



City of Ann Arbor

Formal Minutes

Planning Commission, City

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

Tuesday, June 17, 2014

7:00 PM

City Hall, 301 E. Huron Street, 2nd Flr.

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1 CALL TO ORDER

Chair Westphal called the meeting to order at 7:10 p.m.

2 ROLL CALL

Rampson called the roll.

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

Absent 1 - Peters

3 INTRODUCTIONS

5 APPROVAL OF AGENDA

Woods noted the number of audience members present and asked the Chair if he might take a slight poll to check to see how many speakers were present for the various agenda items, and suggested if there were fewer speakers for later agenda items, they might allow them to speak earlier.

After a show of hands from the public participants, the Commission agreed to keep the agenda as presented.

Moved by Adenekan, seconded by Bona, that the agenda be

approved at presented. On a voice vote, the Chair declared the motion carried.

4 **MINUTES OF PREVIOUS MEETINGS**

14-0962 City Planning Commission Meeting Minutes of May 6, 2014

Postponed

Moved by Clein, seconded by Bona, that the minutes be postponed to the next Planning Commission meeting. On a voice vote, the Chair declared the motion carried.

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 City Council meeting, the Council approved the rezoning of 425 South Main from D1 to D2, at first reading. They also approved changes for the character overlay district; with the major amendment to the height limit. It was set at 60 feet instead of 100 feet. She said city staff was asked to evaluate and bring back alternatives such as setbacks, shapes, solar gains and things that might not work so well with a 60 foot height limit. She said Council does not expect to take up the item for second reading until the beginning of September to let staff work through the details as well as to allow residents the opportunity to appear at public hearings.

Giannola said that having watched the Council meeting, it was clear that the Council did not understand the FAR [Floor Area Ratio] to building mass, and what the Planning Commission intended through their recommendations. She urged the Council to find out what was intended since she felt it was a very good compromise.

Briere said she intends to bring Legos to the next Council meeting to help them understand what FAR means.

Giannola said Council amended the resolution without even considering the 100 feet height limit, so it bothered her that no one is even going to go and get educated on what the Commission had proposed and wanted, since at second reading the public will not even know it was intended to be 100 feet.

Briere said the Council had requested 3-dimensional renderings of the

various options.

6-b Planning Manager

Rampson said in the interest of the agenda she would pass on her report.

6-c Planning Commission Officers and Committees

6-d Written Communications and Petitions

14-0963 Various Correspondences 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 MEETING

14-0964 Public Hearings Scheduled for the July 1, 2014 City Planning Commission Meeting

Westphal read the public hearing notice as published.

9 UNFINISHED BUSINESS

9-a 14-0965 Reconsideration of a request to approve a "functional family" use to allow occupancy of the single-family dwelling at 1919 Wayne Street by up to six members of the USA Midwest Province of the Society of Jesus religious order (Ann Arbor Jesuit Community). The Zoning Ordinance defines a functional family as a group of people having a permanent and distinct relationship which is functionally equivalent to a family. The code allows for a functional family living as a single housekeeping unit to occupy a dwelling if approved by the Planning Commission as a special exception use. 0.22 acres. (Ward 2) Staff recommendation: Approval
DiLeo provided the staff report.

PUBLIC HEARING

Dan Riem, 1250 Ferdon, Ann Arbor, thanked the Commission for reconsidering the decision. He said he understands this is the first request and therefore requires prudent discernment in order to make a good decision. He thanked the Commission for the work they do and the time they invest on the Commission. He made three points. He said, the definition of 'functional family' uses the word "permanent". He said however, that is the relationship between the members of the functional family, rather than the time they live in the home. He said what makes their relationship permanent and distinct is their vowed religious life; they share a common life or formation, which takes, on average, 11 years to priesthood, after completion of undergraduate studies. He said community life is based on the constitution of their order, which spells out how they live their day to day life together. He said they share a common mission; the service of faith and the promotion of justice. He said his relationship with the other priests, because of their vocation, existed before they lived together on Ferdon and will continue long after they are missioned elsewhere. He said the fact they are one another's patient advocates should indicate their depth of commitment to one another. He said the point made regarding transiency should be looked at in light of the commitment made at St. Mary's Student Parish in Ann Arbor and given the declining numbers of priests they consider it well worthwhile to send even more priests here. He said for the sake of stability in their ministry it would be counterproductive to interchange the priests. He said he has been here for the past 10 years and he and the other priests are likely to be around for a long time and they love the house on Wayne Street because it has enough bedrooms and has a living space that fits their religious lifestyle, which is similar to that of a family. He said they are not a family, but believe to be, as the criteria states, functionally equivalent to the family. He said he will never have a family and does not regret that choice; but the lifestyle of living in a Jesuit family will come as close to that of a family. He said if the Special Exception Use is not granted, either their ministry will be exceptionally burdened by limiting them to 4 members or their vowed life together will be burdened by them living in separate houses. He said their realtor has said that it is unlikely that they will find a house with seven bedrooms and communal living arrangements suitable for them in other zoning districts and he hopes that their good, respectable living as good neighbors will heal any issues brought about by this request. He said they can be trusted by their word that they will abide by the conditions determined by the Planning Commission, including parking.

