City of Ann Arbor

301 E. Huron St.
Ann Arbor, MI 48104
http://a2gov.legistar.com/Calendar.aspx

Meeting Minutes
City Planning Commission

Tuesday, February 5, 2013 | **7:00 PM** | **City Hall, 301 E. Huron Street, 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 734-794-6140 (V/TDD) at least 24 hours in advance. Planning Commission meeting agendas and packets are available from the Legislative Information Center on the City Clerk's page of the City's website (http://a2gov.legistar.com/Calendar.aspx) or on the 1st 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).

1 CALL TO ORDER

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

2 ROLL CALL

Rampson called the roll.

Present 8 - Bona, Woods, Westphal, Giannola, Adenekan, Clein, Derezinski, and Briere

Absent 1 - Mahler

3 APPROVAL OF AGENDA

Moved by Adenekan, seconded by Derezinski, that the agenda be approved. On a voice vote, the Chair declared the motion carried.

4 INTRODUCTIONS AND PRESENTATIONS

5 MINUTES OF PREVIOUS MEETING

6 REPORTS FROM CITY ADMINISTRATION, CITY COUNCIL, PLANNING MANAGER, PLANNING COMMISSION OFFICERS AND COMMITTEES, WRITTEN COMMUNICATIONS AND PETITIONS

6-a City Council

Briere reported that at the previous night's meeting, City Council discussed and

agreed to send back to the Planning Commission, a rezoning request of land on E. Ellsworth. The Council desired the City Planning Commission to look more closely at the density and other possible zoning options, including, R1D, R1C, and R4 and agreed that the City Planning Commission should look at this parcel and the use of land around it before determining appropriate density.

6-b Planning Manager

Rampson noted that City Council approved the distribution of the South State Corridor Plan, and the letters to neighboring jurisdictions will go out tomorrow so the 4-day review period will begin.

Rampson asked Derezinski to report on the AARP Age-Friendly Communities Conference.

Derezinski said he and Chair Westphal had sat down with AARP to discuss the need for a symposium, together with Michigan Association of Planners [MAP], Michigan Municipal League [MML], Presbyterian Villages, University of Michigan, and Michigan State Housing Development Authority [MSHDA], all of whom see the same demographic information as being very important. He said Ann Arbor has been voted as one of the top ten communities in which to retire by the Milken Institute. He said the symposium will be held on February 28, 8:00 am, at Palmer Commons at the University of Michigan. The three main topics will be Transportation, Housing, and Healthcare, and will be aimed at policymakers who must deal with these issues . He said thanks to the generous support and sponsorship of this symposium by AARP, the registration cost is only $30 per person for the all-day event.

Rampson added that anyone interested in attending should let her know so she can get them registered.

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Received and Filed

6-c Planning Commission Officers and Committees

Bona reported that the next meeting of the North Main-Huron River Corridor Vision Task Force will be on February 13th. She noted that at that meeting, all sub-committees will be reporting on the 4 topic areas, which include, the Main Street Right-of-Way [for alternative or non-motorized transportation], the Riverside Amenities [amenities from and along the river] the Intersection of Main and Summit, and the Michcon Site.

6-d Written Communications and Petitions

13-0115 Various Correspondence to the City Planning Commission

Received and Filed

7 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.)

None

8 PUBLIC HEARINGS SCHEDULED FOR NEXT BUSINESS MEETING

Chair Westphal read the Notice of Public Hearing as published.

9 UNFINISHED BUSINESS

9-a 13-0113 413 East Huron Site Plan for City Council Approval - A proposal to demolish two single-story commercial buildings and a residential building on this 0.92 acre site and construct a 14-story, 271,855 square foot mixed use building containing 216 apartments with 537 bedrooms, and ground-level retail and lobby space. 139 parking spaces will be provided in two underground levels, to be accessed from East Huron Street. 10 surface parking spaces will be provided at the rear of the building, to be accessed from a driveway on North Division Street. [Ward 1]

DiLeo presented the staff report.

PUBLIC HEARING:

Conor McNally, Chief Development Officer with Carter, petitioner, said they are very excited about the project, and believe it will bring vibrancy and energy to a very important but underutilized corner. He said it has been thoughtfully and carefully designed to conform with the letter and intent of the zoning ordinance for the D1 classification for the site, but also very careful to try to incorporate the Design Guidelines into the design. He explained that they had a very productive and thoughtful meeting with the Design Review Board, back in October, and received a lot of good comments and feedback on the design of the project. He said they had their Citizen Participation meeting and a series of meetings with various neighborhood representatives and the community and received a lot of good comments and feedback. He said they ultimately made some significant changes to the design of the building, increasing the cost of the development, but the changes were good and were driven by dialogue with the community. He added that since they submitted their site plan in November, they have worked hard with City staff to make modifications and changes to the building to make sure it conforms with all of the requirements of the City. He noted that the staff report concurs that the project does meet all of the requirements. He said previously at the last meeting, the only outstanding issue was the MDOT comments. He said those comments have been received and there were no comments to the site plan, adding that they are happy to participate and pay their fair share of any signalization changes that could happen on Huron Street. He said they are available to respond to any questions or concerns.

Chris Crockett, 506 E. Kingsley, President of the Old Fourth Ward Association, passed out a handout for the record, that outlined the comments from the last public hearing on 1/15/2013, and read from the handout.

Ilene Tyler, 126 N. Division, Ann Arbor Preservation Alliance, stated that she has an extra understanding of the challenges because of her professional experience and career. She shared her qualifications and noted that she has been active on City boards, commissions, and committees for over 20 years. She showed an illustration from the developer's packet looking southwest to downtown, noting that the size of the proposed building is twice the size of The Varsity and 411 Lofts combined. She said there are two small elevators that are intended for use by residents to also be

used to transport their bikes to storage rooms on each floor. She showed images of the proposed building next to Sloan Plaza and other surrounding buildings, stating that the jutting out of the building is a concern and the sidewalk is uncomfortably narrow to feel comfortable, adding that safety should be a major concern and this creates an unsafe situation and not part of the City's plan recommendations. She said the entry is hard to find. She showed a shadow rendering and said that her house will be in perpetual shade. She also showed a slide of the building's Ann Street elevation, where she pointed out the cold hard brick, saying that the trees are a joke because they can't grow in shade. The last sketch showed the neighboring houses in the historic district, and she said these are overwhelmed by the scale of the proposed project. She said a lower density buffer zone is needed to protect the historic residential use and the integrity of the historic district.

