

**Ann Arbor City Council Regular Session: July 16, 2012
 Email Redactions List Pursuant to Council Resolution R-09-386**

<u>Sent Time</u>	<u>Received Time</u>	<u>To</u>	<u>From</u>	<u>CC</u>	<u>Redactions</u>	<u>Reason for Redaction</u>
8:40 PM	8:40 PM	Lumm, Jane	Marcia Higgen (Forwarded from Julie Berson-Grand)		email of Julie Berson-Grand	privacy
9:40 PM	9:40 PM	Postema, Stephen	Taylor, Christopher (Forwarded from Karen Hart)		email of Karen Hart	privacy

Corts, Carynne

From: Smith, Colin
Sent: Monday, July 16, 2012 7:27 PM
To: Kunselman, Stephen
Cc: Higgins, Sara; Powers, Steve; Bahl, Sumedh; Postema, Stephen; Hieftje, John; Higgins, Marcia; Lumm, Jane; Briere, Sabra; Fales, Mary Joan
Subject: RE: Status of UM parking lease - fuller road lot
Attachments: Minutes[1].pdf; Fuller Parking Lot Lease.pdf

Steve -

The original resolution is here:

<http://a2gov.legistar.com/LegislationDetail.aspx?ID=339536&GUID=A721D6DF-1327-4586-B83D-FD5D80A41558>

The action minutes for the meeting are attached - the Fuller item is on page 16 of the minutes.

The lease approved by Council in 2009 is attached. It allows for two subsequent two-year renewals. The lease sent earlier is the last renewal and runs from September 1, 2012 to August 31, 2014. The University needed to provide 90 day notice on intent to renew, hence the reason for it already being signed.

Thanks,
Colin

Colin Smith
Parks & Recreation Services Manager
City of Ann Arbor
734.794.6230 ext. 42500
www.a2gov.org/parks
www.a2golf.org
www.twitter.com/a2parks
www.facebook.com/annarborparks

-----Original Message-----

From: Higgins, Sara
Sent: Monday, July 16, 2012 5:40 PM
To: Smith, Colin
Cc: Fales, Mary Joan
Subject: FW: Status of UM parking lease - fuller road lot

Colin:
Do you have a copy of the current lease?
Sara

-----Original Message-----

From: Kunselman, Stephen
Sent: Monday, July 16, 2012 5:20 PM
To: Higgins, Sara; Powers, Steve
Cc: Postema, Stephen; Hieftje, John; Higgins, Marcia; Lumm, Jane; Briere, Sabra; Crawford, Tom; Smith, Colin; Williams, Debra; Fales, Mary Joan; Hupy, Craig; Harrison, Venita
Subject: Re: Status of UM parking lease - fuller road lot

Thanks Sara.

Steve,

Unfortunately this lease isn't in effect til 9/1/12; could you provide the lease that is in effect to date? Also, I noticed it wasn't signed by the Mayor - please provide the action minutes of council approval of the lease effective 9/1/12. Thanks, Steve

Sent from my iPhone

On Jul 16, 2012, at 4:57 PM, "Higgins, Sara" <SHiggins@a2gov.org> wrote:

> Steve:

>

> Please find the attached copy of the executed Fuller Park Parking Lot
> Land Lease.

>

> Thanks,

> Sara

>

> -----Original Message-----

> From: Kunselman, Stephen

> Sent: Monday, July 16, 2012 1:23 PM

> To: Powers, Steve

> Cc: Postema, Stephen; Hieftje, John; Higgins, Sara; Higgins, Marcia;

> Lumm, Jane; Briere, Sabra

> Subject: Status of UM parking lease - fuller road lot

>

> What is the status of the long term parking lease with the UM for the
> Fuller Road lot? Please provide a copy of the document for tonight's
> meeting.

> Thank you, Steve

>

> Sent from my iPhone

> <Fuller Park Parking Lot Lease 7-2-12.pdf>

City of Ann Arbor

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



Meeting Minutes

Monday, April 6, 2009

7:00 PM

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

City Council

CALL TO ORDER

Mayor Hieftje called the meeting to order at 7:05 p.m. in the Guy C. Larcom Jr., Municipal Building, 2nd Floor Council Chambers, 100 N. Fifth Avenue.

MOMENT OF SILENCE

Council stood for a moment of silence.

PLEDGE OF ALLEGIANCE

Mayor Hieftje led Council in the recitation of the Pledge of Allegiance.

ROLL CALL OF COUNCIL

Present: 11 - Mayor John Hieftje, Councilmember Stephen Rapundalo, Councilmember Leigh Greden, Councilmember Marcia Higgins, Councilmember Margie Teall, Councilmember Mike Anglin, Councilmember Sabra Briere, Councilmember Sandi Smith, Councilmember Tony Derezinski, Councilmember Christopher Taylor and Councilmember Carsten Hohnke

APPROVAL OF AGENDA

A motion was made by Councilmember Greden, seconded by Councilmember Derezinski, that the agenda be approved as presented. On a voice vote, the Mayor declared the motion carried.

INT INTRODUCTIONS

None.

PUBLIC COMMENTARY - RESERVED TIME (3 MINUTES PER SPEAKER)

*** (SPEAKERS ARE NOT PERMITTED TO GRANT THEIR RESERVED TIME TO AN ALTERNATE SPEAKER)**

*** ACCOMMODATIONS HAVE BEEN MADE FOR PERSONS NEEDING ASSISTANCE WHILE ADDRESSING COUNCIL**

1. Maggie Ladd - A2D2 (C-1)

Maggie Ladd, 2686 Elmwood, director of the South University Area Association, expressed concerns about the proposed height restrictions for the S. University area. She stated that developers have informed her that 125 feet will not work for development. She added that history has shown that this area is a part of the downtown.

2. Betsy Price - A2D2 (C-1)

Betsy Price, 905 Olivia, acknowledged the efforts of Wendy Rampson, Systems Planner, other City planning staff, and councilmembers involved in the A2D2 process.

She thanked 3rd Ward councilmembers for reconsidering the buffer zoning in the South University area where it borders residential neighborhoods.

3. Robert Snyder - A2D2 Zoning and S. University (C-1)

Robert Snyder, 525 Elm St., from the South University Neighborhood Association, thanked everyone who has worked on the A2D2 project. He said that the most important thing is that the South University area, both the businesses and neighborhoods, be preserved and made stronger than they are currently.

4. Eleanor Linn - A2D2 (C-1)

Eleanor Linn, 1321 Forest Ct., spoke in support of the proposed amendments to the A2D2 plan. She thanked Councilmembers Greden, Taylor, Teall, Higgins and Briere for recognizing the value of the small residential properties by proposing amendments that would separate out as D2 the portions of the South University area that are not part of the DDA.

5. David Michener - Public Art Work - German Sculptor

David Michener, 1622 Pontiac, spoke in support of the resolution that approved the 1 percent art program and the artist selected to work on the City Hall construction project.

6. Janis Bobrin - Public Art at the New Municipal Building

Janis Bobrin, 3465 Vintage, Washtenaw County Water Resources Manager, representing the Huron River Watershed Council, spoke in support of the Public Art Commission's selection of Herbert Dreiseitl to design installations for the new Municipal building. The sculpture will be more than just art; it will be an integral part of the site stormwater management system.

7. Connie Brown - Public Art

Connie Brown, 208 Pineridge, and co-owner of an architecture business in downtown Ann Arbor, spoke in support of the proposed public art in the new municipal building. The Washtenaw County Cultural Plan highlights the need for the arts to create great places and contribute to the culture and livability of the city.

8. Kirsten Jensen - Public Art

Kirsten Jensen, 813 Daniel, spoke in opposition of the proposed art at the new municipal building. She said that it appeared that the City's established process was ignored in order to hand an \$800,000.00 contract to Mr. Dreiseitl, the German artist.

9. Jan Barney Newman - 1% Art Budget

Jan Barney Newman, 1071 Young, spoke in support of the Percent for Art in public buildings program. She added we should be proud of having an internationally known artist create the art for the new municipal building.

10. Henry Herskovitz - Palestine

Henry Herskovitz, 404 Mark Hannah, addressed Council regarding Palestine and

ethnic cleansing.

PH PUBLIC HEARINGS (3 MINUTES PER SPEAKER)

PH-1 [09-0163](#)

An Ordinance to Amend Section 1:292 of Chapter 13 of Title I (Special Assessments) and Section 2:72 of Chapter 29 of Title II (Water, Sewer and Stormwater Rates) of the Code of the City of Ann Arbor (Ordinance No. ORD-09-10)

A public hearing was conducted on the proposed amendment to Section 1:292 of Chapter 13 (Special Assessments) of Title I and Section 2:27 of Chapter 29, (Water, Sewer and Stormwater Rates) of Title II of the Code of the City of Ann Arbor. Notice of public hearing was published April 5, 2009.

Tom Partridge, Scio Township, asked that Council postpone the proposed ordinance amending Special Assessments and Water, Sewer and Stormwater Rates.

There being no further comment, the Mayor declared the hearing closed.