Jonathan Levine, 456 Hilldale, Ann Arbor, said that he supports the Jesuit's request. He spoke about the claims made that denying the request would be gender discrimination, and the claim of failures of the Catholic Church to weed out pedophilia are somehow related to this

zoning request. He said he was embarrassed to even have to say these words, and that all individuals deserve to be treated based on their own actions and not subject to guilt by association. He said the fact that this even has to be said in Ann Arbor in 2014 is profoundly disturbing. He said he was also disturbed about the argument raised about ones' religious beliefs and interpretation thereof has been brought before the Planning Commission. He asked what the proponents of these claims would say if the applicants were Unitarians, or Buddhists or Presbyterians. He said if they felt the same, he would consider that religious discrimination and either way such arguments deserve to be rejected in strongest of terms. He said overwhelmingly the zoning is designed for the R1 and the lifestyles that fit within it and one needs to realize that that there is not just one American Dream that is to be pursued in this town but many and the Special Exception Use in the R1 district is the proper vehicle to be pursued here.

Liz Kamali, 2122 Dorset Road, Ann Arbor, resident of Oxbridge Neighborhood Association, said that the Oxbridge Association and attorney Scott Munzel is not accurately representing the neighborhood. She said their full membership has still not heard from Oxbridge about their position or the hiring of an attorney and attorney fees. She said she represented 33 Oxbridge neighbor association members and other residents who are in support of granting the Jesuit's petition for Special Exception. She asked neighbors to stand up and said they believe that Attorney Scott Munzel does not legitimately represent the Oxbridge Neighborhood Association but rather a minority. She said they agree with City staff and the City Attorney's office that the Jesuits meet the standards to qualify as a functional family and asked that the Commission grant their petition as they would be happy to welcome the Jesuits to the Oxbridge Neighborhood. She offered to provide a list of supporters from their association to the Commission.

Sonia Urbaniak, current owner of 1919 Wayne, Ann Arbor, and Oxbridge Neighborhood Association member, said she was glad the Jesuits were trying to talk to the neighbors. She thought if the Jesuits would get the exception approval they would be lovely neighbors to have and she would like them. She said she became very upset when she watched the video of the previous meeting. She said when taking her citizen test last Tuesday, she was asked by the lady giving her the test, what is the 'rule of law'. She said no one is above the rule of law. She said this is not about setting a precedent or anything like it, but about applying the Ann Arbor code that is already there. She said the code has been there a long time and should put this whole discussion into perspective. She asked the Commission why people who use secret, behind the back campaigns behind the Jesuits did so and if the concerns they had were reasonable and founded would it not have been so much better to do so

in the open? She said if one of the concerns was to inform the neighborhoods would it not have been reasonable to invite her or her husband, life long members of the ONA [Oxbridge Neighborhood Association] to the meeting about the sale instead of removing them from the email list as to not inform them about the meeting. She said if the information was true would it not have been better to share it with everyone? She asked why the president of ONA had not gotten feedback from its membership in the last 2 weeks, especially after being informed of the secretive approach of ONA regarding this matter. She said she was sure there might be some reasons why people wouldn't want the Jesuits here in their neighborhood, similar to other reasons why they wouldn't want all different groups somewhere in America and all over the world. She said she was from Germany so it was even harder for her to think about that. She asked the Commission to let the laws decide and not prejudices because if prejudices become our advisors then we have lost a lot of advancements of the last century.

Vivian Johnson, who lives in Ann Arbor Hills, Ward 2, said she her husband and she fully support the Jesuit application before the Commission. She said her husband and she are not Catholic. She said let the laws in place decide this request. She reiterated that that ONA has still not informed their full membership about hiring an attorney and noted that ONA and Scott Munzel had put some disrespectful statements in their letter to the Planning Commission. She read from the letter, noting that they cannot make this decision based on what may happen. She said the statements and reasons given by the ONA president sound similar to statements to keep out African Americans, Jews and other groups from living in neighborhoods in the not too distant past. She asked the Commission not to give credence to the ONA president's letter or restriction requests that might be discriminatory, as bigotry and exclusion has no place in our society or neighborhood. She welcomed the Jesuits to the other side of Washtenaw Avenue only half mile from where they have been living for 10 years.