Norm Tyler, 126 N. Division, Downtown Design Guidelines Neighborhood Review Committee, an independent group representing eight downtown and near-downtown associations, said when the A2D2 Design Guidelines were approved over two years ago, City Council agreed that they would be reviewed after one year, to make necessary changes and improvements. He referenced slides noting that such a review would show that most of downtown is surrounded by D2 zoning or the University. He said D2 zoning allows for a transition to residential areas, which makes good sense; however, some downtown edges that abut two-story residential areas are designated as D1. He said some parcels in the downtown have a zoning category that is not consistent with the City's Master Plan, the Downtown Plan, and its guidelines, which call for a transition area. He said the City should initiate action to bring these parcels into conformance. He said D2 zoning for these parcels was originally called for in the 2007 plan. He said when consideration was being given for D1, three years ago, he presented a sketch about such impact. He said the need for urgency in changing the zoning is evident because of the 413 E Huron Street proposal; a project that is completely out of scale for its location and provides no transition in scale, massing or design to its abutting historical designated residential neighborhoods. He said rezoning this parcel to D2 is clearly within the authority of the City, since current owners of these parcels have, as yet, no vested rights in their development. He said the Planning Commission should not recommend site plan approval for any developments on these parcels until the City has taken time to review the situation and take steps to make zoning in this area consistent with its planning documents. He said they are not opposed to development on these parcels, but they express strong opposition to any large scale development that is completely out of scale with its neighbors and they urge Planning Commission and City Council action to fix the code where zoning errors have occurred.

Christine Brummer, 326 Mulholland, resident for 24 years, provided a handout to the Commission for the record, stating that she wanted to refresh their memory about how this parcel should have been zoned. She read from her handout referencing the interface area goal from the Downtown Plan. She referenced the 2009 Downtown Plan and the development character and sensitivity to context and the Central Area Plan in how it recognizes out of scale construction.

Benjamin Muth, 507 S. First Street, said that Houston, Texas, is the builder's dream in that there is zero zoning, and you can build anything you want anywhere. He said Ann Arbor is different and special with Downtown Design Guidelines to make sure it doesn't end up looking like Houston. He read from a handout for the record, referencing the DDA Connecting William Street draft recommendations for City lots, stating that surrounding context should be considered, and buildings designed to step-back from lower scale neighborhoods. He said the presentations show that this design is in serious conflict.

Steve Kaplan, 418 E Washington Street, said he has no specific expertise to look at this, except as a layman. He said with all the information provided, he felt it is possible to lose the forest through the trees. He said there is no doubt in his mind that D1 has a certain set of criteria and this project fulfills them, meeting the intent of density in the City. He said all those things are beside the point, and that this particular place was questionable in the beginning as to what kind of zoning it should be. He said to him D2 zoning seems to address the specific metrics of the area, to interface with the residential houses. He said if approving projects is just a formula, it could be done by a computer, and there would be no purpose for this board or the people to speak. He said he believes the purpose is to make sure that it meets the spirit of the intent of the zoning. This board can look at this and ask whether this is what we want or why it should be reconsidered. He said he feels the project meets one side of the desires of the City but it is unbalanced by the other side, and needs to be looked at equally.

Scott Reid, 721 E Kingsley, said he understands that this project complies with the letter and the spirit of the law and the current zoning, as it stands, but speakers have raised concerns if this is the correct zoning, which is out of the question. He said if we accept the premise that the project doesn't fit into the context, we need to fix the context. He said if we have low density area without much use, we should fix that to create more density and more vibrancy. He said this project will make us care about it where there is currently blight and abandoned buildings. He said this project will be good for the whole City. He said it is hard to take comments seriously when referencing 'student warehouses' and 'ghettoizing'. He said if people want to enhance this area then more density is the answer, with more people walking around the downtown. He said this is what people are clamoring for, adding that parking isn't necessary when you don't have to drive, since you already live there. He said the objections to this project are not worth taking seriously, given the great benefit this project will bring to the City, as a whole, rather than a small minority who object to the project.

Barbara Hall, 448 Fifth Street, representing the Old West Side Board, said we find ourselves arguing that the framework for downtown development has been derailed. She said that framework and its predecessors allowed the Old West Side historic district residents and developers to create what is now the Y, Ashley Mews, Liberty Lofts, Jefferson Court, and City Apartments by Village Green. She said when all parties work together, the system works. She said an on-going project, 618 S. Main, is our first project under the D2, D1 zoning scheme. She said they found themselves questioning the D2 zoning when presented with the project, at first, in 2012; however residents and near neighbors had ample opportunity for comments and questions, during the citizen participation process. She said she thinks the developer, Urban Development, had approximately five meetings by the time they felt that all the issues had been addressed. She said these concerns carried through on the site plan submitted to the City and subsequent Design Review Board examination. She said substantial changes were made to the profile, placement, and greenspace proposals long before the project went to the Planning Commission. She said there was no doubt this is how the system is supposed to function. She said the contrast between the proposal for 413 E. Huron abutting the Old Fourth Ward and Ann Street district, and what transpired with 618 S. Main could not be greater. She said concerns range from addressing the required buffer with residential neighborhoods to fitting within the character overlay to meeting the downtown design guidelines, adding that the points and issues have been raised consistently at each stage of the citizen participation process to ensure that the project fits within the neighborhood. She noted that our greatest problem is a that the design review process is a voluntary process and is only valid with willing participants on all sides. She asked how this can be the core development process and asked the Planning Commission to consider the project in

light of the spirit and the letter of the zoning provision, including the new ZORO draft. She said if more needs to be done to make this project a better product of the delineated development process, please consider how best to proceed. She agreed with Derezinski regarding Ann Arbor being attractive to baby-boomers and wondered why we have no many dorms being built when the City could be encouraging the type of construction that we need for people that want to retire, and spend their money downtown and enjoy the community.

Jeff Crockett, 506 E Kingsley, stated that he is a City resident for 30 years and wanted to focus on the trees. He said Ann Arbor was named after the original stand of oak trees that were in this neighborhood, and he is concerned that some of the landmark trees will be affected by this project. He said they have consulted with Chris Graham, arborist, and head of the Ann Arbor Environmental Commission, Chair of the Natural Features Subcommittee, and former Planning Commissioner. He referred to a photo of the oak tree in Ray Detter's yard stating that it is over 300 years old, with a 150 foot canopy and the trunk is about 10 feet from the north lot line of the proposed structure. He said Graham has stated that a project of this size needs a natural features assessment with drawings showing the impact on features shown of this proposed building both off-site and on-site. He said to his knowledge this has not been done. He said information must be provided on the critical impact zone, which included the root system 1.5 the times of the radius of the roof of the tree canopy, as well as the impact of shade. He asked what happens when a 300 year old tree is cut from sun. He said if damage is threatened, developers must do everything in their power to mitigate the damage. He asked if a study has been done to determine this, and how one would mitigate for a tree that has been here for over 300 years and is part of the founding history of Ann Arbor.

Adam Lowenstein said he lives on Main Street, downtown, and is a business owner who owns a couple of restaurants and bars downtown. He said he has heard the opposition raised, but he needs to voice his opinion as a business owner. He said a project that brings this amount of density to downtown is very welcome, and this type of project makes Ann Arbor unique and allows unique business in Ann Arbor instead of chains that can go anywhere. He said that we need density, and he lives downtown because he likes to walk to work, shopping, and restaurants, which is a huge asset for Ann Arbor; livability in the downtown. He said he is a layman when it comes to the D1 and D2 zoning and doesn't know about that aspect, but he is talking about a large scale development that brings residents downtown, helping the businesses, growing the city for tax base to keep up parks, schools, and protecting historic areas. He said he is very much in favor of the project.

