet of space for the live-work units should be the maximum size so they could not be used as one space. This would require at least three live-work units, she said. With regard to the floodplain, she asked what could be developed on the first floor if there were no parking. She asked staff to explain some of the restrictions in a floodplain, which might assist her in understanding why the parking was a benefit. She asked if the flood capacity would be different if there were no underground parking and there were another floor of residential units.

DiLeo stated that the building could be elevated, leaving space below, in which case it might as well be used for parking. Otherwise, she said, the floodplain could be filled in upon approval from the State and the maps then changed. However, she said, people could not live within the floodplain so the only other use could be commercial as long as it was properly flood-proofed.

Bona stated that she was trying to understand the benefit of underground parking. This project has been a struggle for her since the beginning, she said, as she has wanted to be open to creative and innovative ideas, but at the same time feeling very strongly that there was a neighborhood here to protect. She also struggled with the hard line between zoning districts, noting that the Fingerle property across the street was zoned D2. She questioned if the line was drawn down the middle of the street, or if it was drawn behind the first row of houses. This was something that has been considered in just about every serious rezoning that has been before the Planning Commission, she said. She noted two issues relative to the D2 zoning: one was that the D2 zoning allowed 400 percent FAR (floor area ratio) with premiums, which was twice as much as this proposal, and it allowed 60 feet in height, which was what this project proposed. Also relative to the D2 zoning across the street, she said, was that most of the Fingerle site was in the floodway and she suspected that a good deal of that space would be open space. Therefore, she said, from a scale perspective of the area, she was more comfortable with this proposal than she has been in the past, stating that the building height and the number of bedrooms have been reduced, and more open space has been provided. With regard to open space, she noted that it was supposed to be provided on the ground so people would have places to put a lawn chair, have picnics, etc. In the past, she said, balconies and terraces have been allowed as open space and, while the rooftop terraces were not technically open space, they would allow active space for the residents. She believed the additional

four percent of affordable housing was a real benefit because it was difficult getting affordable housing anywhere in town, and she also believed the LEED certification was a benefit. She added that the penalties for not achieving LEED certification would be significant enough that the petitioners would not want to miss that. They were not buyouts, she said. She believed the requirement for renewable energy was a significant benefit, as was the underground parking and the efficient use of floor area. She said the project was not perfect, but she believed it could be a good addition to the neighborhood.

Derezinski agreed with Commissioner Bona. He noted that this proposal has earned the approval of staff, which he believed was a substantial accomplishment because the petitioner has been working on this project for a long time and has made significant changes. He took staff recommendations seriously, he said, especially on something as controversial as this. It was not without effort that this recommendation was gained, he said, adding that he believed staff worked very hard to make sure the supplemental regulations contained the requirement for affordable housing to make sure it would be accomplished. He expressed appreciation to the residents of the neighborhood who spoke at the meeting tonight; however, he noted that there were also people in this neighborhood who have voiced their support of the project which could not be discounted. He stated that a number of people who spoke in opposition this evening did not live in this neighborhood and he invited attention to the fact there were a number of residents living elsewhere in the City who have indicated their support. Both sides had to be considered, he said. He believed this proposal went a long way toward creating lower cost housing and better spaces near the downtown. It was much different now than when first proposed, he said, adding that it has been accommodated to the point where it warranted moving on to City Council with a recommendation of approval by the Planning Commission.

Pratt expressed his appreciation to everyone who came to the meeting tonight to provide their input, whether in support or opposition. He said there was no doubt that they wouldn't have this project today without the continuous discussion that has occurred, which has kept this process as rigorous as possible. He sincerely apologized for the notification issue, stating that they have been trying to reach out and provide more notification than what was required by law and, if there were any fault on the part of the City, they would strive to improve on that.