Joanne Barrett, 2254 Riven Oak Court, Ann Arbor, realtor representing the owners selling the home at 1919 Wayne Street, said her children grew up in the Oxbridge neighborhood and it was a great place; the historical, intellectual, international tapestry of it and a quiet safe place where families grow. She understands why neighbors want to preserve the fabric of their community. She said our religious places of worship are an important thread in that fabric and our art, music, and books have their roots in centuries of sponsorships by clergies. She said churches and temples help us celebrate life transitions from birth to adulthood, marriage, death. She said they counsel us as we go through our journeys and no matter what you believe or don't believe there is not one among us who will not be touched by the kindness and charity of

ministers, priests and rabbis. She said the hungry, the homeless, the poor, the sick, they provide meals, clothing, transportation, and kind words. She said what better way to enrich a neighborhood than to invite those who go out into the neighborhood to help the weakest and neediest among us. She said traditional families are allowed 4 cars to be parked on the street and the Jesuits aren't being allowed any. She said this exception is a gift to the neighborhood; it is not a change in zoning, it does not change with the home if they some day leave it. She said their home and two bathrooms can only help property values in the area. You can talk to their neighbors on Ferdon to realize the good fortune of those who live near them, and they are more permanent than most of us, having lived in their last home 10 years before they outgrew it; five years longer than the average Ann Arbor homeowner. She said they drive safely, don't play loud music, don't have a mean dog, and have no intentions of painting the house purple and they keep a neat yard. She said when Ann Arbor is considering being less inclusive than the State of Michigan, there is something very, very wrong and she urged the Commission to follow the law and the recommendations of the State, the City Attorney and grant this exception.

Sherry Moray, 2065 Day Street, Ann Arbor, said the Oxbridge Neighborhood Association does not speak for her. She said she purchased her home in late 2009 and tried twice to reach out to become an ONA member, without response. She said she is beginning to understand why she did not get a response after hearing the discussion; perhaps it was because her home was a rental prior to her purchasing it or as a single parent to two teens at the time she did not represent the traditional family. She said ONA does not represent the over 2,000 residents that live in the Oxbridge neighborhood which the Commission should take into consideration. She welcomes the home on Wayne Street to being purchased and inhabited by the Jesuit cohorts and read a number of responses and was quite embarrassed that citizens in her beloved, open minded city, which has historically stood for diversity and civil liberties, is fighting this on the basis of age and religion and hiding behind semantics. She said just because the ones proposed to be living in the neighborhood are different in age and other spectrums, doesn't mean we can't learn from each other. She said there are many young and older drivers in the area currently and some houses are rentals when owners go on sabbaticals and her children often have friends over who stay for several days without problems.

Susan and Bill Black, 2002 Wayne Street, Ann Arbor, showed two postcard notices they had received inviting them to the public hearing, noting that they live within 300 feet of the proposed request. She said they have enjoyed 27 wonderful years in their neighborhood and that they supported the petition back in April, because it was the right thing to

do. She said she was an Oxbridge Neighborhood Association board member, but had resigned over this issue. She said they had paid lifetime dues to the association. She said there are nine neighborhood parking spaces in front of her house that are unused. She noted that as for property values, she had used Zillow to calculate that the Jesuit's current home on Ferdon has increased in value more than \$160,000 in the last six years.

Michael Mc Donnell, 435 Huntington Place, Ann Arbor, Ward 2, said he was a cardiologist and a lot of who he became and what he is, is because of his Jesuit education, and he could speak first hand about the Jesuits applying for this application and could vouch for them fully. He said he felt any negative influence to the community would be the negative impact on the parish, because Father Reim couldn't function as needed. He said they are truly an asset to his parish as well as to the surrounding parishes, through their community work with the homeless and social justice issues they are involved with. He asked members of St. Mary's Parish who were in the audience to stand up.

Ethel Potts, 1014 Elder Boulevard, Ann Arbor, said she was disappointed because the Commission did not spend time applying the City Code at their last meeting. She said she hoped the Commission had their zoning codes with them and that they must not rely on the staff report from the previous meeting as it was full of errors. She said the errors might have been corrected. She said there were some added words that changed the meaning of the code, and also omitted a whole sentence from the functional family definition. She read from the zoning code to the Commission, noting that associations and societies are explicitly excluded as functional families. She said the community member's loyalty was to the Jesuits order and they could be reassigned at any time and was not, in her opinion, a permanent character and would be a violation of City code.

Theresa Angelini, 1315 Beechwood, Ann Arbor, architect and member of St. Mary's Parish, said she was very familiar with the zoning code and the specific neighborhood, and believed the code was intended to protect neighborhoods, so not to have sororities, fraternities and student housing spread into that neighborhood. She said she thought the Jesuits would be a great addition to that neighborhood and speaks to the great diversity of her town. She said she was embarrassed of Ann Arbor's closed mindedness on this issue and said they should read the zoning code closely, understand the neighborhood and approve the request for this house. She added that seven bedroom houses are few and far between and asked the Commission to support the request.

Laura Paterson, 1925 Cambridge, Ann Arbor, said she was a lifetime

members of the Oxbridge Neighborhood Association and had lived there for 10 years. She said she was speaking in support of the request since it meets the requirements. She said she has known the Jesuits for the last 10 years, and that the views expressed by ONA do not represent the majority of the neighborhood on this matter. She asked the Commission to vote in support of the request.