PH-2 [09-0169](#)

An Ordinance to Amend Sections 1:651 of Chapter 19 (Tax Exemptions for Housing Projects) of Title I of the Code of the City of Ann Arbor (Ordinance No. ORD-09-11)

A public hearing was conducted on the proposed amendment to Section 1:651 of Chapter 19 (Tax Exemptions for Housing Projects) of Title I of the Code of the City of Ann Arbor. Notice of public hearing was published April 5, 2009.

Thomas Partridge, Scio Township, asked that the ordinance regarding Tax Exemptions for Housing Projects be postponed.

There being no further comment, the Mayor declared the hearing closed.

COMMUNICATIONS FROM COUNCIL

COUNCILMEMBER RAPUNDALO

Councilmember Rapundalo announced that the Human Services and Housing Board will be sending out a communication to all of the applicants who filed proposals for social service funding this year. The recommendations for funding will be coming to Council at the next meeting. Given the fact that there was a new process this year, Council may receive communications from these agencies regarding the changes. Councilmember Rapundalo said that he would be available to provide more information about the process.

Councilmember Rapundalo added that the LDFA will be presenting the 2008 Annual LDFA Report at the next meeting. They will also be submitting their budget for FY2010 as a part of the overall budget consideration.

A APPROVAL OF COUNCIL MINUTES

A-1 [09-0281](#)

Ann Arbor City Council Regular Session of March 16, 2009

A motion was made by Councilmember Briere, seconded by Councilmember Taylor, that the minutes of March 16, 2009 be approved as presented. On a

voice vote, the Mayor declared the motion carried.

CA CONSENT AGENDA

Passed on consent agenda

A motion was made by Councilmember Higgins, seconded by Councilmember Hohnke, that the following Consent Items be approved as presented. On a voice vote, the Mayor declared the motion carried.

- CA-1 [08-0659](#) Resolution Authorizing Sanitary Sewer & Water Improvement Charges for 234 Westover Avenue (\$21,075.29)
Enactment No: R-09-106
- CA-2 [09-0148](#) Resolution to Approve a Professional Services Agreement for Construction Materials Testing with Inspection Services Company (ISC) for the 2009 Local Street Resurfacing Project (RFP No. 721, \$47,565.00)
Enactment No: R-09-107
- CA-3 [09-0192](#) Resolution to Approve an Amendment to the Professional Services Agreement with Hubbell Roth & Clark, Inc. for the West Stadium Blvd. at Pauline Blvd. Improvements Project (\$93,316.00)
Enactment No: R-09-108
- CA-4 [09-0212](#) Resolution to Approve the Purchase of Two Allen Bradley, Power Flex 700, Variable Frequency Drives from McNaughton-McKay Electric Co. for Effluent Pump Motors at the Wastewater Treatment Plant (\$45,000.00)
Enactment No: R-09-109
- CA-5 [09-0223](#) Resolution to Approve the Purchase of Two Vault Restrooms from Quality Precast, Incorporated in the Amount of \$34,558.00 for Leslie Park Golf Course, per Bid #4005
Enactment No: R-09-110
- CA-6 [09-0246](#) Resolution to Accept Board of Insurance Administration Meeting Minutes of February 27, 2009
Enactment No: R-09-111
- CA-7 [09-0265](#) Resolution to Approve Uniform Video Service Local Franchise Agreement with T2TV L.L.C., d/b/a T2TV L.L.C. or T2TV
Enactment No: R-09-112

B ORDINANCES - SECOND READING

- B-1 [09-0163](#) An Ordinance to Amend Section 1:292 of Chapter 13 of Title I (Special Assessments) and Section 2:72 of Chapter 29 of Title II (Water, Sewer and Stormwater Rates) of the Code of the City of Ann Arbor (Ordinance No. ORD-09-10)

(The complete text of ORD-09-10 is on file in the City Clerk's Office.)

A motion was made by Councilmember Derezinski, seconded by Councilmember Teall, that the Ordinance be adopted on Second Reading. On a voice vote, the Mayor declared the motion carried.

- DS-1 [09-0268](#) Resolution Authorizing Summary Publication of Ordinance No. 09-10 amending Provisions Section 1:292 of Chapter 13 of Title I (Special Assessments) and Section 2:72 of Chapter 29 of Title II (Water, Sewer and Stormwater Rates) of the Ann Arbor City Code

A motion was made by Councilmember Derezinski, seconded by Councilmember Taylor, that the Resolution be approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-113

- B-2 [09-0169](#) An Ordinance to Amend Sections 1:651 of Chapter 19 (Tax Exemptions for Housing Projects) of Title I of the Code of the City of Ann Arbor (Ordinance No. ORD-09-11)

(The complete text of ORD-09-11 is on file in the City Clerk's Office.)

A motion was made by Councilmember Smith, seconded by Councilmember Taylor, that the Ordinance be adopted on Second Reading. On a voice vote, the Mayor declared the motion carried.

C **ORDINANCES - FIRST READING**

- C-1 [09-0227](#) An Ordinance to Amend to Chapter 55 (Zoning) and Chapter 59 (Off-Street Parking) and Rezone Downtown Properties for the Ann Arbor Discovering Downtown Project (A2D2) (CPC Recommendation: Approval - 8 Yeas and 1 Nay) (Ordinance No. ORD-09-28)

(The complete text of ORD-09-28 is on file in the City Clerk's Office.)

A motion was made by Councilmember Higgins, seconded by Councilmember Derezinski, that the ordinance be approved at first reading.

A motion was made by Councilmember Greden, seconded by Councilmember Taylor, that the Ordinance be amended as follows:

Table 5:10.19B. Schedule of Area, Height, Open Space and Coverage Requirements: D1 and D2 Downtown Districts:

Max. Building Height
[None]

SEE CHARACTER OVERLAY ZONING DISTRICT MASSING STANDARDS

(TABLE 5:10.20A)

Table 5:10.20A – Downtown Character Overlay Zoning Districts Building Massing Standards (Additional Regulations for the D1 Districts):

**State Street:
Max. Building Height**

180 FEET

**Midtown:
Max. Building Height
180 FEET**

**Main Street
Max. Building Height
180 FEET**

**East Huron
Max. Building Height
180 FEET**

**Liberty/Division district:
Max. Building Height
180 FEET**

Table 5:10.20C – Downtown Character Overlay Zoning Districts Building Massing Standards (Additional Regulations for the D1 and D2 Districts):

**South University:
Building Height
[170]120 feet**

**Brackets indicate deleted language
All Caps indicate new language.**

A motion was made by Councilmember Hohnke, seconded by Councilmember Higgins, that the proposed amendment be Amended as follows:

**State Street:
Max. Building Height
[180] 160 FEET**

**Midtown:
Max. Building Height
[180] 160 FEET**

**Main Street:
Max. Building Height
[180] 160 FEET**

**East Huron:
Max. Building Height
[180] 160 FEET**

On a roll call, the vote was as follows with the Mayor declaring the motion defeated.

Yeas: 5 - Mayor Hieftje, Councilmember Teall, Councilmember Anglin, Councilmember Briere and Councilmember Hohnke

Nays: 6 - Councilmember Rapundalo, Councilmember Greden, Councilmember Higgins, Councilmember Smith, Councilmember Derezinski and Councilmember Taylor

A motion was made by Councilmember Derezinski, seconded by Councilmember Hohnke, that the proposed amendment be amended as follows:

Table 5:10.20C – Downtown Character Overlay Zoning Districts Building Massing Standards (Additional Regulations for the D1 and D2 Districts)

**South University:
Building Height
[170][120]150 feet**

On a roll call, the vote was as follows with the Mayor declaring the motion carried:

Yeas: 6 - Councilmember Rapundalo, Councilmember Higgins, Councilmember Teall, Councilmember Smith, Councilmember Derezinski and Councilmember Hohnke

Nays: 5 - Mayor Hieftje, Councilmember Greden, Councilmember Anglin, Councilmember Briere and Councilmember Taylor

The question being, the original amendment made by Councilmember Greden, seconded by Councilmember Taylor, on a roll call, the vote was as follows with the Mayor declaring the motion carried:

Yeas: 11 - Mayor Hieftje, Councilmember Rapundalo, Councilmember Greden, Councilmember Higgins, Councilmember Teall, Councilmember Anglin, Councilmember Briere, Councilmember Smith, Councilmember Derezinski, Councilmember Taylor and Councilmember Hohnke

Nays: 0

A motion was made by Councilmember Greden, seconded by Councilmember Briere, that the Ordinance be amended as follows:

Rezone properties in the South University commercial district that are outside of the DDA boundary to D2, rather than D1.

Proposed Map Amendment: See Attachment A

FURTHERMORE, REVISE THE SOUTH UNIVERSITY/SIDE AND REAR SETBACKS CELL IN TABLE 5:10.20C AS FOLLOWS:

FOR D2, A MINIMUM 40 FOOT SETBACK. THIS SETBACK SHALL BE MEASURED FROM THE REAR AND SIDE EXTERIOR WALLS OF THE BUILDING TO ANY R ZONING DISTRICT BOUNDARY ON THE SAME BLOCK AS THE BUILDING.