Ellen Thackery, National Trust for Historic Preservation and the Preservation Network, stated that she believes the project, as proposed, undermines historic neighborhoods and the quality of life in historic neighborhoods. She said years ago, the City determined that neighborhoods next to this site are public assets, that they contribute economically, aesthetically, historically and that they should be protected and preserved. She said more recently, the City adopted design guidelines so new development would be compatible with, and respectful to its surroundings. She said this current proposal ignores this and the fact that the City deemed these nearby neighborhoods worthy of protection, and it ignores the design guidelines that were adopted. She said she wonders why the City can't require a redesign of this project to be more context sensitive, so it will adhere to the design guidelines, as other developers have done. She said this project will significantly impact neighboring properties because of its massing and monolithic design. She believes there is a way to get the density they are looking for with a more sensitive design, with more step-backs so the historic neighborhood is respected, which it currently does not.

Linda Binkow, 505 E Huron, stated that she is originally from Brooklyn, New York, and is not uncomfortable with large developments, but said she knows what impact this project will have on the area. She said it is larger than the big building being built across the street, but three times bigger than the student housing on Forest, adding that it is enormous and way out of proportion for the City. She said construction will be a serious problem for persons like her with asthma, noting that there have been no accommodations made for that and she would have to leave. She said she understands the value in density required, but density does not mean destroying the values you have. She said you have excellent downtown qualities that can quickly be destroyed. She said the City Planning Commission needs to address more than the developer's meeting did, and not thumb its nose at the concerns of people that live in this area. She said we are not housing for the University, and she hoped that the Commission protects the City of Ann Arbor.

Deb Zahn Simmons, 6415 Marshall Road, Dexter, said her family recently sold the property to the developer. Previously, they had owned the property for over 70 years. She said her grandfather started his real estate business there and had a gas station. She said the sale was done in conjunction with other owners who owned the other lot, noting that the sale was done with the understanding that there would be a high rise there. She said their understanding is that the development complies with all the codes and the Master Plan. She said that they have worked with the committees in hammering out issues and they believe this project is good for the area and good for Ann Arbor. She said as former owners they support this project and know it will bring vibrancy to the area.

Eleanor Pollack, 515 Detroit Street, Old Fourth Ward, said she disagrees that this project fits the neighborhood. She said it might fit the Huron corridor, but not in the sense of the grand corridor from the Huron Study, where they talked about buildings needing to be gracious, having a 10 foot setback so that it would create a feeling of spaciousness for the pedestrians. She said they talked about mixed-use residential buildings modulating. She said in 2012, the Design guidelines talk about new development stepping down to meet residential character. She said she is not convinced that this project meets the intent of what the citizens of Ann Arbor want. She said there is standing to delay this project, and read from the Michigan Planning and Land Use document, adding that maybe we need to look at the zoning of this property.

Herbert Kaufer, 209 E. Washington, read a letter from Christopher Graham, and provided handouts to the Commission for the record.

Mercedes Pascualle, 602 E. Ann St, pointed out the negative domino effort this building will have on the community. She said the shadow cast by the building will affect neighboring housing, and if the consequence is neglect of the housing, it will propagate throughout the neighborhood, all the way to Kerrytown. She said she doesn't think the historic district can resist this kind of direct impact. She said it is ironic that the most beautiful houses will be affected on the corner of Division and E. Ann Streets. She said if we lose these houses, we can expect further neglect of the community that she would like to see preserved. She said she moved here to work at the University for the special character of the City and isn't sure would consider that in the future is this type of development continues.

Peter Nagourney, 914 Lincoln, Co-Chair for North Burns Park, said he is looking forward to seeing the City Planning Commission apply actual Ann Arbor planning considerations. He said he is looking to hear discussion about what the Mayor, City Council, and the DDA have been telling us for years; Ann Arbor needs to attract new businesses, more young professionals, empty nesters to the downtown area, which

will make it a better and more prosperous City. He said when we look at these options we see a lack of affordable housing downtown. He asked where the studios and one bedroom apartments are. He said they are not here, instead we have had expensive student-only high-rises. He said the building is inappropriate and if approved with overwhelming opposition during public input, the community will question what is the purpose of our public input. He asked for the Commission to apply real planning because they were discussing our City.

Ron Motsinger, 7920 Jackson Road, Washtenaw County Skilled Building Trades Council, said he is representing over 5700 construction workers, over 100 businesses, all in Washtenaw County and Ann Arbor. He said there are lots of different interests presented, and as a life long resident of Ann Arbor he actually liked the Ann Arbor of the 60's and 70's. He has talked to members who live in Ann Arbor, and noted that every construction project usually displaces somebody; it changes the area and we don't like change. He said in looking at this project you either move up or out. He said it wasn't too long ago since he attended a meeting where City officials were worried about blight, and we were losing businesses downtown and there didn't seem to be enough people coming downtown. He said a mistake Detroit made is there aren't enough people living downtown to support the businesses that are there, which is what enhances people to come downtown. He said he believes this area needs something like this. He said the local unionized construction businesses are experiencing over 40% unemployment in Ann Arbor. He said that they are partnering with a fine local company, O Neal Construction, and will provide 300 jobs to skilled workers who will be working on this project. He said that part of Trade Council's business is what brings the 3 conventions to Ann Arbor and over 15 million dollars to the area each year. He said we know things have to change, and we want a vibrant downtown. He said he can feel the genuine love the people have for Ann Arbor and he doesn't want that to change negatively, but where are you going to house students, who have to be near the campus, where they can support the local community and arts.

Joan French, 505 E Huron Street, resident of Ann Arbor for 50 years, said students leave town all summer long. She said what we need downtown is a building that can house people who will live year round in the downtown. She said she has run a business downtown and her late husband had a real estate company. She said she isn't against new construction, but wants to see a building that doesn't look like it belongs in a prison setting.

Tom Whitaker, 444 S. Fifth Avenue, read from the Michigan Zoning Law. He said the proposal is not consistent with the City Master Plan or Downtown Plan, in that new development compatibility must be encouraged. He said this new building is not compatible to any buildings adjacent to it or otherwise located in the E. Huron character area. He said it should preserve and enhance incremental transition in land use, density, building scale and height, which the new proposal does not. He said it should protect the livability of residential neighborhoods adjacent to downtown, which it does not. He said it should encourage redevelopment, which this new proposal does not. He said if the building is built, generations will pass by the historic buildings and say, what on earth were they thinking? He said this new proposal is out of scale, shades properties to the north and blocks views of the sun and sky. He said this proposal is not in compliance with the Master Plan and if built will haunt us for generations, just like University Towers has haunted South University for years. He said in looking at the site plan there is a retaining wall listed at 3' 6", right next to Sloan Plaza that must be detailed according to the site plan regulations.