Carlberg stated that this was definitely a better project than when it was first proposed. She believed its appearance was reminiscent of row housing, as it was broken up with different materials and height configurations. In trying to determine how she would see this building, she said, she saw it from Madison Avenue as having the main impact and it seemed very clear that it was not out of scale with the University's building to the west, nor was it out of scale with the Perry building to the east. The building had a relatively small exposure on both Fourth and Fifth Avenues, she said, stating that on Fourth Avenue it mainly was across from the University building and on Fifth Avenue it primarily was across from rental properties. She looked into how much of this neighborhood consisted of homeowners and found that out of the 37 properties on Fourth and Fifth Avenue, six of them were homeowners, so she believed it was correct to characterize this area as primarily a rental housing neighborhood. If there were a desire to see this go from rental housing to something else, she said, appropriate housing for what was being removed had to be provided. She viewed this as a green project, not only because of the LEED certification, but also because of the fact that the energy costs for these new units will be reduced significantly by the buildings being attached. She could see this development attracting people across a wide scale and one of the benefits for them would be the ability to walk to everything in the downtown. This would be good for downtown businesses, she said, as well as for the South Main Market to the south. She

believed this proposal would fit in with the other tall and industrial looking buildings in the area. She saw it as being compatible with the scale of what was to come along the Main Street corridor and being beneficial to the area commercially. She stated that the affordable housing in the private houses had no requirements, so there were no assurances that the housing would remain affordable. Having the units in this development guaranteed to remain affordable this close to the downtown was a major benefit to the community, she said. She stated that she supported this proposal earlier in the process, as she believed it fit in with the neighborhood, and now she believed it fit in even better. She wished it were possible to provide a greater screening between this development and the adjacent house to the north along Fifth Avenue, suggesting that the planting of more trees be investigated. There did not seem to be room for additional trees adjacent to the house to the north along Fourth Avenue, she said. She believed the advantages of this development outweighed the change it would bring to the neighborhood and expressed her support.

Giannola stated that she agreed with most of the previous Commissioners' comments. She noted that the term "student" was being used like it was a bad word. She stated that the multi-bedroom units should be looked at for residents who have roommates. She said the resident could be a 23-year-old person who has roommates, regardless of whether they were students. Most people in their early 20s had roommates, she said, and to say a student could not live here, but someone of the same age could, was discriminatory. With regard to the scale of the building, she thought it actually improved the block, adding that it especially fit with the scope of the hill. She thought this was a great project and she agreed with all of its benefits. She did not think this would infringe on the neighborhood; in fact, she thought it would be a benefit to the neighborhood. She supported this project.

Briggs agreed with almost everything that had been said tonight, adding that this has been a difficult decision for her. She believed the project fit well with the neighborhood, but she was reminded tonight that a lot of people were looking at this from another angle and they were saying it was out of character with the neighborhood, which she did not think could be dismissed. She did not think it mattered if this was an owner-occupied or renter-occupied neighborhood; rather, there were people here who were interested in preserving the character and scale of the existing homes.

Woods agreed that the neighborhood should not be classified between owner occupied and renter occupied in terms of people expressing what their neighborhoods meant to them. She also appreciated everyone coming out this evening to express their opinions, stating that all of the comments have helped this become a better project. She hoped the elevations that were presented were what would actually be built. She agreed that it would be good to find a way to install more landscaping for the adjacent property owner to the north along Fifth Avenue, pointing out that it would be important for the petitioner to be a good neighbor. She also agreed with the affordable housing benefit, stating that the number of units that will remain affordable will be beneficial to many people. Many times in projects like this, she said, there was a lot of give and take on both sides. She stated that in the long run, everyone was trying to make Ann Arbor a place to live, work and raise their families.

Westphal expressed his appreciation for the changes in the architecture that were made since the last time Commission reviewed the proposal, stating that it softened the way it fit in the area. He had reservations, as always, with how this complied with the master plan, noting that a PUD contradicted the plan in some way, so the question was at what cost. This was not a clear-cut proposal for him, stating that he

has probably been most on the fence with this than on any other project. He was disappointed in the amount of affordable housing being provided, which was 12 out of 160 bedrooms. He knew this amount was based on a percentage of the units, but this gave him pause. He stated that live-work units were not permanent and were a little vague in justifying this. He knew that staff was the expert in this area, as they have worked with this zoning longer than anyone on the Planning Commission. To him, as a neighbor of commercially zoned properties himself, this was a cautionary tale. He stated that the efficiencies of the underground parking would never be achieved if just the M1-zoned parcels were developed. He stated that having the staff recommendation raised the bar much higher for him and helped him reach his position of supporting this project.

A vote on the motion showed:

Yeas: 7 - Bonnie Bona, Evan Pratt, Jean Carlberg, Wendy Woods, Tony Derezinski, Kirk Westphal, and Diane Giannola

Nays: 1 - Erica Briggs

Absent: 1 - Eric A. Mahler

Motion carried.