On a roll call, the vote was as follows with the Mayor declaring the motion

carried.

Yeas: 9 - Mayor Hieftje, Councilmember Rapundalo, Councilmember Greden, Councilmember Teall, Councilmember Anglin, Councilmember Briere, Councilmember Smith, Councilmember Taylor and Councilmember Hohnke

Nays: 2 - Councilmember Higgins and Councilmember Derezinski

SUSPENSION OF COUNCIL RULES

Councilmember Briere moved, seconded by Councilmember Smith, that City Council suspend the rules regarding Council speaking time for C-1. On a voice vote, the motion carried.

RECESS

The Mayor declared a recess at 8:43 p.m. and reconvened the meeting at 8:55 p.m.

09-0227

An Ordinance to Amend to Chapter 55 (Zoning) and Chapter 59 (Off-Street Parking) and Rezone Downtown Properties for the Ann Arbor Discovering Downtown Project (A2D2) (CPC Recommendation: Approval - 8 Yeas and 1 Nay) (Ordinance No. ORD-09-28)

A motion was made by Councilmember Greden, seconded by Councilmember Taylor, that the Ordinance be amended as follows:

South University:

FOR D1, A MINIMUM 40 FOOT SETBACK. THIS SETBACK SHALL BE MEASURED FROM THE REAR AND SIDE EXTERIOR WALLS OF THE BUILDING TO ANY R ZONING DISTRICT BOUNDARY ON THE SAME BLOCK AS THE BUILDING.

On a roll call, the vote was as follows with the Mayor declaring the motion failed:

Yeas: 5 - Mayor Hieftje, Councilmember Greden, Councilmember Teall, Councilmember Briere and Councilmember Taylor

Nays: 6 - Councilmember Rapundalo, Councilmember Higgins, Councilmember Anglin, Councilmember Smith, Councilmember Derezinski and Councilmember Hohnke

A motion was made by Councilmember Briere, seconded by Councilmember Greden, that the Ordinance be amended as follows:

Revise Section 5:10.20(1). Downtown Character Overlay Zoning Districts as follows:

(a) South University. The South University Character District lies along the southeastern edge of the University of Michigan Central Campus, which separates it from the other mixed use districts of downtown. This is an area characterized by a mix of building types and sizes, with retail uses at the street level and relatively narrow lot widths. The intent for this district is to maintain a variety in scale, with design that reflects the small-scale widths and heights

of buildings in the area at the streetwall and locates taller portions toward the interior of the lot. THE SOUTH UNIVERSITY D2 CHARACTER DISTRICT LIES JUST OUTSIDE THE DDA BOUNDARIES, ADJACENT TO NEARBY RESIDENTIAL NEIGHBORHOODS. THE INTENT FOR THIS DISTRICT IS TO MAINTAIN A VARIETY OF SMALL-SCALE COMMERCIAL AND RETAIL ENTERPRISES MIXED WITH SOME RESIDENTIAL USES, MINIMIZING THE IMPACT ON NEARBY RESIDENTIAL STREETS.

All Caps indicates new language.

On a voice vote, the Mayor declared the motion carried.

A motion was made by Councilmember Higgins, seconded by Councilmember Rapundalo, that the Ordinance be amended as follows:

Remove diagonal requirements from Character Overlay Zoning District massing standards

Revise Table 5:10.20A – Downtown Character Overlay Zoning Districts Building Massing Standards as follows:

Table 5:10.20A – Downtown Character Overlay Zoning Districts Building Massing Standards (Additional Regulations for the D1 and D2 Districts)

State Street:

[Lower Tower Massing (Max. Diagonal 200 feet); (Max. Building Height above Base 130 feet); Upper Tower Massing (Max. Diagonal 120 feet)]

Midtown:

[Lower Tower Massing (Max. Diagonal 250 feet) (Max. Building Height above Base 150 feet); Upper Tower Massing (Max. Diagonal 150 feet)]

East Huron:

[Lower Tower Massing (Max. Diagonal 200 feet); (Max. Building Height above Base 100 feet); Upper Tower Massing (Max. Diagonal 120 feet)]

[Brackets] indicated deleted language.

On a voice vote, the Mayor declared the motion carried.

A motion was made by Councilmember Hohnke, seconded by Councilmember Higgins, that the Ordinance be amended as follows:

Eliminate “active use” requirements for retail streets in D1.

Delete in its entirety Section 5:10.19 (2) (b).

Delete “A” use designation from Table 5:10.19A – Schedule of Uses: D1 and D2 Downtown Districts as follows:

Use	D1 Downtown Core	D2 Downtown Interface
Related Zoning Regulations		
COMMERCIAL		
Retail Sales	P [A]	P
Restaurant or Bar	P [A]	P

Personal or Business Services	P [A]	P	
Theater	P [A]	P	
Entertainment – General	P [A]	P	Section
5:104			

On a voice vote, the Mayor declared the motion carried.

A motion was made by Councilmember Briere, seconded by Councilmember Smith, that the Ordinance be amended as follows:

Subdivide the East Huron Character Overlay Zoning District into two separate districts with different massing standards, including a height limit in the proposed East Huron 1 character district.

Revise Table 5:10.20A as follows:

Add New Language:

Overlay Zoning District: East Huron 1

Max. Streetwall Height: 3 stories

Minimum Streetwall Height: 2 stories

Offset at Top of Streetwall: None

Max. Building Height: 150 feet

Side and Rear Setbacks: Rear or side exterior wall of the tower shall be located no further than 150 feet from the East Huron property line and no closer than 30 feet to a lot line abutting a residential zoning district. In no case shall the required setback reduce the width or depth of a lot suitable for building to less than 25 feet.

Change existing Overlay Zoning District East Huron as follows:

East Huron 2

Councilmember Hohnke made a friendly amendment to remove the 5ft Offset at Top of Streetwall (changed to None). Friendly amendment was accepted.

It was decided to vote on the 150 feet proposed height limit as a separate amendment.

On a voice vote, the amendment to include the 30 feet setbacks in the East Huron 1 District, the Mayor declared the motion carried.

A motion was made by Councilmember Briere, seconded by Councilmember Smith, that the Ordinance be amended as follows:

Amend Table 5:10.20A as follows:

Maximum Building Height:

East Huron 1 District: 150 feet.

On a roll call, the vote was as follows with the Mayor declaring the motion carried.

Yeas: 7 - Mayor Hieftje, Councilmember Rapundalo, Councilmember Teall, Councilmember Anglin, Councilmember Briere, Councilmember Smith and Councilmember Hohnke

Nays: 4 - Councilmember Greden, Councilmember Higgins, Councilmember Derezinski and Councilmember Taylor

RECESS

The Mayor declared at Recess at 9:45 p.m. and reconvened the meeting at 9:55 p.m.

09-0227

An Ordinance to Amend to Chapter 55 (Zoning) and Chapter 59 (Off-Street Parking) and Rezone Downtown Properties for the Ann Arbor Discovering Downtown Project (A2D2) (CPC Recommendation: Approval - 8 Yeas and 1 Nay) (Ordinance No. ORD-09-28)

Council requested that City staff add Building Frontage as a definition in the ordinance.

Assistant City Attorney Kevin McDonald stated staff could make this correction as an administrative correction.

A motion was made by Councilmember Smith, seconded by Councilmember Teall, that the Ordinance be amended as follows:

To amend the zoning map to include the parcel known as 322 E. Kingsley St into Kerrytown overlay district and D2 zoning.

This parcel is adjacent to D2 zoning and the DDA boundary, and is currently owned by the same owners as the contiguous properties that lie within the DDA to the west and south. (Zingerman's Deli). This request was owner generated.

On a voice vote, the Mayor declared the motion carried with one no-vote made by Councilmember Briere.

A motion was made by Councilmember Smith, seconded by Councilmember Rapundalo, that the Ordinance be amended as follows:

Amend Section 5:50 (1):

(f) Adult personal service business. A business having as a principal activity a person [of 1 sex], while nude or partially nude, providing personal services for [a] ANOTHER person [of the other sex] on an individual basis in a closed room. It includes, but is not limited to, the following activities and services; massage parlors, exotic rubs, modeling studios, body painting studios, wrestling studios, individual theatrical performances. It does not include activities performed by persons pursuant to, and in accordance with, licenses issued to such persons by the State of Michigan.

[Brackets] indicated deleted language. All CAPS indicates new language.

On a voice vote, the Mayor declared the motion carried.

A motion was made by Councilmember Taylor, seconded by Councilmember Greden, that the Ordinance be amended as follows:

Amend Zoning Map to revise building frontage designations on Washtenaw Avenue and Forest Street.

On a voice vote, the Mayor declared the motion carried.