Ethel Potts, 1014 Elder Blvd, said the new D1 and D2 zoning are being put to the test: do they work as described in our plans? She said, no, they don't work and don't

fit our plans. She read from the plan and stated that these zonings are failing to produce developments that we wrote into our plans. She said this parcel and others ended up as D1 over the protests of citizens, and overlay district standards are not being enforced and the Design Guidelines process was weakened as being optional, and easy for developers, like this one, to ignore. She said public comments brought at citizen participation meetings are not being considered and she looks forward to discussion about bringing the zoning into conformance with the City's plans, the need to remap zoning areas, considering citizen input, and strengthening the design guidelines process.

Si Kufado, 505 E Huron, said he was moved by the question of what are you going to do about the future of a 300 year old tree. If you move this forward and the tree dies because it has no access to sunlight, what have you contributed to? He said because of health issues, he is trying to understand food and had spoken to a bee keeper that has thousands of hives. He said every single hive died this winter and they are in dire straights. He said, Einstein said, if the bees die, mankind has 4-5 years to live. He said what would it be to have the land here and end up with a 300 year old tree dead, because we didn't take the time to determine what the impact would be. He said he has lived here 66 years and chose to live downtown. He asked the Commission to consider the tree.

Susan Friedlaender, attorney for the petitioner, said the City's 1988 Downtown Plan discussed Interface Areas, in particular between E. Huron and Ann Street, noting that in that area, because there is no room for Interface, such as another zoning district, a setback can be sufficient as an interface. She said that is what informed this commission in 2009 when it recommended D1 zoning for the E. Huron district and when it imposed particular regulations, such as the 150 foot height limit and tower setback, and the 30 foot rear yard setback. She said she believes it was decided through negotiation with neighbors in the area when it came before City Council, went back to Planning and then back to City Council again, before the D1 and D2 properties were rezoned. She said careful thought was put in and you did anticipate shading and massing and you choose D1 for E. Huron because similar buildings existed there, such as Sloan Plaza and Campus Inn, and the massing and tall buildings are already there, and you found a way to come up with the step-down or transition to the other neighborhoods. She said also the properties were not in a historic district. She said, the City only has about 40% of the D1 areas that can be developed according to your Downtown Plans because of the limitations of the historically designated buildings have on the D1 plan.

Alice Ralph, 1607 E Stadium Blvd, asked if this development is for living or staying. She said the 413 E. Huron development is out of character with its context, and is a bully in the skyline and at curb-side. She said it bursts through the intricate street wall on both fronts, its driveways bore into the block and break the pedestrian path. It blocks the sun from trees and people, breaks goodwill and offers bleakness instead of benefit. Planning Commission could and should deny approval of this site plan. She said by emphasizing TIF development opportunities in downtown Ann Arbor over quality of life, this has been coldly codified in zoning ordinance inconsistent with adopted plans and demonstrating low regard for high quality environments and diminishing development opportunities that expand the highly regarded character of our City. She said Planning staff evaluates site plans for compliance with the ordinance, Planning Commission renders judgment on the adequacy of that compliance. She said it is the duty of elected officials to consider a larger picture, to protect health, safety and welfare or neighborhoods and those who live in them. She said staying is for the short term, while living in Ann Arbor requires a longer and deeper commitment. She said look towards legacy and put living first, deny this quantity driven proposal and site plan to promote a creative development.

Norman Hyman, representing Sloan Plaza, said integral to the downtown discussions was discussion about establishment of design standards. Council wanted to take another look after a year or so, to see if changes were necessary. He referenced his December 4, 2012 letter presented to the Commission, adding that the traffic impact study is deficient and does not take into account other current on-going developments in the area, like The Varsity, and it does not explain how forecasts are established. He asked if it includes forecasted natural progressions of traffic. He read from the MDOT report saying that the developer study is not complete and the data should be collected prior to receiving the final study. Hyman noted that this is a top retirement community in the US and many of the residents of Sloan Plaza have been drawn for that reason. He said the proposed development in its current form is detrimental to that rating, and requested the Commission to postpone taking action.

Ben Bushkuhl, 3186 Bolgos Circle, member of the Historic District Commission, read the resolution that was passed by the HDC regarding the importance of protection and preservation of the historic districts. He noted the discrepancy with reality, that preservationists are excited when they see construction that creates vibrancy in the City.

Ray Detter, 120 N. Division, Chair of Downtown Area Citizens Advisory Council, said that no project should be described as "by right" until it conforms to our adopted City plans and ordinances. He said this project is really a threat to the future of this City. He said just over 2 years ago when A2D2 was done and approved by City Council, we thought we had done a satisfactory job, at least at that particular time. He added that they were in a rush, but were pleased that the Mayor and City Council would revisit what they had done after a year. He said the Downtown Area Citizens Advisory Council and the Downtown Design Guidelines Citizens Review Committee, believe now is the time to make these necessary changes. He said City departments are now beginning to evaluate the patterns of citizen participation meetings. He said in the case of 401-413 E. Huron, these out-of-town developers called the meeting, ignored much of what was said by the public, then wrote the inaccurate report that was given to you. He said that must not happen again. He noted that these out-of-town developers appeared at one mandatory meeting before the Design Review Board, where they listened but no changes that were highly suggested by the board regarding mass and setbacks, and reducing the negative impact on the residential and historic neighborhood were made. He noted that compliance with the Design Review Board suggestions are only voluntary. He said we have to start discussing these suggestions to know what good design is. He stated that next week, the Design Review Board will meet to review and consider changes to the board's process. He felt that guidelines need to be clearer, be more specific, and have teeth, and need to be talked about by this Commission as part of the process. He said the DDA Connecting William Plan makes clear that surrounding context should be considered and step-back from residential neighbors. He referenced and read from the 2009 Downtown Plan and noted that the zoning for this parcel is clearly wrong, and should have been D2. He said the Ann Arbor Credit Union parking lot on E. Ann Street, next to City Hall is zoned D1 and allows for an 18-story building on that site, adding that that also is a mistake and needs to be reviewed together with others.

Earl Ophoff, Midwestern Consulting, LLC, 3815 Plaza Drive, Ann Arbor, representative for the petitioner, said a traffic impact study was done by Jim Valenta, who was the traffic engineer for the City in 1988, said the left turn at E Huron and Fifth Avenue has been a long-standing concern, dating back to 1988. He said this is something that the community, as a whole, is supposed to be looking at in terms of managing the traffic in the corridor on E. Huron, adding that they haven't done that. He noted that it isn't a turning element that is impacted by this development. He said

contrary to inference that the study does not take into account background information, the modeling that is done these days is fairly sophisticated and totally computerized, taking into account factors for growth and current counts which were done for this site. He explained that the counts that were done for The Varsity were based on what that project is going to be, since it doesn't exist yet, and the all new counts for this project included Ann and N. Division, N. Division and Huron, and Huron and State.