Paul Morel, 703 Berkshire, Ann Arbor, Vice President for ONA, said they represent about 205 homes out of 250 homes in the neighborhood. He said they held a meeting on May 13rd to discuss the Functional Family petition. He said they send out 205 emails, of which 111 were opened and 33 people attended the meeting. He said at that time there was a unanimous consensus to prepare a paper outlining the issues they had with the petition. He said there were two or more that changed their minds and supported the petition, so they represent most of their neighbors, but not all. He said there was universal agreement that this is not about whether the Jesuits would be good neighbors, but whether the use of a functional family designation is appropriate. He said they are concerned that approval of this Special Exception would set a precedent for future petitions and the expansion of the restriction from 4 to 6 individuals within the R4 zoning. He read from his submitted remarks adding that they represent a large number of residents within ONA, stating that they don't know if they represent the majority of residents. He said the society does not qualify as a functional family, since the Jesuits have a commitment not to each other but the larger group; the Jesuit society, and their relationship is not permanent; but rather a commitment to the Jesuits. He said per the code a society is excluded from qualifying as a functional family. He said even if the applicant meets the definition of a functional family, they fail to meet the standards for Special Exception, since the use must be compatible with the character of the vicinity. He said this neighborhood is a single-family residential neighborhood and does not contain group-homes, cooperatives or any student housing types for more than 4 occupants.

Gwen Nystuen, 1016 Olivia, Ann Arbor, said since the previous meeting she has spent time searching the web and reading the application. She saw that they had including a list of other Jesuit residence examples in other communities in other states. She said she felt the Planning Commission should be considering this as a church-parsonage use which would be allowed in the R1 zoning district. She said even though they would need a Special Exception Use for a church-parsonage it would fit the definition.

Lisa Jevens, said she supported the Jesuits, but doesn't support them bending the zoning laws so they can buy this home. She said she was concerned that the Planning Commission was getting distracted by a

large PR campaign rather than focusing on the laws, the zoning and the definitions. She said it was dangerous and biased to decide zoning based organization's merits or individuals' no matter how wonderful they may be. She urged the Commission to only focus on the zoning ordinance and how the definition fits a functional family, adding that was the only way a fair and impartial decision could be made. She asked the Commission to take the functional family at face value, other than trying to re-interpret it. She said it clearly states no societies, no organizations. She said part of the reason that their neighborhoods are so desirable is because of the protection they have received through zoning over the years – zoning that was painstakingly put in place by many people. She said there are plenty of other zoned places in Ann Arbor where 6 unrelated people can live, along with churches and parsonage. She asked for respect for the City's ordinances and their neighborhoods, rather than chip away at them. She said every decision does set a precedent and by ignoring the ordinances, the Planning Commission would be encouraging other groups to find ways around the laws, and that is not the kind of protection the neighborhoods expect from the Planning Commission and the zoning.

Andrea Van Houweling, 920 Lincoln Ave., Ann Arbor, North Burns Park, said she would welcome the Jesuits to live next door to her if they were not asking for permission to be a functional family. She said she didn't believe they were and felt that this would be opening a can of worms to many other requests, if it didn't matter how permanent they are, etc. She supported what Gwen Nystuen, 1016 Olivia Ave., said, that they are a parish house or a parsonage and would be welcome anywhere in town and should be approved as that. She said the granting of a functional family would be opening up all single-family residential neighborhoods to abuse.

Michael Clark, 1838 Vinewood, Ann Arbor, said he lives adjacent to the 1919 Wayne and shares a back property line with them. He said the wording of the ordinance is unclear and needs to be made clearer and expanded upon. He said the prudent thing would have been for the Commission to ask if the petitioner meets all the standards and definition and requirements of the ordinance. He said when you look up the word definition of society it is clear that they do not, and if it was unclear they should have gone to the Zoning Board of Appeals for an interpretation. He said if you chose to approve an application for a group that you like, you must also be prepared to approve the next one that files a petition, even though the process is supposed to be a case by case basis. He said an approval would set a precedent that any group of individuals with some kind of bond who say they function as a family could be approved. He said the larger question is; should the ordinance have been reviewed by the Zoning Board of Appeals before the Planning Commission began

this process? He said the ordinance was written over 20 years ago and has never been addressed by this body. He said if this petition is approved they will appeal the decision to the Zoning Board of Appeals.

Cevin Taylor, Magill and Rumsey, P.C. 455 E. Eisenhower Parkway, Suite 355. Ann Arbor, Attorney for the Jesuits, read from the intent statement of the zoning ordinance. He said they are asking the Commission to accommodate the Jesuit centuries old living arrangement, and treat them no differently than other traditional family. He said it is against the law to hold them to a higher standard, and the Michigan Supreme Court and RELUIPA have said so, as unequal treatment is prohibited. He read from a prepared statement, that per the Dinolfo case, the concern for setting a precedent is not a valid argument to deny the applicant who meets the standards. He said their commitment is to each other as well as to the church and the word society is part of their name only.

Susan Friedlander, attorney representing the Clark Family, said there were interpretations at the first meeting to determine if the group fits within the definition of the ordinance and her concern was with equal protection under the law. She said no one should be denied the status of functional family based on their beliefs, regardless, and the question becomes, how do you apply the ordinance evenly to everyone who comes before you, since the ordinance needs some definition. She asked if they were to come in and say, we represent the Students for a Democratic Society, and we want to live in this neighborhood. Would we say society is in your name, so we wouldn't even get to the functional family definition? She said how does one interpret the ordinance for permanence? Do we consider anyone from the same group, society, organization that stays 5 years or 10 years as permanence, even when it is different people?