A motion was made by Councilmember Taylor, seconded by Councilmember Greden, that the Ordinance be amended as follows:

Increase penalty for failure to meet premium LEED commitment proportional to the benefit gained by the premium

Revise Section 5:65(2)(c) Green Building Premium as follows:

1. Failure to demonstrate full compliance with the applicant's commitment to achieve the requested LEED certification premium shall be a violation of this ordinance. The penalty for each violation is an amount determined by the following formula:

DELETE: $P = [(LC-CE) / LC] \times CV \times 0.075$

ADD: $P = [(LC-CE/LC) \times CV \times GPUP$

Where:

P is the penalty;

LC is the minimum number of credits to earn the requested LEED certification;

CE is the number of credits earned as documented by the U.S. Green Building Council report; [and]

CV is the construction value, as set forth on the building permit for the new structure;[.]

GPUP, THE GREEN PREMIUM UTILIZATION PERCENTAGE IS THE GREATER OF (I) .075; OR (II) A FRACTION, THE NUMERATOR OF WHICH IS LEED FAR, THE DENOMINATOR OF WHICH IS TFAR.

LEED FAR IS THE MINIMUM AMOUNT OF FLOOR AREA PROPOSED THAT IS ATTRIBUTABLE TO THE GREEN BUILDING PREMIUM;

TFAR IS THE TOTAL FLOOR AREA PROPOSED;

All CAPS indicated new language.

On a voice vote, the Mayor declared the motion carried.

Councilmember Rapundalo requested that staff look at the affordable housing square footage requirements in 5:65(2)(b).

A motion was made by Councilmember Briere, seconded by Councilmember Anglin, that the Ordinance be amended as follows:

Revise Section 5:65(2)(b) Affordable Housing Premium as follows:

Affordable Housing Premium. In D1 and D2 districts, 3,000 square feet of floor area in excess of the normal maximum usable floor area in percentage of lot area shall be allowed for each on-site dwelling unit designated as affordable to lower income households. In the D1 district, the normal maximum usable floor area in percentage of lot area with premiums may be exceeded, up to a

maximum of 900%, solely to provide additional on-site dwelling units designated as affordable to lower income households. THE REQUIREMENT FOR AFFORDABLE HOUSING UNITS CANNOT BE MET BY PAYMENT OF CASH-IN-LIEU, BUT ONLY BY ACTUAL CONSTRUCTION AND SALE OR RENTAL OF THE UNIT(S). Designated units shall have a minimum of 600 square feet of floor area and shall remain affordable for the life of the building. Provisions to implement the affordable housing premium option shall meet requirements for affordable units, as determined by the Office of Community Development.

All CAPS indicates new language.

[Brackets] indicates deleted language.

On a voice vote, the Mayor declared the motion defeated.

A motion was made by Councilmember Briere, seconded by Councilmember Teall, that the Ordinance be amended as follows:

Add Small Business Premium

Add the following paragraph to Section 5:65(2):

(G) SMALL BUSINESS PREMIUM. IN D1 AND D2 DISTRICTS, 3,000 SQUARE FEET OF FLOOR AREA IN EXCESS OF THE NORMAL MAXIMUM USABLE FLOOR AREA IN PERCENTAGE OF LOT AREA SHALL BE ALLOWED FOR EACH RETAIL / COMMERCIAL SPACE DESIGNATED AS AFFORDABLE TO SMALL BUSINESSES. PROVISIONS TO IMPLEMENT THE SMALL BUSINESS PREMIUM OPTION SHALL MEET REQUIREMENTS FOR AFFORDABLE BUSINESS RENTS AS DETERMINED BY THE DOWNTOWN DEVELOPMENT AUTHORITY, UNLESS OTHERWISE NOTED. DESIGNATED UNITS SHALL REMAIN AFFORDABLE FOR THE LIFE OF THE BUILDING.

On a voice vote, the Mayor declared the motion defeated.

A motion was made by Councilmember Higgins, seconded by Councilmember Derezinski, that the Ordinance be amended to consider the second reading and public hearing on June 1, 2009. On a voice vote, the Mayor declared the motion carried.

A motion was made by Councilmember Anglin, seconded by Councilmember Briere, that the Ordinance be postponed until 9/21/2009. The Mayor declared the motion defeated.

A motion was made by Councilmember Higgins, seconded by Councilmember Derezinski, that the Ordinance be approved as Amended on First Reading to the City Council, due back on 6/1/2009. On a roll call, the vote was as follows with the Mayor declaring the motion carried.

Yeas: 11 - Mayor Hieftje, Councilmember Rapundalo, Councilmember Greden, Councilmember Higgins, Councilmember Teall, Councilmember Anglin, Councilmember Briere, Councilmember Smith, Councilmember Derezinski, Councilmember Taylor and Councilmember Hohnke

Nays: 0

D MOTIONS AND RESOLUTIONS

DC New Business - Council:

- DC-1** [09-0252](#) Resolution to Recommend Approval of Issuance of a Downtown Development District Liquor License to Wintawat, LLC (d/b/a Marnee Thai Restaurant)

A motion was made by Councilmember Derezinski, seconded by Councilmember Rapundalo, that the Resolution be approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-114

- DC-2** [09-0255](#) Resolution to Approve the Request to Transfer Ownership and Location of a Class C Liquor Licensed Business with a Dance-Entertainment Permit, located in Escrow at 3965 S. State, to 3393 Plymouth Road, Unit B, from Champ's Club, Inc. to UMI Trading, Inc. - D/B/A UMI Sushi

A motion was made by Councilmember Rapundalo, seconded by Councilmember Smith, that the Resolution be approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-115

- DC-3** [09-0276](#) Resolution Opposing SJR H

A motion was made by Councilmember Greden, seconded by Councilmember Taylor, that the Resolution be approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-116

Added After Newspaper Deadline:

Councilmember Teall left the meeting at 11:00 p.m.

Present: 10 - Mayor John Hieftje, Councilmember Stephen Rapundalo, Councilmember Leigh Greden, Councilmember Marcia Higgins, Councilmember Mike Anglin, Councilmember Sabra Briere, Councilmember Sandi Smith, Councilmember Tony Derezinski, Councilmember Christopher Taylor and Councilmember Carsten Hohnke

Absent: 1 - Councilmember Margie Teall

- DC-4** [09-0298](#) Resolution Recognizing Ann Arbor Active Against ALS as a Civic Nonprofit Organization Operating in Ann Arbor for the Purpose of Obtaining a Charitable Gaming License

A motion was made by Councilmember Taylor, seconded by Councilmember Hohnke, that the Resolution be approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-117

DB New Business - Boards and Commissions:

DS New Business - Staff:

DS-2 [09-0190](#) Resolution to Award a Construction Contract to Barrett Paving Materials, Inc. (Bid No. 3995, \$2,392,393.50) for the 2009 Local Street Resurfacing Project

A motion was made by Councilmember Taylor, seconded by Councilmember Derezinski, that the Resolution be approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-118

DS-3 [09-0195](#) Resolution to Award a Construction Contract to Ajax Paving Industries, Inc. (Bid No. 3997, \$2,422,403.75) for the 2009 Major Street Resurfacing Program

A motion was made by Councilmember Briere, seconded by Councilmember Greden, that the Resolution be approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-119

DS-4 [09-0202](#) Resolution to Award a Construction Contract to Douglas N. Higgins, Inc. (\$492,494.95; Bid No. ITB-3999) for the Glendaloch Cir./Loyola Dr./Colgate Cir./Elmcrest Dr./Anderson Ave./Clair Cir./Hiawatha Pl. (GLEACH) Water Main Replacement Project

A motion was made by Councilmember Derezinski, seconded by Councilmember Rapundalo, that the Resolution be approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-120

DS-5 [09-0260](#) Resolution to Approve the Purchase of Three Automated Side Load Refuse Trucks from Fredrickson Supply (\$797,016.00)

A motion was made by Councilmember Briere, seconded by Councilmember Taylor, that the Resolution be approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-121

DS-6 [09-0257](#) Resolution to Approve City/County IT Enterprise Content Management Partnership, Authorize a Purchase Order with ImageSoft, Inc. for Consulting and System Integration Services (Not to Exceed \$263,371.00) and to Establish a Project Budget of \$270,000.00 for the first phase of the City's Enterprise Content Management Initiative

A motion was made by Councilmember Greden, seconded by Councilmember Rapundalo, that the Resolution be approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-122

DS-7 [09-0164](#)

Resolution of Intent to Vacate Parkwood Street, Located Between Kingwood Street and Valley Drive **(8 Votes Required)**

A motion was made by Councilmember Hohnke, seconded by Councilmember Derezinski, that the Resolution be approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-123

DS-8 [09-0218](#)

Resolution to Approve Fuller Park Parking Lot Land Lease with the University of Michigan **(8 Votes Required)**

A motion was made by Councilmember Briere, seconded by Councilmember Derezinski, that the Resolution be approved. On a voice vote, the Mayor declared the motion carried unanimously with 10 members present, thus satisfying the eight-vote requirement.