Doug Kelbaugh, 223 E Ann Street, professor of architecture and urban planning at U of M, said he is a long-time proponent of a denser downtown, which this Commission has done much to promote. He said the zoning code is very clear about the intent of having a buffer, interface zone, between D1 and residential zones, to avoid rude and awkward adjacencies. He said the map shows that there usually is such transition, with D2 pretty much surrounding D1, except where the university campus abuts it [shown in light blue on the map]. He noted there is one major exception that directly concerns this project; on the north side of E. Huron, D1 abuts a residential zone and historic neighborhood, adding that it is a glaring and troubling issue. He said D1 has a height limit of 150 feet on this side of Huron, and the shadowing is reeking havoc over the three historic houses. He said D2 zoning is no shrinking violet, in urban terms, with up to 60 feet in height, which is approximately the height of the new Justice Center addition, adding that it is a good buffer. He said the downtown Ann Arbor has a very well defined core, with crisp edges. He said if we limited the D1 to the inner core, it would have a very distinctive character in our City center. He asked that the City reconsider the extent of the D1 zone, now that some time has passed, and we have seen some results, both built and proposed. He suggested the City consider obtaining this 180 foot height area within Division, William, Ashley and First, and Huron Streets. He suggested shaping the inner core with more intention and less by default, and attract and retain those young knowledge workers, as well as the empty nesters.

Pat Lennon, Honigman Law Firm, 350 E Michigan Avenue, Kalamazoo, MI, Attorney, representing the petitoner, said the vast majority of comments have focused on rezoning. He said from their perspective that is not the question they are here to answer; rather, about applying the principles and ordinances that apply to this particular project. He said as everyone knows, this project complies with the ordinance and they are here to request Commission recommendation to City Council for their approval. He said they feel it is a straightforward situation and appreciate the discussion of the history of how they ended up with the D1 category and the E Huron overlay district, but hope that how that debate was settled does not get lost in the re-debate of what apparently occurred. He said the property is zoned D1, and their project complies, and they think that a change in the zoning category or the standards, at this point, in the face of an application that is compliant with the ordinance, would be treading on thin ice. He said they disagree with the comments that the project is not a 'by-right' project, since they have the right to build the project that complies with the ordinance, and they should be permitted to move forward with it and they hope the Commission will move it forward. He said they don't believe that postponing the project, at this point, would be fair to their client, and they think it is unnecessary. He said they have gone to great lengths to go above and beyond the requirements for this project, and to change their rights now, would be something they would view with great skepticism. He felt that they should follow the D1 ordinance that was approved in accordance with a long process, which would give them a project that they think will be a great benefit to the community.

Hugh Sonk, 505 E Huron, said many people have talked about density tonight but he said the new development will not be bringing more people downtown, but it will shuffle people around. He said these are the same students that already live here, so

it is just warehousing people in other locations. He said this does not accomplish providing housing for empty nesters or young professionals. He said there are still unresolved issues, such as the jutting out along Huron. He asked if this will result in future lawsuits for the City, since this issue was not addressed properly. He asked if this should be studied before going forward. He said they met with the developer with suggestions to lesser the impact on the neighbors and were told such changes would impact the "pour cycle" . He said the developer is tied to a specific timetable on this project. He asked the Commission to take into consideration the comments brought forth.

Don Duquette, 505 E Huron, said that it is a fallacy that this is a by-right project. He said he heard that when City Council adopted this zoning, they would review it within one year, which has not happened. He asked that they allow that review to happen now, and not approve the project until it has been reviewed. He pointed out vested interest from state law, reiterating that this project is not the right one for this space, adding that the D2 zoning is still dense.

Noting no further speakers, the Chair closed the public hearing at 9:15 pm.

Moved by Giannola, seconded by Derezinski, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the 413 E Huron Street Site Plan and Development Agreement,

and

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the alternative mitigation for six-caliper inches of tree replacement.

Commission took a 10 minute break.

COMMISSION DISCUSSION:

Briere asked about front setbacks and if there are different requirements from primary streets and secondary streets. She asked how Huron could be considered a secondary street.

DiLeo said Huron Street is a secondary street because it has a greater range of setbacks, consistent with existing buildings along the Huron corridor.

Briere said for secondary streets the required minimum is 0 feet and a maximum of 10 feet at the street wall, noting that the petitioner is showing a 20 foot setback.

DiLeo said they don't believe that they have interpreted the setback to the recessed storefronts as 20 feet, pointing out that they have some recesses at the corner.

Briere asked if they are using the semi-courtyard as what they are measuring.

DiLeo said it could be, adding the the north line could have been pushed up from 0 to 10 feet.

Briere asked how far from the curb is the street wall.

DiLeo said she believed from 8 to10 feet.

Adenekan asked staff if they received a complete traffic study from MDOT.

DiLeo responded that they received the complete traffic study from the petitioner, which was forwarded, in its entirety to MDOT, and MDOT agreed with the petitioner's study, that the driveway would not cause any loss of service on Huron.

Adenekan asked the petitioner about the 300 year old trees.

McNally said there are several landmark trees on neighboring properties, and one that is on their property, which is in very bad condition. He said what is required of them is to study the critical root zone of those trees and look at the overlap of the excavation of the project and how it may encroach on those critical root zones. He said they had done that and re-designed the project to pull the basement back from the property line to pull it out of the critical root zone of one of those trees. He said they have talked to arborists about opinions on shading, and found that studies don't exist, rather only opinions. He said they have relayed those findings to staff.

Briere said in response to the Design Review Board comments, the petitioner said that they had spoken to arborists. She said she spent some time on the internet and was able to find information on the effects of shade on mature oaks, pointing out that oaks seek the sun. She said the hourly effects on a mature tree would be rather significant, and on an immature tress, it would simply fail to thrive.

Ophoff agreed that oaks seek the sun, adding that what arborists won't say, because there are no scientific studies, is what happens when you have an existing mature tree that is subjected to shade. He said what they will say, is that when landscape architects have to select trees that will thrive in that situation, they tell you which type of trees and shrubs to select, since there are studies for that.

Woods asked if we are willing to take a chance of shading these trees, given the comments provided to the Commission from Christopher Graham. She said this does indicate that shadows will be problematic. She asked what will happen to other plantings on the neighboring parcels that are there for their enjoyment..

Ophoff suggested that in looking, for example, at the Law Quad on the north side, there is a forest growing, and it is a matter of selecting the right materials.

Woods said this would be talking about established neighborhoods.

Ophoff said that the comments made have made reference to the trees being in total shade, which is an exaggeration.

Carl Hueter, representative for petitioner, pointed to the March 21st shade projection, where it shows sun on the tree, and further in June and onward in the growing season it is receiving sunlight during most of the day. He reviewed the shade study with the Commission.