Peggy Lynch, Ann Arbor, said she is a resident of Lower Burns Park. She said she and the others were present at the meeting because they loved the Jesuits. She said there has been talk about the meaning of the code, adding that the code must be interpreted in a constitutional manner. She said before them they have a case that has been addressed by the Supreme Court of Michigan. She said there are semantics involved with the name society being in their name, but they are not a social society as the rule prohibits. She said they have not heard anything that would lead them to believe they are anything other than a functional family and should be welcomes into Ann Arbor.

Michael W. Brinkman, 718 N. Fourth Avenue, Ann Arbor, said as mere mortals you don't have to be gods to understand the sentiments of those who have spoke in favor of the Jesuits. He said there is an old proverb

where semantics is a problem; the letter of the law kills, the spirit gives life!

Masoud Kamali, 2122 Dorset Road, Ann Arbor, read a quote from the Dinolfo case, "Under the instant ordinance, 20 male cousins could live together, whereas 3 unrelated clerics could not".

Erin Blizzard, Day Street, Ann Arbor, said he does not meet the definition of a functional family. He asked if he will be kicked out.

Moved by Clein, seconded by Adenekan, that the Ann Arbor City Planning Commission, after hearing all interested persons and reviewing all relevant information, finds the petition to meet the standards for a functional family in Section 5:7 (Residential Occupancy), and substantially meet the standards in Chapter 55 (Zoning Ordinance), Section 5:104 (Special Exceptions) , and, therefore, approves the Ann Arbor Jesuit Community petition for six members of the Ann Arbor Jesuit Community to live as a functional family at 1919 Wayne Street, conditioned upon providing off-street parking spaces for each vehicle used by the family. This approval is based on the following findings and conclusions:

1. The group of people proposed to reside at 1919 Wayne meet the definition of a functional family, specifically:

a. The members of the Ann Arbor Jesuit Community who propose to reside at 1919 Wayne Street have a relationship that is functionally equivalent to a family in that their relationship is permanent and distinct character with a demonstrable and recognizable bond characteristic of a cohesive unit. They have taken lifelong religious vows and intend to reside at this address indefinitely. They will assume roles such as head of the household, pool financial resources, assign responsibilities such as cleaning, shopping and yard work, and have adopted other features of a cohesive family unit such as caring for sick members and making medical decisions for each other, as necessary.

b. The Ann Arbor Jesuit Community is not a social society, club, fraternity, sorority, association, lodge, organization or group of students or other individuals in a temporary housekeeping unit in which the common living arrangement or basis for the establishment of the housekeeping unit is temporary.

2. A functional family with an approved special exception use is considered a single family residential use, and thus is consistent with the objectives of the City Master Plan, and with the existing and planned character of the neighborhood. The household size is

within the normal size range of households found in this zoning district, and will not have a detrimental effect on neighboring property or the natural environment.

3. No changes are proposed for the current site, which conforms to the R1C zoning district. Adequate off-street parking for the household will be provided, and the use of the site will not be hazardous or inconvenient to the neighborhood.

4. The approval will apply only to a functional family made up of no more than 6 individuals of the Ann Arbor Jesuit Community.

5. The Ann Arbor Jesuit Community has identified a contact person who will act as head of household in relating to the city.

COMMISSION DISCUSSION:

Clein asked for clarification of wording in the proposed motion and offered a friendly amendment to add the words "of a" to 1.a. to read: ...is "of a" permanent and distinct character. Accepted by Adenekan.

Briere pointed out in section 1 b. that the following words had been added that were not in the ordinance; "social" society and "temporary housekeeping unit".

DiLeo said these were staff's wording to explain their findings of what the petitioner was not.

Briere said there was some confusion over the last two weeks, because it appeared that staff was rewriting the ordinance for this purpose, using language that so closely echoed the ordinance, when instead it was staff's words in the proposed motion. She said she understands the intent and hopes that in the future when they mimic the ordinance so closely, that they write the actual ordinance language, which would eliminate the confusion.

Bona asked if this neighborhood has a Residential Parking Permit (RPP) program.

DiLeo said yes.

Bona asked how it works.

DiLeo said the effect of the RPP is that residents can purchase parking stickers, and the streets are posted to limit on-street parking to a certain number of hours [2 hours] unless you have a sticker. Stickers can only

be purchased by residents and they are limited as to how many each household can purchase.

Bona noted that parking issues come up in other neighborhoods. She said if residents are having a hard time finding parking, it could be that the City is giving away too many permits. She said she did not think that this particular petition should be judged on those standards.

Bona asked about the role of the Zoning Board versus the Planning Commission. She said she also wanted to bring up the mentioned concept of stopping this petition and having the ordinance re-evaluated after the petition was submitted.

DiLeo said the Zoning Board of Appeals is a quasi-judicial body with two roles; grant variances in cases of hardship and interpret the zoning ordinance/map. She said they are not an approval body like the Planning Commission.