Enactment No: R-09-124

DS-9 [09-0225](#)

Resolution to Approve Street Closings for the Burns Park Run - Sunday, May 3, 2009

A motion was made by Councilmember Taylor, seconded by Councilmember Greden, that the Resolution be Approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-125

DS-10 [09-0228](#)

Resolution to Close Streets for the 9th Annual Mayor's Green Fair- Friday, June 12, 2009

A motion was made by Councilmember Smith, seconded by Councilmember Hohnke, that the Resolution be Approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-126

DS-11 [09-0267](#)

Resolution Accepting Warranty Deed from Charter Oaks Homes, Inc. for Woodcreek Boulevard Extension (Brentwood Square Condominiums) **(8 Votes Required)**

A motion was made by Councilmember Rapundalo, seconded by Councilmember Briere, that the Resolution be Approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-127

E COMMUNICATIONS FROM THE MAYOR

E-1 [09-0304](#)

4/6/09 Appointments & Nominations

The Mayor placed the following nominations on the table for approval at a later date:

Sign Board of Appeals

*Sarah Okuyama (Filling vacancy)
415 West William
Ann Arbor, MI 48103
Term: April 20, 2009-April 20, 2012*

Energy Commission

*Bill Verge (Re-Appointment)
517 Glazier
Chelsea, MI 48118
Term: April 20, 2009-April 20, 2012*

SOLAR AMERICA CITIES CONFERENCE

Mayor Hieftje gave a brief report on his experience last week at the Solar America Cities Conference in San Antonio, Texas. The Mayor learned a lot about what is going in other cities and how they are moving forward in solar initiatives in energy saving and renewable energy initiatives.

COMMUNICATIONS FROM COUNCIL

COUNCILMEMBER SMITH

Councilmember Smith thanked Councilmember Higgins for all of her hard work on the A2D2 process.

Mayor Hieftje echoed the comments of Councilmember Smith.

COUNCILMEMBER TAYLOR

Councilmember Taylor announced that the closing days of the A26 Michigan Mustacheathon are coming soon. A26 Michigan is a writing and tutoring organization on Liberty Street. Anyone wishing to support the organization can go to a26michigan.org and follow the link.

F COMMUNICATIONS FROM THE CITY ADMINISTRATOR

F-1 [09-0207](#) Living Wage Annual Increase

F-2 [09-0277](#) Public Comment Session on A2D2 Amendments - March 23, 2009

Filed

G COMMUNICATIONS FROM THE CITY ATTORNEY

None.

None.

H & I CLERK'S REPORT OF COMMUNICATIONS, PETITIONS AND REFERRALS

H The following communications were referred as indicated:

Passed on consent agenda

A motion was made by Councilmember Greden, seconded by Councilmember Higgins, that the following Consent Items be approved as presented. On a voice vote, the Mayor declared the motion carried.

- H-1 [09-0216](#) Communications from Comcast regarding the following:
1. A decrease in prices for three of their triple play bundle packages and the introduction of a new service offering.
 2. Additions and changes to the channel line up in Ann Arbor.
- H-2 [09-0217](#) Communication from Integrys Energy Systems regarding notice of opportunity to comment on the Renewable Portfolio Standard Compliance Plan of Integrys Energy Services, Inc. - Environmental Coordination Services
- H-3 [09-0248](#) Bureau of Justice Assistance Grant (JAG) Notice - Safety Services
- H-4 [09-0250](#) Communication from Denise Brazer regarding the 9th edition of Connecting Neighbors, the newsletter about the progress of MDOT's I-75 Ambassador Bridge Gateway Project
- H-5 [09-0251](#) Communication from Jason Brooks, Deputy Clerk of Washtenaw County, regarding resolution 09-0036, a resolution to accept comments from the Washtenaw County Planning Advisory Board on the City of Ann Arbor Master Plan Land Use Element and direct the County Clerk to send comments to the City of Ann Arbor and contiguous local units of government.
- H-6 [09-0254](#) Communication from Congressman John Dingell regarding receipt of City Council Resolution honoring him for serving the people of southeast Michigan with honor and distinction as a Member of the United States House of Representatives since December 1955
- H-7 [09-0256](#) Communication from S.E.M.C.O.G. regarding a copy of SEMCOG Public Notice: SEMCOG invites public comment on transportation projects selected for funding using American Recovery and Reinvestment Act dollars
- H-8 [09-0261](#) Communication from Christine Brummer of the Old West Side Association, regarding proposed changes to City of Ann Arbor Zoning Ordinances, Chapters 55/57 - File

- H-9 [09-0278](#) Communication from the Main Street Area Association Board of Directors regarding 2010 City Budget Proposal
- H-10 [09-0279](#) Communication from Airton Arruda regarding objections to spending Federal and State taxpayer dollars to extend the runway at Ann Arbor Municipal Airport - Airport Services
- H-11 [09-0280](#) Communication from Comcast regarding the status of the NFL Network
- H-12 Communication from Bruce Thompson regarding support of the proposed A2D2 Zoning
(See File 09-0227 for a copy of the letter.)

Filed

I The following minutes were received for file:

- I-1 [09-0215](#) City Planning Commission minutes from January 22, February 19, and March 3, 2009
- I-2 [09-0219](#) Ann Arbor Downtown Development Authority Meeting Minutes - February 4, 2009
- I-3 [09-0220](#) Downtown Area Citizens Advisory Council Minutes - February 4, 2009
- I-4 [09-0235](#) Public Market Advisory Commission Minutes - January 15, 2009; February 19, 2009
- I-5 [09-0239](#) Council Liquor License Review Committee - January 9, 2009 and March 6, 2009
- I-6 [09-0242](#) Sign Board of Appeals Minutes - October 14, 2008; December 9, 2008
- I-7 [09-0244](#) Building Board of Appeals Minutes - September 10, 2008; November 12, 2008; January 14, 2009
- I-8 [09-0262](#) LDFA Board Meeting Minutes - January 27, 2009

Filed

PUBLIC COMMENT - GENERAL (3 MINUTES EACH)

None.

CLOSED SESSION TO DISCUSS PENDING LITIGATION AND ATTORNEY / CLIENT PRIVILEGED COMMUNICATION AND/OR LAND ACQUISITION

A motion was made by Councilmember Rapundalo, seconded by Councilmember Taylor, that Council enter into Closed session. On a roll call, the vote was as follows with the Mayor declaring the motion carried (The meeting recessed at 11:20 p.m.):

Yeas: 10 - Mayor Hieftje, Councilmember Rapundalo, Councilmember Greden, Councilmember Higgins, Councilmember Anglin, Councilmember Briere, Councilmember Smith, Councilmember Derezinski, Councilmember Taylor and Councilmember Hohnke

Nays: 0

Absent: 1 - Councilmember Teall

ADJOURNMENT

A motion was made by Councilmember Taylor, seconded by Councilmember Rapundalo, that the meeting be Adjourned. On a voice vote, the Mayor declared the motion carried and the meeting adjourned at 11:37 p.m.

COMMUNITY TELEVISION NETWORK (CTN) CABLE CHANNEL 16:

LIVE: MONDAY, APRIL 6, 2009 7:00 P.M.

REPLAYS: TUESDAY, APRIL 7, 2009 10:00 A.M. AND FRIDAY, APRIL 10, 2009 7:30 P.M.

REPLAYS SUBJECT TO CHANGE WITHOUT NOTICE

Persons with disabilities are encouraged to participate. Accommodations, including sign language interpreters, may be arranged by contacting the City Clerk's Office by telephone at 734-794-6140 or by written request addressed to the City Clerk's Office, 100 N. Fifth Ave., Ann Arbor, MI 48104, at least 24 hours in advance.

A hard copy of this Council packet can be viewed at the front counter of the City Clerk's office.

Jacqueline Beaudry
Clerk of the Council

Anissa R. Bowden
Recording Secretary

FULLER PARK PARKING LOT LAND LEASE

THIS LAND LEASE ("Lease") made and entered into this _____ day of _____, 2009 by and between **REGENTS OF THE UNIVERSITY OF MICHIGAN**, a Michigan constitutional corporation, whose address is 503 Thompson Street, Ann Arbor, Michigan 48109 (the "University"), and the **CITY OF ANN ARBOR**, a Michigan municipal corporation, whose address is 100 North Fifth Avenue, Ann Arbor, Michigan 48104 (the "City").

PRELIMINARY STATEMENT

University proposes to use a portion of the land owned by City and currently used by City as a parking area for Fuller Park described in Exhibit A-1, attached hereto and made a part hereof by reference ("Property") for the purpose of using and operating the Property as a parking lot for University. University has applied to City for approval of its use of City-owned property for this purpose and the parties have negotiated in good faith the use of the Property.

City's lease of the Property and its retained rights under the lease for use of the Property as specified in Exhibit A are consistent with the use of the Property for public purposes.

NOW, THEREFORE, in consideration of the lease payments and mutual promises contained herein, receipt whereof is hereby severally acknowledged, University and City hereby confirm the terms and conditions upon which they individually and collectively will use and occupy the Property and their respective responsibilities for operation and maintenance of the Property as follows:

1. Duration/Rent. Subject to the conditions specified in Exhibit A, City will make the Property available upon the following terms and conditions:

(a) The term during which the Property will be made available (the "Term") will be for a period of two years, beginning on September 1, 2008 and terminating August 31, 2010, unless terminated earlier pursuant to the terms of this Lease.