Clein asked about shade diagrams for December 21st at 3 pm.

Walter Hughes, architect for the petitioner, explained that the software pinpoints the latitude and longitude of the sun, which gives a very accurate study. He said in the Commission's copy shading may be a printing issue.

Clein said at 3 pm, it looks dark all over, asking if that indicated the intensity of sunlight.

Hughes said it shows the brightness of the sun.

Bona asked staff to clarify whether there is any requirement to protect trees on adjacent property.

DiLeo said there is no requirement to protect trees on adjacent property if the critical root zone does not extend onto the subject property. She said we require that the protective fencing be established at the correct perimeter. She said in this particular case there are two landmark trees where the critical root zone extends onto this subject site property. She reviewed the site plan with the Commission, showing that there currently is pavement in the critical root zone of the easternmost tree, and this did not require mitigation for switching from pavement to building foundation.

Bona asked if the proposed underground parking overlaps with the critical root zone.

DiLeo, yes, but less than the current existing surface pavement.

Bona asked if there is proposed vegetation between the foundation and the property line, which currently is paved.

DiLeo said, yes, this is correct.

DiLeo said the western tree has about 50% of the critical root zone impacted, and there will be building foundation there. She explained that for this tree, there is required mitigation. She said mitigation means that the tree will stay, but we will treat it as if it were removed or died. She explained that some on the mitigation will be planted on site and, due to lack of site space, some will be through contribution for off-site planting, per the motion.

Bona asked if they considered putting appropriate vegetation for the north side of the building, on the adjacent property owner's property, instead of into the City's fund for tree planting elsewhere.

Ophoff said no, adding that he doesn't believe it counts as mitigation.

Bona asked if it were allowed, would they consider it.

Ophoff said that the existing drip-line covers other trees, showing the landscape plan, pointing out that other trees and plantings don't like walnut trees, so it becomes difficult to plant under some of the trees.

Bona asked if there is flexibility to put trees on neighboring properties or street trees on neighborhood streets.

DiLeo said street trees are an option, since the mitigation standards are clear that it has to be City right-of-way or parkland.

McNally said they have talked with the neighbor about replacing existing smaller trees that currently grow along the property line, up against the existing building.

Bona said it might help to wrap some specificity around those trees before going to City Council.

Clein asked about premiums for residential use, noting that the intent for premiums lists six reasons. He asked if the intent is that projects fall into one category, or do they have to meet more than one or all.

DiLeo said that the intent is for the project to fall into one with the next section

specifying the actual criteria and general regulations they must meet.

Clein asked the petitioner about exterior materials and if they propose to use full depth brick.

McNally said full depth brick.

Clein asked if they plan to use precast panels.

Hughs said they haven't determined fully yet, but they will have a mason on site. He said it will likely be cast in place.

Clein asked about the pour schedule.

McNally said they don't have full logistical plan in place yet, but they probably will be pouring from Division Street, and using a lane closure.

Clein asked when would construction begin.

McNally said in the summer, with total project duration being 15 months.

Will Gorden, O'Neal Construction, the contractor for the petitioner, said he was available to respond to any questions.

Clein said that it is important for the neighborhood to know about the impacts involved.

Briere said to the petitioner that she wants to talk about the Citizen Participation Ordinance process. She said she can't see that they complied with the ordinance. She said she was expecting to find a detailed description of the efforts to notify the citizens of the meeting, which she said she didn't find. She was expecting to find copies of all materials prepared, used and provided to the citizens, a written statement of the number of citizen notifications sent, and the number of citizens attending the meeting with a copy of the sign-in sheet. She said the reason for capturing their names and addresses or email addresses is so that after the meeting the petitioner could send them a copy of their CPO report. She said the summary of the items discussed was kind of gossipy, but not very helpful, and a response on how they intended to address those comments and concerns was non-existent. She said that upset her, from an academic standpoint, because she relies on this part of the process to assure her that the petitioner hears what the people are saying. She asked if they have copies of the information.

McNally said he relied on the verbal guidance given by staff, and that they did have a roster of those in attendance, which was submitted with the site plan.

Briere said they failed to use the ordinance and part of the ordinance being effective is dependent on the petitioner using it.

Rampson noted that the sign-in sheet could be found in the eTrakit project file.

Briere said she expected all material to be included in the Commission packet, and that she found eTrakit impossible to use.

Westphal asked what has been allowed on these parcels, in regards to massing.

DiLeo said pre- A2D2, they regulated by the floor area ratio [FAR] and they provided

standard setbacks, and the total square footage that could be built, based on the lot size. In some zoning districts they had height limits, but not in downtown. With A2D2, within the D1 and D2 they still use the floor area ratio [FAR] to regulate proportion of total floor area allowed. She said with A2D2, they have a hybrid ordinance, with character districts, that is unique, in that a character district tells how to shape buildings, along with the building frontage. She said in some character districts the buildings must be right at the street frontage, while in others they have to push the upper level's mass back.

DiLeo continued that in E. Huron 1 overlay district, they came at it from the rear, saying that this is as far back as you can go from the street, because we were trying to front-load the mass onto Huron, so that was the compromise because of the residential area in the back. She said we don't have any street wall setbacks on the Huron side, in E Huron 1 overlay district, up and down the block, but we do have a 'do not go past this line' line. She said the Ann Arbor zoning has a base zoning that gives you the square footage you can build, and the character district starts to give the shape.

Westphal asked if there were any height limits.

DiLeo said there were no height limits, adding that this parcel had held different zoning classifications at various times; one being C2B and possibly C2A, with no height limits. She said there is a height limit in the E Huron 1 overlay district.

Westphal asked if in the D1 and the East Huron 2 the height limit is 180 feet.

DiLeo said E. Huron 1 is 150 feet, E. Huron 2 is 180 feet, Midtown and Main street are 180 feet, South University, when it is D1 is 150 feet, but when it's D2 it's 60 feet.

Westphal asked if there is an opportunity to stagger the tops and retain the same density, to create a taller tower, and if it would be doable by-right.

DiLeo said it would take a Planned Project, adding that with any height limit you are capping the floor area, which will force the building to go out wider.

Westphal said speakers were citing design guidelines. He asked staff to give a brief explanation about the process for the design guidelines.

DiLeo said there was a text amendment made that says that petitioners who meet certain criteria [i.e, anyone who is proposing a project in the downtown] shall go before the Design Review Board, and the Design Review Board shall discuss it and provide a report of their discussion.

Westphal asked if the petitioner is obligated to respond to the report.

DiLeo said the petitioner must submit and be present at the meeting, but are not under obligation to respond to the DRB report.

Westphal asked if there is anything in our ordinance that requires adherence to the Design Review Board report.

DiLeo said, no, they do not have to take any of the advice that the DRB offers.