Rampson clarified that they do not interpret the code when one does not understand what something means. She said they hear appeals when permits are turned down [denied] and if someone finds an issue on how staff interprets the code, then the aggrieved party can take that to the Zoning Board of Appeals and have them review the appeal.

Bona said she wanted to clarify that the Zoning Board of Appeals is not their interpreting body - they are an appeals board, not an advising board.

Bona asked staff to explain the process for changing the ordinance.

DiLeo said the Commission could table or deny the request before them and petitioners could file for a text amendment or the City could begin the process for a text amendment.

Bona asked if the opposition could file a request.

Rampson said, yes, amendments to the zoning ordinance could be initiated by the group of people, by City Council or the Planning Commission.

Bona asked if changes could take place with a request before them.

Rampson said, yes, but the process is lengthy; 3 to 6 months given the public engagement process involved in text amendments.

Bona asked about the concept of precedent that had been brought up.

She said the provided report was helpful in clarifying that this Special Exception Use does not go with the property but with this particular group. She asked staff if each future request would be considered one on one or if the next application they receive for a Functional Family Special Exception Use would have to follow this outcome.

DiLeo said in her opinion, if this application is approved, it sets a very high bar for the next group, given that this functional family has taken lifelong vows, make medical decisions for each other, pools their financial resources and owns things in common or shared with the larger group. She said the next functional family would have to prove at least as equal permanence or equally as specific.

Rampson noted that every application is unique.

Bona said that the Commission has been asked to look at other examples to help make a case, but she doesn't recall using previous special exceptions as a basis for their decisions.

Woods asked about the issue brought by a public speaker, of Special Exception Use and parsonage. She asked if that would have been a more appropriate request and if that was part of the discussion with the petitioner, or if the applicant came with the functional family request.

DiLeo said the original petition was for a functional family, and that the code is silent on the definition of parsonages. She said churches are regulated as places of assembly, and the petitioner is not seeking to have a place of assembly.

Westphal asked why the petitioner couldn't be in another zone that allowed their request, by-right.

DiLeo said staff has reviewed the petition based on the zoning they requested, and not other zoning classifications.

Westphal asked what would happen if the parent organization changes and how the situation would be monitored.

DiLeo said if residents are assigned to the Ann Arbor Jesuit Community they would still be part of this Jesuit functional family. She said non-Jesuit residents would not be in keeping with this Special Exception Use, if it is granted, and staff would have to take appropriate enforcement measures which are always done on a case by case basis.

Westphal said that the majority of the residents in this house are proposed to be staff with one doctoral student.

DiLeo said that is what they have been informed by the petitioner.

Westphal asked if the housing unit were to be turned into something else, where students are housed, would that violate the terms before them.

DiLeo said as long as those students would be Jesuits they would still be members of the Jesuit community, and would meet the requirements as it is proposed.

Westphal asked, do we ever restrict use based on whether someone is a student or not.

DiLeo said no.

Adenekan asked the petitioner about parking for when relatives and guests visit; would parking be on the street and what would the duration be.

Reim said that he tries to follow the rule of fish and guests – 3 day duration. He said they don't have long term relatives as guests and he believes they would park on the street unless specifically asked not to.

Bona asked about the relationship to each other, and who are the Jesuits and could she become one.

Reim said the Society of Jesus Jesuits is a religious order within the Catholic Church. He said there are Diocese priests who usually live with one other priest. He said within the church there are also many religious orders and religious order priests take vows, like the other priests, as well as taking a vow of poverty. He said priesthood is currently only available to males.

Bona asked about the difference between the lifelong religious vows they take to the Jesuit order versus to their functional family.

Reim said he is an ordained Catholic priest which carries vows, then he has vows to the religious order, which decides where he will live. He said their allegiance by virtue to the constitution defines how they relate to one another within the community. He said they don't take a vow to each other.

Bona said for those who weren't at the previous meeting, she would like to hear more on their commitment to each other, not just to sharing but how they handle conflict.

Reim said the relationship between each other in a functional family should result in a "cohesive unit". He said by the nature of their religious life, their commitment to serve God, to serve the church, to serve the broader community involves living a life in such a way that they are in this together and are committed to do this mission together.

Bona said she may consider adding something to the language that would help specify it.

Westphal asked about their vows and if they preclude you from establishing a traditional family as in the code.

Reim said no, they would not be having a family; women or children would not be living in their home.

Woods asked if the request was passed, could they get residential parking permits.

DiLeo said they will be able to have up to five permits as every other household in the Oxbridge neighborhood can have.

Briere asked City Attorney Kevin McDonald to come forward.

Briere said she wanted to bring up the issue of permanence or temporary with the City Attorney, referencing public comments regarding society. She read a rephrasing of the ordinance that she had written down.

Kevin McDonald said one cannot read the ordinance and take parts of it without taking it all. He said the list of exceptions that starts with "Society..." cannot be read without the "...or other individuals where the common living arrangement or the basis of the establishment of the housekeeping unit is temporary". He said it is the City Planning Commission's function to determine whether or not this particular petition meets the definition. He said his office did background work on the staff report, and contacted communities across Michigan and the United States, where one can see this general language repeated. He said if it's not a biological family, the definition is what is a family, and one often sees the terminology "distinct character and demonstrable and recognizable bond" to explain what a family is.