University shall have the option to renew its Lease of the Property, or a portion thereof, on 90 days advance written notice, for 2 successive 2-year periods upon the same terms and conditions herein, if mutually agreed upon in writing. Such options to renew are on the condition that a renegotiated lot lease rental amount shall be agreed upon for each 2-year option following the initial 2-year lease period.

(b) During the Term, University shall pay to City rent annually in the amount specified for the rental period in Exhibit B attached and made a part of this Lease. Rent shall be due and payable not later than the first day of September of each year during the term of the Lease with the following exception: the lease payment due September 1, 2008 will be due not later than June 15, 2009. If University fails to pay any amount it owes to City under this Lease when that amount is due, the amount shall be assessed a one-time late charge in the amount of 5 percent of the late rental payment amount and shall be subject to a service charge until it is paid at the lesser of the rate of 2 percent per month or the highest rate permitted by law.

(c) To the extent permitted by law, each party agrees to protect, defend and indemnify the other, its officers, agents, and employees from any and all liabilities,

claims, liens, fines, demands and costs, including legal fees, of whatsoever kind and nature which may result in injury or death to any persons, including the respective parties own employees, and for loss or damage to any property, including property owned or in the care, custody or control of the respective party in connection with or in any way incident to or arising out of the occupancy, use, operations, performance or non-performance of work in connection with this Lease resulting in whole or in part from the negligent acts or omissions of the respective party, its officers, agents, and employees. This provision is not intended, and shall not be construed, to waive or limit any immunity defense which the respective governmental entity may have including but not limited to governmental immunity. In the event of joint or concurrent negligence of University and City, each shall pay its own costs and expenses incurred in defending against the action and each shall pay that portion of the loss or expense that its share bears to the total negligence by a court of competent jurisdiction.

It is acknowledged that each party self-insures its general liability exposures through a permanently funded non-cancelable program. During the Term, each party will procure and maintain such insurance policies or self-insurance coverage as will protect itself from all claims for bodily injuries, death or property damage which may arise in connection with their respective use of the Property under the terms of this Lease. Each party agrees name the other as an "additional insured" on the policies with respect to any action taken in connection with uses or requirements stated in Exhibit A. The respective parties shall be responsible to each other or the insurance companies insuring the respective parties for all costs resulting from both financially unsound insurance companies selected and their inadequate insurance coverage. If requested, a party shall furnish the requesting party with satisfactory certificates of self-insurance/insurance or a certified copy of the policy.

2. Conditions to Effectiveness. The commitment of City to lease the Property to University on the terms specified in Section 1 is subject to the satisfaction (or waiver in writing by City as to the Regents of the University of Michigan) of necessary approval of the lease and authorization of its execution by resolution of the governing bodies of City and the Regents of University of Michigan.

3. Default/Termination. The following will constitute events of default by University under this Lease:

(a) The failure by University to pay any rent within 30 days after the date for payment specified in Section 1(b); or

(b) The breach by University of any commitment under this Lease and the failure to remedy that breach within 30 days after the date that City delivers written notice identifying such breach and demanding such remedial action.

Upon the occurrence of an event of default, City, by further written notice to University, may terminate this Lease effective 30 days following the day of delivery of such notice. In such event, the obligation of City will terminate as of the effective date of such termination, University will remain liable to City for all rent accrued under this Lease through the effective date of termination and any damages incurred by City as a result of such default.

This lease will terminate if, at any time prior to the termination by expiration (Section 1), default (Section 3) or early termination (Section 4), the parties mutually agree, in writing executed by an authorized official of the parties, to terminate the Lease.

4. Early Termination/Potential Rail Station and Local Connector. City's Model for Mobility transportation vision includes the consideration of potential passenger rail station locations along the Norfolk Southern (NS) and Amtrak rail line adjacent to the Property. The vision also includes consideration of a local connector system though this part of City. Lot A is immediately adjacent to the NS operating rail line and appears well suited to support such uses. City reserves the right to terminate this Lease for use of the site for a passenger rail station or a station stop along a local connector system with 12 months advance written notification to University. Termination under this provision will be automatically effective on the date specified in the notice and City shall have no further obligation to University under this Lease except that if the 12-month notice period occurs so as to cross annual payment periods (i.e. for example: notice period June-May/annual payment period September-August), University shall be entitled to a rebate of that portion of the annual payment applicable to the months after the termination date.

Upon initiating formal planning for construction of a new commuter rail station, relocating the Ann Arbor Amtrak intercity passenger station or developing a local connector service contemplating use of a part, or all, of Lot A, City shall notify University of such planning considerations. Notification shall be in writing and will include information regarding University input in City's planning process. City will work cooperatively with University while considering enhancing transportation service to this location. The planning process will assure both parties' interests are included in all considerations. It is recognized that provision of high capacity public mass transportation service to this site is intended to increase access and mobility resulting in a decrease in the need for surface parking by University. Notwithstanding the above, it is understood by the parties that participation by University in the planning process does not negate or otherwise impact City's right to terminate this Lease for the reason stated.

5. Assignment. University shall make no assignment under this Lease.

6. Binding Effect/No Third Party Benefits. This Lease is binding upon and shall inure to the benefit of the parties hereto. This Lease shall not be construed to create in any person or entity not a party, any right, claim, benefit or defense with respect to the parties, or in any party claiming by, through or under either of them, with respect to any loss, cost, damage, claim or cause of action arising under or pursuant to the terms of this Lease.

7. Notices. All notices permitted or required under this Lease shall be in writing and addressed to the parties at their addresses set forth above. Any such notice shall be sent by certified mail, return receipt requested, express overnight delivery requiring a signed delivery receipt, delivered personally or sent by facsimile. Any notice sent by certified mail, return receipt requested, will be deemed delivered on the third business day after mailing. Any notice sent by express overnight delivery will be deemed delivered on the following business day after delivering such notice to the carrier. Any notice given by personal delivery or by facsimile prior to 5:00 p.m. will be deemed delivered on the date of such delivery or, if 5:00 p.m. or later, on the next business day. Any notice which a party fails or refuses to accept will be deemed delivered on the date of such failure or refusal. The parties hereto may change their addresses for notice purposes by a notice sent in accordance with the provisions of this Lease, but no such address shall be a post office box.

8. Authority. The signatories on behalf of the parties hereto hereby represent and warrant to the other parties hereto that they are duly authorized to execute and deliver this Lease on behalf of such party and that this Lease is binding upon and enforceable against such party.

9. Applicable Law. This Lease shall be interpreted and construed in accordance with the laws of the State of Michigan.

10. Counterparts. This Lease may be executed in one or more counterparts, each of which will be deemed an original but all of which together shall constitute but one and the same Lease.

11. Amendments. No amendment, change or modification of any of the terms, provisions or conditions of this Lease will be effective unless made in writing and signed or initialed on behalf of the parties hereto by their duly authorized representatives.

12. Entire Agreement. This Lease constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all negotiations, preliminary agreements and prior to contemporaneous discussions and understandings of the parties hereto in connection with the subject matter hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first above written.

REGENTS OF THE UNIVERSITY OF MICHIGAN

By: _____
Timothy P. Slottow, Executive Vice President
and Chief Financial Officer

CITY OF ANN ARBOR

By: _____
John Hieftje, Mayor

By: _____
Jacqueline Beaudry, Clerk

APPROVED AS TO SUBSTANCE:

By: _____
Jayne Miller, Community Services Area
Administrator

By: _____
Roger W. Fraser, City Administrator

APPROVED AS TO FORM:

By: _____
Stephen K. Postema, City Attorney

EXHIBIT A

Property

Property for purposes of this Lease shall mean the following parking areas delineated for illustrative purposes on the attached map, identified as Exhibit A-1, during the specified days and times and subject to the use restrictions identified below:

- I. **Lot A; South Parking Lot** - 1504 Fuller Road: City agrees to lease to University the entire South parking lot Monday through Friday from 6:00 am to 4:00 pm each day.
- II. **Lot B; North Pool Parking Lot (Paved Lot)** – 1519 Fuller Road: City agrees to lease to University the entire North Pool paved parking lot Monday through Friday from 6:00 am to 5:00 pm beginning the day after Labor Day and continuing through the Friday before Memorial Day, excluding holidays.
- III. **Lot C; North Pool Parking Lot (Unpaved Lot)** – 1519 Fuller Road: City agrees to lease to University the North Pool dirt parking lot Monday through Friday from 6:00 am to 5:00 pm, excluding holidays.

Property Use Restrictions

I. **Maintenance**

Lot A; South Parking Lot – University, at its own expense, shall provide all winter maintenance for snow and ice removal concerning the parking lot. City will pay for all other maintenance of the parking lot including, without limitation, asphalt repair and replacement and lighting costs.