Giannola said she knows that the Commission cannot consider design in weighing approval or denial of a project, adding that she is very design tolerant, and is not bothered by mass or height, but there is something about this building that rubs her

the wrong way. She said she doesn't know if it's too square or rectangular at the top, and if she doesn't like it, maybe it might affect others in the same way, adding that it might be some inherent flaw. She said it is more appropriate for a large city than a small city. She said if it does pass tonight she suggested that they do something to make the building fit more into the character of the City.

Bona said she was on the Planning Commission from the beginning for the A2D2 process and was on the zoning committee that struggled to determine what zoning they should recommend. She said she remembers when they struggled with the Master Plan. She explained that when the Planning Commission takes action tonight, they will not be approving the project, but making a recommendation to City Council to approve or deny the project. She said on the Master Plan, the Planning Commission and the City Council have to agree, and she remembers that during the discussion there were issues involving this parcel as well as on the parcel on South University that has since requested rezoning, and height was a third issue, and the site next to Zingermans.
She said all of the same issues brought up that night, are the same issues brought up tonight and they are all relevant, but they made a decision to zone it this way and they made the decision to create the E. Huron 1 overlay district to modify this site so it wouldn't be like the rest of Huron. She said if they decided to rezone this site, this Commission should also reconsider the zoning on South University, because the Commission went through a laborious process. She said she completely understands the shading issues and while she didn't want the current zoning, it was a democratic process with the Planning Commission and the City Council making the final decision. She said she remembers when the one-year period was up, it was during the recession and there were no projects to review the process against. She asked staff how many projects have been built in this period, noting that in order to do a review they need completed, built projects.

Rampson said there were two reviews to be undertaken; one of the A2D2 zoning changes, and the other of the Downtown Design Guidelines. She said the Design Review Board has met and provided comments on the Design Guidelines, which went to Council last night as a communication. She said the DRB has some suggestions to the procedures as well, and it is up to Council if they feel that this process needs to be moved in any particular direction. She said since 2009, this will be the fifth site plan in the downtown, with only one of the projects completed to date. She added that staff has been collecting comments from the community, staff and developers for when the opportunity arises.

Bona suggested that the Commission can discuss the issue at an upcoming working session. She said she disagreed with the statement that this project will not bring new people. She felt it would bring more students downtown that are currently living on the edges of town, which means there will be fewer cars downtown. She said she is very supportive of student housing downtown, because they are the ones most willing to walk. She said it is important for the City Planning Commission to think about mixed ages, but said it is not the City's responsibility to determine the use of any building. She said it is hard enough for the developers to figure that out, and we shouldn't be requiring specific uses, such as age demographics, noting that is a level of control that she didn't feel is appropriate. She said encouraging certain things through adjusting premiums based on size of unit, for example, might be worthwhile. She said she is grateful that the University doesn't build more student housing, because if they built it, it would be public property and removed from the tax rolls. She said she is glad that the University supports private property ownership. She said the goal being a vibrant downtown, and density is a tool to get there.

Derezinski asked about staff recommendations and if the City Attorney has been

consulted.

DiLeo said staff consults with the City Attorney when they have questions related to process or State statute questions, and that the staff recommendation for this project is based on the project meeting the City codes.

Derezinski said most of the comments were not directed at whether the project meets the D1 requirements, but that the zoning was incorrect for this parcel. He said that zoning decision was made through a long process a number of years ago and a legislative decision was made by Council to put D1 into the ordinances. The remaining question leaves us to ask if the process was followed. He asked if the required material as outlined in the Citizen Participation Ordinance was submitted.

DiLeo said she believes all the criteria has been met, and the petitioner submitted the required material, adding that the information could have been organized in a different way, and that it could be a matter of formatting and template style.

Derezinski asked staff if there was sufficient enough reason, in their mind, to void what the Planning Commission was doing tonight, given the comments of Ray Detter that the process was not followed in that there was a promise to re-visit the guidelines and that had not been done.

DiLeo said, not in her mind, as she believes they are two separate issues, one being that the petitioner is responsible to put forth a site plan that meets all of the regulations that we have adopted, and the other that it is the City Council and Planning Commission's purview to revisit the ordinances, plans and guidelines. She said she doesn't believe it is the petitioner's responsibility to review our ordinances, guidelines and processes.

Derezinski asked if this project is of right, and meets all the requirements of the D1 zoning, what latitude does the Planning Commission have.

DiLeo said staff has recommended approval, but you can consult with City Attorney, Kevin McDonald, about your latitude.

Woods thanked Bona for taking responsibility for the big mess they are in. She asked why the Commission is here if it is just a matter of checking items off a list. She thanked all the members of the public who came, spoke and provided the Commission with documents. She said she kept thinking about livability, the quality of life, and in looking at earlier discussions, she thought that maybe they made a mistake before and should have given more thought to how the step-down of buildings would or should work with the higher density. She said whether they approve this or not, it will move on to Council, and they will have the ability to look at questions we are asking. She said many of us live here in Ann Arbor, and have to walk past these places, and some of these buildings are huge, and the 300 year old tree doesn't make it and our grandchildren ask us what we did about it. She said she also has to be able to live with herself in terms of these decisions that they make. She said she appreciates that staff gives their recommendation, and when she votes no on a project, it is because she has to live with herself when making her recommendation, and because of that she will be voting no on this project.

Giannola said she remembers the conversation when this discussion went through City Council, adding that it was a very well thought out compromise, and argued ad nauseum over this. She said she remembers that the Planning Commission had their version and City Council tweaked it to what they wanted. She said we can't always just go back and overturn things after the fact. She said we should live by the zoning

that was imposed on the parcel back then, and let Council be the ones to change their thinking.

Briere said it is a good thing to say you have made a mistake and listen to the reason of law. She said it wasn't Council that made this decision, and there is no reason to expect that Council should change it, adding that decisions about zoning are made by Planning Commission. She said the Council made some recommended changes and the Planning Commission accepted some of those and rejected others. She said the night this discussion on the D1,D2 plan came up, they could bounce it back and forth forever between Planning Commission and Council and see who breaks first or we could let what the Planning Commission says is the right zoning, go forward. She said, it is really our responsibility and not the Council's responsibility to deal with issues of zoning. She said talking about zoning is a wonderful distraction but it is not the point. She said the point is whether the bare minimum was met and whether the bare minimum is good enough for Ann Arbor. She said she went through the character district for this area, as well as looking if it was oriented for pedestrians, to see if the street front façade was broken into type modules, as it says in the guidelines. She said those guidelines are there to express community guidelines and not to be ignored. She said they are supposed to help prospective developers how to figure out how to build something in Ann Arbor and make us proud. She said she thinks it is important that people from all positions in our community have not embraced this specific building and its plan, primarily because it doesn't follow the design guidelines. She said it doesn't recognize the articulation of breaking a large front into smaller components so it feels better when you walk past it. She said it doesn't vary the corner height, it doesn't vary the street height, it doesn't have any setbacks from the street wall to give you a sense that the building actually ends at the second or third story. She said all of which are in our design guidelines as recommendations. She said this one block of Huron Street doesn't have those as mandatory tools, but they are recommended tools. She said, many of us wanted to create something that would encourage creative problem solving, not piling up Lego blocks. She said for the record, there are two items that must be in the development agreement; the first thing being, what park benefits from the contribution from the developer, and the other thing that has to be in the development agreement is the construction materials. She said the recommendations of the Design Review Board were the materials get written into the development agreement. Specifically; the bricks, the variation of color, the pattern, the fact that they are doing something different was agreed to as being a part of the development agreement. She said after a project has been approved, she sees the effects of value engineering, at the Council level, when the developer changes the project materials due to costs. She said in order to assure that if this project is ever built, it will be built with the best possible materials, is to include it in the development agreement.