Briere asked about permanence, noting that she read the ordinance language to mean that the relationship is permanent and not the housing unit.

McDonald said that would be a reasonable interpretation, and another interpretation from a section of our ordinance indicates that when the City approves a Special Exception Use permit in this context, meaning for a functional family, the City is approving the "type of functional family", and there is nothing that suggests that it is the family itself. He said a traditional family has a relationship that is permanent, even when members come and go.

Briere asked about RELUIPA and how this particular usage might be affected.

McDonald said RELUIPA stands for The Religious Land Use and Institutionalized Persons Act and applied to municipal and government land use and institutionalized persons. He said it is a federal law that indicates that municipalities cannot impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden of that person, assembly, or institution is in furtherance of a compelling government interest and the least restrictive means of furthering that compelling interest. He said RELUIPA applies when there is an individualized assessment of a proposed land use and some will argue that a special exception use can be an individualized assessment.

Briere asked McDonald to walk the Commission through the Dinolfo case.

McDonald said it was a 1984 case in Delta Township, that resulted in functional family ordinances being adopted across the State. He said Ann Arbor adopted its ordinance in 1991, and noted there was lots of discussion in the file about this particular case. He said the court found that it is okay to limit the number of people occupying a house and called into question whether a city could just use a biological family definition. He said the court found that cities were making too narrow of a definition, and they need to have a definition of a functional family. He said some definitions specifically mention religious orders.

Woods confirmed that the Functional Family ordinance was adopted in 1991. She asked how many Special Exception Use Functional Family applications have come before the Planning Commission since then.

McDonald said none, noting that other communities across Michigan did not have seem to have experience with this request either. He clarified that the City Attorney's Office has not come to a conclusion about this petition.

Bona said the proposed motion references "lifelong religious vows" and nothing else. She asked if the Attorney's office had issues with her making additions.

McDonald said the Commission can make changes to the proposed motion before them.

Bona said she was not inclined to repeat the ordinance language because she didn't feel that would provide clarity.

DiLeo clarified what staff had intended with the last sentence.

Bona said she was looking for language that would define how the relationship functions.

Parekh said he didn't think it matters if they have taken "lifelong religious vows".

McDonald said part of the findings are the essence of things that made this a functional family.

Westphal asked if the motion becomes part of a Special Exception Use permit for this address.

McDonald said this motion incorporates the Special Exception Use approval on behalf of the City Planning Commission.

Westphal asked if the nature of the house changes so that they don't intend to reside there indefinitely, would it change.

McDonald read, "intend to reside at this address indefinitely".

Westphal asked if future requests were to use the "intend to reside..." language and if the nature of the order were such that it became clear that it was not the intent, would that meet the criteria laid out in the permit.

McDonald said it is all based on the factual evidence presented to the Planning Commission and whether the Commission sees it as temporary or permanent. He referenced it as factual precedence, adding that every request will be scrutinized in the same way by staff and the Planning Commission to make sure it meets code.

Westphal asked staff to review the mechanism for making sure a Special Exception Use functional family is complied with.

DiLeo said that if staff were notified that seven people would be living there, the City would have to address it, or if they hear that there are four Jesuits and two Mormons [or non-Jesuits] living there, they would have to investigate and address the issue. She said these would all fall under the category of violations. She noted that if they decided that they wanted to move to another location, they could do that within a 24 month period.

Westphal asked if the City could hold them to the standard of living there indefinitely, since the City doesn't do that with biological families.

DiLeo noted that language references the permanency of their bond.

Westphal asked if over time more of the residents become students and not life-long residents, and if that would form the basis for a complaint.

DiLeo said as long as they would still be Jesuits with sworn vows, pooling resources, and making medical decisions for each and functioning as a family in their household roles, she didn't think so.

Westphal said he didn't want it to be confusing that if part of this is not met, it wouldn't necessarily mean that it was a violation of the permit.

Dileo said that she would not call it a violation of their family approval if they would decide to move after 5 years.

Briere said if the request were granted, and in eight years the Jesuits feel they need a larger home, they would reapply for Special Exception Use and let go of the Special Exception Use on 1919 Wayne.

DiLeo said she believed so.

Briere asked even if another group of Jesuits moved into 1919 Wayne.

DiLeo said they would need more approvals.

Woods said she didn't feel they need to get caught up in the various allegiances people might have in the wider church community. She had concerns about re-writing the proposed motion of approval before the Commission, since she said it was a compilation of finds of fact, based on conversations and research from staff. She expressed concern with the Commission getting into the weeds instead of staying on the issue before them. She said she was glad that so many citizens had come out to express their comments and concerns on various issues.