Lots B & C; North Pool Parking Lots (Paved and Unpaved Lots) – City, at its own expense, shall provide all winter maintenance for snow and ice removal concerning the parking lots. City will pay for all other maintenance of the parking lots including, without limitation, asphalt repair and replacement and lighting costs. City will periodically inspect the unpaved lot for pedestrian hazards due to drainage issues and provide mitigation when possible. University will provide, if needed, and with prior approval by City, temporary lighting in the dirt portion of the parking lot. Temporary lighting shall not be provided earlier than 5:00 am and later than 6:00 pm Monday through Friday.

In April of each year, inspections of Lots B and C by City and University representatives shall be conducted to assess lot condition and to determine the required maintenance program and schedule for that year. Maintenance of Lot C will include one annual grading application as conditions allow. If additional maintenance on Lot C, other than one annual grading application, is performed by either City or University, there will be no change in the Lot C rental fee paid by or due from University. It shall be the option of University to provide additional surface grading on Lot C as deemed suitable; however, University shall not, under any circumstance, add new material to Lot C. If the annual assessment identifies anything other than general maintenance requirements for Lot B, the University may at its option, and at its cost, elect to perform the maintenance. No change in the Lot B rental fee paid by or due from the University will be made as a result of the University's maintenance activities.

The City Parks and Recreation Deputy Manager will work with City and University representatives to coordinate annual inspections, as well as other inspections as needed. If both parties are unable to coordinate a meeting in April or are unable to mutually agree upon a maintenance program and schedule for any reason, both parties shall accept the maintenance program and schedule currently in place until such time as a new maintenance program and schedule is mutually agreed upon.

The contact information for both City and University is as follows:

City

- Maintenance Issues – Fuller Pool Supervisor
- Lease Issues – Deputy Parks and Recreation Manager

University

- Maintenance Issues – Parking Maintenance Manager or Designee (Parking & Transportation Services)
- Lease Issues – Parking Customer Services Manager (Parking & Transportation Services)

If, during the term of this Agreement, renovations or repairs are required to any of the parking lots (Lots A, B or C), City shall use its best efforts to minimize the effect of such repairs or renovations upon the utilization of the parking lots by University. If, despite such best efforts, the utilization of some or all of the designated parking lot(s) must be temporarily suspended, University acknowledges and agrees that City will not be responsible for providing alternate parking arrangements for affected University users. City will provide University with 30 days minimum advance written notification of necessary repairs, unless it is determined by City that emergency repairs are required. University shall remain liable to City for all fees accrued under this Agreement during any on-going repairs or restoration unless otherwise waived in writing by the City. If City and University mutually agree that all or a portion of Lots A, B or C are unusable due to conditions other than scheduled ongoing repair or restoration, the City may, at its sole discretion, reimburse the University for parking rental fees for the impacted Lot paid by University. Such reimbursement, if the City determines one is to be provided, will be a pro-rated calculation based on the rental fee paid for Monday-Friday usage for the parking lot(s), or portion thereof, determined to be unusable.

II. Security

Lot A; South Parking Lot – City and University will cooperate in providing police security and parking enforcement for this parking lot.

Lots B & C; North Pool Parking Lots (Paved and Unpaved Lots) - City and University will cooperate in providing police security and parking enforcement for these parking lots.

City Parks and Recreation Deputy Manager will work with representatives of the Ann Arbor Police Services (AAPS) and University of Michigan Public Safety (UMDPS) to establish an appropriate policing procedure for all lots which shall be reviewed annually.

III. Signage

University will be responsible for providing and installing proper signage, at University's sole expense, for use of all lots. University shall have full authority as to the use of the leased spaces and may restrict the use of any space for University users. These restrictions will be added to existing signage and conveyed to City in writing prior to installation. University shall be responsible for obtaining any permits required for the installation of the signage.

City Use of Lot

- I. **Lot A; South Parking Lot** – Between 4:00 pm and 6:00 am Monday through Friday, the parking lot will be available for City use. The lot is available for City use on the weekends and holidays, 24 hours per day.

- II. **Lots B and C; North Pool Parking Lots (Paved and Unpaved Lots)**
 - A. Lot B (Paved Lot)
 1. Beginning the Saturday before Memorial Day and continuing through Labor Day, the parking lot will be available for City use 24 hours each day.
 2. Beginning the day after Labor Day and continuing through the Friday before Memorial Day, between 5:00 pm and 6:00 am Monday through Friday, the parking lot will be available for City use.
 3. Beginning the day after Labor Day and continuing through the Friday before Memorial Day, between 6:00 am and 5:00 pm Monday through Friday, University will not park in the northernmost row of parking spaces marked by signage as Park Use Only. Those spaces are available for City use.

 - B. Lot C (Unpaved Lot) - Monday through Friday from 6:00 am to 5:00 pm, excluding holidays, the parking lot will be available for use by University.

Exhibit A-1: Fuller Park Parking Lots



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Maps available online:
<http://gisweb.cwashington.org/website/mapwashatenaw/>

Map Legend

EXHIBIT B

Fee Schedule for Fuller Parking Lot Payments

DURATION	RENTAL FEE			TOTAL DUE
	LOT A – SOUTH	LOT B – NORTH, PAVED	LOT C – NORTH, DIRT	
Initial 2-Year Period				
Sept 1, 2008 – Aug 31, 2009	\$2,167 ¹	\$2,167 ²	0 ³	\$4,334
Sept 1, 2009 – Aug 31, 2010	\$31,057	\$31,057	\$7,438 ⁴	\$69,552

¹ Reflects 7.5% increase not contained in the rental fee for Lot A paid in November 2008 for FY08-09.

² Reflects 7.5% increase not contained in the rental fee for Lot B paid in November 2008 for June 2008 – May 2009.

³ Rental fee for Lot C paid in November 2008 for June 2008 – May 2009.

⁴ Includes pro-rated rental fee to include June, July and August 2009.

Corts, Carynne

From: Higgins, Marcia
Sent: Monday, July 16, 2012 8:40 PM
To: 'Jane Lumm'
Subject: FW: Prohibition on the Use of Parkland and PAC

From: Julie Berson-Grand [redacted]
Sent: Friday, July 13, 2012 7:36 AM
To: Lumm, Jane
Cc: Hieftje, John; Smith, Colin; Anglin, Mike; Briere, Sabra; Smith, Sandi; Derezinski, Tony; Taylor, Christopher (Council); Kunselman, Stephen; Teall, Margie; Higgins, Marcia; Hohnke, Carsten; Powers, Steve; Postema, Stephen; Fales, Mary Joan; Bahl, Sumedh
Subject: Re: Prohibition on the Use of Parkland and PAC

Dear Jane,

As we have already canceled the PAC meeting for next Tuesday, I'm guessing the best we can do is the following week. While the language in the new resolution does address some of my initial concerns, it still does not negate the issue that this resolution will be introduced to Council prior to PAC review.

While I can not speak for all of PAC, I'm also seriously concerned about the potential for placing this ballot anywhere near the millage renewal. While protecting parkland is important, the consequences for non-renewal are significantly more severe (losing 100% of NAP, etc.).

I will be heading out of town for a few days, but will do my best to keep up with the plans as coverage allows.

Best,

Julie

On Thu, Jul 12, 2012 at 11:10 PM, Lumm, Jane <JLumm@a2gov.org> wrote:
Dear Julie,

Thanks again for your offer to present this information to PAC. Earlier this evening Councilmember Briere courteously called to provide a thoughtful heads-up that other councilmembers and the Mayor had discussed the resolution and shared concerns re: PAC review. It is also my understanding that you and the Mayor had discussed postponing council action on the resolution pending PAC review, and your note below seems to formalize that discussion.

As you know, I had suggested that, in my absence next Tuesday, Mike could ably field any questions and concerns re: the council proposal (council, in my last correspondence with Julie, she indicated that the July PAC meeting might be cancelled and I could, instead, attend the August meeting to provide a report). However, given the overall timing to get this on the November ballot coupled with your desire for a PAC review, and council's apparently likely postponement Monday, it would seem logical for you to proceed with your PAC meeting on Tuesday.

Julie, since our initial exchange re: this proposal I have had subsequent meetings with Mary Joan Fales who has been exceedingly helpful in drafting a revised resolution -- the resolution, charter

revision and ballot question have been approved (informally) by the Attorney General's Office (they had no recommended changes). I know when I initially submitted the draft resolution and proposed charter revision to you on June 26th, you indicated that you shared staff's concerns as articulated by the Administrator in a memo earlier that day. Hopefully, this revised draft addresses those concerns.

As I did that day, I would ask that you share the revised proposal with PAC.

Thanks again, Julie, I would appreciate anything you can do to ensure a timely PAC review, whether in the form of an action or a report.