Westphal said that if certain materials are labeled on the site plan, those materials are legally enforceable.

DiLeo said the draft development agreement, C 2, notes that the park contribution must be used for park improvements within 1/4 mile of the site. She said she will change the noted typo, in P11, to specifically mention the Farmers Market and Wheeler Park are potential park sites. She said P15 addresses the elevation drawings, as part of the approved site plan. She said she made sure that the site plan drawings are very well labeled, and could make them reflect such items as full thickness/full-face brick. She said the development agreement always refers back to the site plan and changes can still be made to clarify things.

Westphal said it would be helpful to reflect these on the site plan.

Clein said that materials are usually informative on the plans, and in order to ensure specific type materials it would be necessary to provide additional details. He said it would be important to allow some flexibility to allow for competitive pricing, but they could specify stipulations for addition approval before changes could be made.

Westphal asked about dust control.

DiLeo said this is handled through the building department, as is construction noise and debris.

Westphal asked if dust and debris should remain on site.

DiLeo said dust and debris typically come from sites when they are moving earth or during demolition.

Westphal asked about the traffic study and if it is considered complete.

DiLeo explained the points given by MDOT, noting that the data on this project is good.

Westphal said the A2D2 review seems to be on the radar as well as the material for the Citizen Participation Ordinance meetings.

Westphal asked about tree mitigation in general.

Rampson said because there is a requirement in the Natural Features requirements to show all natural features 50 feet beyond the property line, that was anticipated in the original natural features guidelines. She said the fact that this tree is being called out is part of the tree mitigation and plan. She said of a tree were to straddle the property line they would treat it as a site impact.

Westphal said it is not comfortable to hear people say the Commission is not listening when they are essentially torn between what has been decided in the plan and the actual zoning application on a parcel. He said it is impossible to zone every parcel, and this parcel came close to being specifically zoned, noting that he was optimistic that the Design Guidelines would allow for flexibility on project. He said it is tough to disregard the process and public input that went into establishing the zoning laws in the first place. He said he is prone to listen to their own zoning in cases like these.

Clein said he shares Westphal's sentiments. He thanked all the people who came out today and who spoke. He said he is empathetic to the massiveness and insensitivity to the adjacent historic neighborhood. He said he is of the belief that this parcel probably should have been zoned D2, but it isn't. He said the project does appear to meet current ordinance. He said as an architect, he finds the tone on tone as a really dark finish on the exterior, adding that it is intriguing, but due to the size of the building it is going to appear to be somewhat dark and massive and looming. He said he has heard it explained as Death Star Moderne. He appreciates the developer making modest changes and definite improvements, as suggested by the Design Review Board, but still does not meet the intent and the suggested requirements of the Design Review guidelines. He would encourage discussion at a working session for downtown zoning as well as the design guidelines. He said it would be good to look at diagonal massing requirements that would have had an impact on this project. He said he has some misgivings about this project, and does not think it is the right project for this site, despite what the zoning says.

Briere said this body spent a lot of community effort to come up with the Downtown

Plan and the Design Guidelines, which are part of the Master Plan and actually go hand in hand with the actual zoning. She said a problem they face with these documents is that they are not prescriptive, or even proscriptive, but diagnostic, and not very tight. She said the community statements dealt with balance between conservation and change. She read from the plan saying that we should encourage articulation and massing of new buildings to fit sensitively into the existing context. She said if you live in a high-rise and you get another high-rise next to you, your view will be blocked, but if you live in a single family home, you don't expect to spend your mid-days in the shade. She said the most fundamental recommendations is that new construction are to complement the scale and character of the existing development context. She said in so many ways, she did not believe the petitioner hit the mark. She said she would send them back to redesign the building, since zoning is only a piece of it. She said this particular project tests the bounds of our good intentions, when it comes to opening up development. She said this is also art and the inspiration is lacking.

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

6 affirmative votes needed for recommendation.

Defeated: 5-3

Yeas: 5 - Bonnie Bona, Kirk Westphal, Diane Giannola, Eleanore Adenekan, and Tony Derezinski

Nays: 3 - Wendy Woods, Kenneth Clein, and Sabra Briere

Absent: 1 - Eric A. Mahler

10 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.)

13-0114 Hideaway Lane Revised Site Plan for City Council Approval - Proposal to construct 19 single-family units and 13 parking spaces. The 4.57 acres site, located at 2000 Traver Road, currently contains 9 attached townhouses and 1 single-family home. Driveway and utilities were installed as part of the previously approved Hideaway Lane site plan (expired). [Ward 1]

Moved by Derezinski, seconded by Adenekan, that the Commission approve the continuance of the meeting past 11:00 p.m. On a voice vote, the Chair declared the motion carried.

Yeas: 7 - Bonnie Bona, Wendy Woods, Kirk Westphal, Diane Giannola, Eleanore Adenekan, Kenneth Clein, and Tony Derezinski

Nays: 1 - Sabra Briere

Absent: 1 - Eric A. Mahler

DiLeo presented the staff report.

PUBLIC HEARING:

Noting no speakers, the Chair declared the public hearing closed unless the item is postponed to another meeting.

COMMISSION DISCUSSION:

Bona said it would be helpful to get the issues on the table so it isn't a wasted evening for the petitioner.

Rampson suggested that Commissioners contact staff directly with questions, concerns and comments.

Moved by Derezinski, seconded by Clein, to postpone the item in order to allow petitioner to provide items outlined by staff. On a roll call, the vote was as follows with the Chair declaring the motion carried.

Yeas: 5 - Wendy Woods, Eleanore Adenekan, Kenneth Clein, Tony Derezinski, and Sabra Briere

Nays: 3 - Bonnie Bona, Kirk Westphal, and Diane Giannola

Absent: 1 - Eric A. Mahler

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

None.

12 COMMISSION PROPOSED BUSINESS

Briere noted that the Design Review Board has made recommendations to reconsider the process and would like more in depth discussion about where D1 and D2 are working, and where they are not working.

She said when possible she would also like an update on the Citizen Participation Ordinance Review.

13 ADJOURNMENT

Moved by Bona, seconded by Adenekan, that the meeting be adjourned at 11:20 pm. On a voice vote, the Chair declared the motion carried.

Kirk Westphal, Chair
mg

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