9 AUDIENCE PARTICIPATION (Persons may speak for three minutes on any item.)

Walt Spiller, 548 South Fifth Avenue, thanked the Planning Commission for consideration regarding additional landscaping adjacent to this property, but said an additional tree(s) would not take care of the problem. If anyone wanted an idea of what The Moravian development would look like, he suggested visiting the newly constructed student apartments on North Campus near Murfin and Plymouth Roads. He said each of the buildings were five stories in height and approximately 200 feet long, although they were set back from the road and surrounded by trees. He noted that the homes along Fourth and Fifth Avenue had front porches, which encouraged pedestrian integration, and that there was a difference between front porches and a park bench in front of a five-story building. He did not believe this was an issue of students versus residents, stating that he chose to live in this neighborhood and that he loved having kids around. This was part of the diversity of Ann Arbor, he said, and he did not want an inappropriate, out-of-place building here.

A resident of the neighborhood spoke regarding The Moravian proposal, stating that the Planning Commission's vote this evening meant they were participants in a lie. He understood that this project would generate revenue for the City, but he believed this proposal was based on a lie and that if the Planning Commission knowingly accepted the lie, it made it a corrupt commission and did not deserve the trust of the community.

A resident on Fourth Avenue spoke regarding The Moravian proposal, stating that she felt very passionately about this project, which she did not believe fit here. She said the traffic would be terrible here, stating that it was a dangerous corridor with people speeding down Fifth Avenue. She also believed that this project would create a steady stream of cars driving past her house and that it would impact neighbors' use of the street parking. She expressed her disappointment in the Planning Commission's vote and her belief that the Planning Commission did not take the

neighbors' concerns into consideration.

Claude Vincense, 545 South Fifth Avenue, expressed his disappointment in the discussion just held regarding The Moravian proposal, stating that he believed it to be unprofessional. He said the Commission discussed building height by looking at the falsified information provided by the petitioner. He questioned the architectural education of the Commission members. With regard to hydrology, he said, the Commission discussed this without mentioning porous surface. He did not believe the amount of surface this building would cover or the issue of affordable housing were discussed appropriately. He was concerned that the minds of the Planning Commissioners were made prior to the meeting and that the arguments used to support this project were false.

An owner of rental housing units in this area spoke regarding The Moravian. He believed staff should be responsible for requesting accurate information from the petitioner, noting that he believed the information provided this evening was incorrect. He believed there was a disproportion between the buildings in this area and that, with regard to the proposed flex rooms, he believed everyone knew that there was no such thing as a study room in the campus area, that the flex rooms would be used as bedrooms.

A resident of the neighborhood, speaking with regard to The Moravian proposal, said she had not met one person in this neighborhood who supported this project, adding that out of the list of people who supported it, none were residents of this neighborhood. She did not know if the petitioner mistook the residents' respectful listening as support earlier in the process, but stated that this was not the same as supporting the project. She expressed her sadness about the decision made this evening from the perspective of those living and investing in this neighborhood.

Beverly Strassman thanked Commissioner Briggs for her integrity, stating that it was difficult to be the lone honest voice when the others in the group were going in the other direction. She noted that this battle was not over. City officials could not get away with something like this, she said, stating that there were libel issues regarding hers and others' statements being mischaracterized. She also referenced the staff report, which she believed contained a high level of inaccuracies. She did not want anyone to hope and said that no one could get away with a project that violated state law, zoning and the master plan. She did not believe the public had been properly heard, nor did she believe proper notice had been provided. She asked that concerned citizens email her at bistrassman@gmail.com or visit the website stopthemoravian.blogspot.com.

A member of the audience spoke regarding The Moravian, stating that Commissioner Briggs was the only Commission member to reach into the new millennium. He was not against development, but said behind-the-scenes behavior was inappropriate and that the consideration of this proposal should have been done more respectfully.

10 COMMISSION PROPOSED BUSINESS

Briggs acknowledged that there was a great deal of anger in the room at this time, but she wanted to point out that she worked with a good group of citizens on this Planning Commission. Her fellow commissioners were people with a great deal of integrity, she said, and she believed the comments made to them during Audience Participation were inappropriate.

11 ADJOURNMENT

Bona declared the meeting adjourned at 11:15 p.m.

Wendy L. Rampson, Planning Manager
Planning and Development Services

Kirk Westphal, Secretary

Prepared by Laurie Foondle
Community Services Area