Jane

From: Julie Berson-Grand [mailto:Julie.Berson-Grand@cityofhouston.gov]
Sent: Thu 7/12/2012 9:54 PM
To: Hieftje, John
Cc: Smith, Colin; Lumm, Jane; Anglin, Mike; Briere, Sabra
Subject: Prohibition on the Use of Parkland and PAC

Dear Mr. Mayor:

As you are undoubtedly aware, the agenda for this upcoming (7/16) Council Meeting includes a resolution to determine a ballot question regarding non-park use of parkland. While I have personally discussed this matter with Parks staff, the Open Meetings Act has prevented PAC from weighing in on this resolution as an entire body. As a consequence, PAC has yet to issue a formal recommendation to Council, as is typically practiced with all matters concerning parkland.

Due to a conflict, Councilmember Lumm was unable to present this resolution to PAC at our July 17th meeting. She has accepted an invitation to our August 21st meeting, but I am concerned that a presentation in late August will not enable PAC to advise Council in a timely matter.

Regardless of my own opinion regarding this resolution, I believe that it is critical for PAC to provide a formal resolution prior to any Council vote. I therefore propose to find an alternative time for PAC to hold an open work session with Councilmembers Lumm, Anglin and Briere in accordance with the deadlines imposed on ballot initiatives prior to Council's vote on this matter.

Thank you for your time and consideration.

Julie Grand
Chair, Park Advisory Commission

Corts, Carynne

From: Taylor, Christopher (Council)
Sent: Monday, July 16, 2012 9:40 PM
To: Postema, Stephen
Subject: FW: Resolution re: possible ballot proposal on parkland (7/16/12 meeting): DC-1, 12-0958

Christopher Taylor
Member Ann Arbor City Council (Third Ward)
734-834-3600 (c) [New Number]
734-531-1331 (w) [New Number]
734-213-6223 (h)

-----Original Message-----

From: Lumm, Jane
Sent: Mon 7/16/2012 9:10 AM
To: Karen Hart; Hieftje, John; Smith, Sandi; Derezinski, Tony; Taylor, Christopher (Council); Higgins, Marcia; Teall, Margie; Hohnke, Carsten; Kunselman, Stephen
Cc: Briere, Sabra; Anglin, Mike; Berson Grand, Julie (PAC); Smith, Colin
Subject: RE: Resolution re: possible ballot proposal on parkland (7/16/12 meeting): DC-1, 12-0958

Thanks, Karen. Appreciate your prompt and thoughtful response as well. Glad to know you are a strong supporter of public input, that it helps inform decision-making, that various points of view are a positive and add to constructive debate. No one questions that council ultimately has decision-making authority, and, for me, obtaining citizen feedback whenever possible, informs my view, and helps me and other elected officials operate in a manner that, hopefully, is representative of the citizens' views. The Ann Arbor community values parkland as, in the thoughtful words of one constituent who put it so very well, a "sacred trust". Recognizing that, I think the "bar" is even higher when it comes to respecting and honoring the value placed by our community on our magnificent city parks and recreation resource, and this proposal reflects that "sacred trust" view and value.

Thanks again, and appreciate the exchange.

Respectfully, Jane

From: Karen Hart [mailto:khart1233@comcast.net]
Sent: Mon 7/16/2012 8:57 AM
To: Lumm, Jane; Hieftje, John; Smith, Sandi; Derezinski, Tony; Taylor, Christopher (Council); Higgins, Marcia; Teall, Margie; Hohnke, Carsten; Kunselman, Stephen
Cc: Briere, Sabra; Anglin, Mike
Subject: RE: Resolution re: possible ballot proposal on parkland (7/16/12 meeting): DC-1, 12-0958

Thank you, Jane, for your thoughtful response to my concerns. I'm sorry that you interpreted my position as being not in favor of public input. I am equally as passionate a supporter of that as you, and know how much it informs decision-making by bringing more points of view to

the table. The majority of my career has been as a public-sector planner, subscribing to a code of ethics that requires me to always not only to consider public input, but also seek it out. I certainly didn't characterize our voters - of which I am one, too - as being reactive and emotional, only that it is easy to fall into that mode over issues, and I have seen it happen in this community over parkland time and again, no matter how crappy a piece of ground people are squabbling over. I remain convinced that City Council should have the decision-making authority as much as possible in our representative form of government.

Karen

From: Lumm, Jane [mailto:JLumm@a2gov.org]
Sent: Monday, July 16, 2012 8:13 AM
To: Hieftje, John; Karen Hart; Smith, Sandi; Derezinski, Tony; Taylor, Christopher (Council); Higgins, Marcia; Teall, Margie; Hohnke, Carsten; Kunselman, Stephen
Cc: Briere, Sabra; Anglin, Mike
Subject: RE: Resolution re: possible ballot proposal on parkland (7/16/12 meeting): DC-1, 12-0958

Dear Karen,

Thanks for writing to express your views re: this resolution and ballot referendum initiative and the interplay between citizen participation and the city's decision-making authority and long-range planning efforts. I do certainly agree that council members are elected to act in the best interest of the entire city, and would strongly vouch for each of my colleagues that that is also their shared view -- no one "hides behind the vote of the people". Frankly, to suggest the latter, also suggests a disconnect with the important role the citizens play -- we operated in the public sector, and the citizens should not be dismissed as, perhaps, unnecessary evils, but a key players in the community conversation. So, I respectfully and strongly disagree with your portrayal of the citizenry as "reactive", emotional, uninformed, negative, led by "innuendo", etc. I think our citizenry is smart, informed, passionate about our city (vs. negative), and guided by their informed views -- I trust our citizens and give them a lot more credit and am grateful for the role they play in helping US to make informed decisions.

As you are well aware, when the City creates our various master plans -- be it the Transportation Plan, the Master Plan, the PROS Plan, the CIP, etc. -- we work very hard to obtain meaningful and upfront citizen input. Sure this isn't meant to be some empty, meaningless exercise?

I also hope you weren't misguided by the headline for the story about the charter amendment proposal. This proposal is about so much more than the FRS, and the city's long-term vision (as you have described it previously to me) for the FRS and it's relationship to the plans for the future development of the Huron River corridor. To focus solely on the FRS aspect of

this proposal minimizes and misrepresents the intent of the ballot referendum. The intent is, simply, to close the charter loophole which requires a voter referendum for the sale of parkland by addressing the community's concerns that have been raised when the city enters into long-term leases, contracts, and agreements for NON-PARK use of PARKLAND. It should also be noted that the ballot proposal Q and charter change are consistent with the park planning cycle of 5 years -- as in the PROS PLAN (this recommendation and input was provided by staff).

Our authority is given to us and rests with the community who elected and trusted us to do our jobs in a manner in which community input is sought and respected. This charter amendment will enhance, not create a barrier to community engagement.

We have different views on the role of the citizen in government, and I hope this will help explain why, too, giving citizens a meaningful voice in the decision-making is essential to good, open, meaningful and transparent governance.

Thanks again for writing, and sorry if my words seem overly passionate -- I think the citizen's voice is critical and listening to that "voice" is our job 1.

Respectfully,

Jane

From: Hieftje, John
Sent: Sun 7/15/2012 6:32 PM
To: Karen Hart; Smith, Sandi; Derezinski, Tony; Taylor, Christopher (Council); Higgins, Marcia; Teall, Margie; Hohnke, Carsten; Kunselman, Stephen
Cc: Briere, Sabra; Lumm, Jane; Anglin, Mike
Subject: RE: Resolution re: possible ballot proposal on parkland (7/16/12 meeting): DC-1, 12-0958

Thank you Karen, well said.

From: Karen Hart [mailto:Khart1213@comcast.net]
Sent: Sunday, July 15, 2012 1:21 PM
To: Hieftje, John; Smith, Sandi; Derezinski, Tony; Taylor, Christopher (Council); Higgins, Marcia; Teall, Margie; Hohnke, Carsten; Kunselman, Stephen

Cc: Briere, Sabra; Lumm, Jane; Anglin, Mike

Subject: Resolution re: possible ballot proposal on parkland (7/16/12 meeting): DC-1, 12-0958

I urge you NOT to support this resolution. It would take important decision-making authority away from City Council and would undermine long-range planning efforts in the City.

Members of Council are elected not only to represent their ward constituents (who rarely are all of one mind!), but also to consider what is in the public interest for the whole city. In my opinion, that means making educated and informed decisions on my behalf, not hiding behind the cover of, "Oh, we can't decide that, it takes a vote of the people!" Too often, a "vote of the people" is decided by reactive emotion, incomplete information, or negativity and innuendo (think New Bridge to Canada campaign). Considering what is in the public interest also means making decisions at the Council table to support important policies in approved Master Plans, such as the Transportation Plan, the Parks, Recreation and Open Space Plan, the Capital Improvements Plan, and so on. Throwing up barriers to a sound and openly-debated decision-making process not only undermines your authority and the thoughtfully-debated master plans, it demoralizes city staff and adds to the cost of government by dragging out decisions and sometimes requiring expensive elections. And, practically speaking, it can lead to missed opportunities because waiting for a ballot vote doesn't allow Council to be nimble.

Please, please do not support this resolution on July 16th.

Karen Popek Hart, AICP

Former Ann Arbor City Planning Director

734-646-2314