Clein said he still feels it is appropriate to support this request. He said if

the Commission finds that they meet the standards of a functional family, which in his opinion it did, then they have to be careful of holding them to a standard that they don't hold other families to, which would start to sound like a discrimination, which is not where they want to go. He said they could consult with the City Attorney about where to draw the line. He agreed with McDonald that one must read the entire section regarding societies, etc. to get the meaning of permanency of the housekeeping unit, and felt that it met the ordinance. He said he was not concerned with this being precedent setting since it is the first case in 23 years and each case is a unique individual case called a Special Exception. He said the petitioner has offered to go above and beyond on the parking and felt it was appropriate to include those details. He felt the requested use would not be detrimental to the neighborhood, as their current resident history has shown.

Adenekan agreed with Woods and Clein adding she appreciated all the feedback from the community. She said this can be a win win situation, noting that she felt it was better to respond than to react. She mentioned some of the comments and concerns brought to them and asked if they are trying to hold them to a higher standard. She read the R1C district requirements, which included "functional family living as a single housekeeping unit" with a Special Exception Use permit. She said when she moved to Ann Arbor from New York, 11 years ago, she believed then and now that it is a community based on inclusion and acceptance. She said the Oxbridge Neighborhood is a very family friendly community and she was confident that this family friendly neighborhood and the Jesuits can come together and live peacefully.

Giannola said this is not about religion, but about whether this petitioner qualifies as a functional family. She said the problem she has with the request is that it is entire religious order where people can be moved in or out, against their will, is not a functional family. She said if the applicant were 6-7 individual priests that came in asking for it, she would say they qualify. She said she believes it goes against the spirit or purpose of why the functional family was developed. She said her research showed that the functional family was created because a lot of non mainstream families were being excluded from single-family neighborhoods. She said she can't support the request as she believes it is too broad in that it includes the entire religious order. She said the request was more for a boarding house for the church or a parsonage and not for what was meant and put into the law, as she understood it. She said she could support the request with the individuals that were present, but since they were not the ones named as the applicant, it is the entire religion.

Bona said she respectfully disagreed. She said it was the Ann Arbor Jesuit Community.

Bona offered the following amendment:

1A. "They have taken lifelong religious vows to the Jesuit order and intend to reside at this address indefinitely."

"The commitment of the Ann Arbor Jesuit Community to each other assumes roles such as head of household..."

Seconded by Briere

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

Briere asked for friendly amendment to 1.B. – to remove the word "social".

Clein considered the friendly amendment, Adenekan agreed.

Briere said because she read the coverage about the last meeting she dug into the issue in order to understand the ramifications. She said she understands that neighbors have concern for the possibility of group housing where they don't have a relationship with each other. She said because they are talking about the functional family Special Exception Use, which has never been used before and realizing the concerns of neighbors for increasing the density in single-family neighborhoods, she did not find that to be the case and issue, but she understood the concern. She appreciated the concerns, adding that no family has guarantee of the future. She said the future is not her concern but rather today's intent, and this house is large enough to handle their traffic, accommodate their needs, while living in a mutually supportive fashion. She said the mutually supportive was the most important to her and if they weren't religiously affiliated, she would still support them.

Giannola said that the word "social" was needed to define the group, and removing it would cause confusion.

Westphal said he was in favor of postponing the item at the last meeting because of concerns of the community. He said the Commission looks at requests from the City's codes and master plan and they want to look at this objectively, with regards to what may be possible in the future on this Special Exception Use. He said they want to be fair in their application. He said staff was very thorough in applying the standards and the Michigan Supreme Court case was based on a similar situation as this one before them. He said the community might be an accepting community but the Commission has been given laws in front of them which they must work with. He said this request doesn't just have to meet with the definition of functional family but it has to meet all the standards of the Special Exception Use. He said the one brought up

most often seemed to be the intensity and character. He said they try to make the law comply with the Master plan, adding that the Master plan has a lot of narrative and can be interpreted in different ways. He said our code cannot and has case law around it. He said he feels comfortable with this request and that it is a first time in Ann Arbor's history and that it might be opening the door for surprises in the future, which is not the concern of this petitioner. He said he was comforted that staff had difficulty finding other cases throughout the State. He said he agrees that the request meets the functional family and Special Exception Use standards. He said should the nature of this residency change, should this request pass, the neighbors would have basis for calling attention to temporary living arrangements, such as 6 PHD students, and filing a complaint with the City and the City would investigate. He said his concerns about precedents have been put aside as he was comfortable with the request. He said it is clear that every city in Michigan and probably across the States has to allow for varying definitions for functional family.

Adenekan asked for clarification of the motion.

Rampson read the amended motion as follows;

That the Ann Arbor City Planning Commission, after hearing all interested persons and reviewing all relevant information, finds the petition to meet the standards for a functional family in Section 5:7 (Residential Occupancy), and substantially meet the standards in Chapter 55 (Zoning Ordinance), Section 5:104 (Special Exceptions) , and, therefore, approves the Ann Arbor Jesuit Community petition for six members of the Ann Arbor Jesuit Community to live as a functional family at 1919 Wayne Street, conditioned upon providing off-street parking spaces for each vehicle used by the family. This approval is based on the following findings and conclusions:

1. The group of people proposed to reside at 1919 Wayne meet the definition of a functional family, specifically:

a. The members of the Ann Arbor Jesuit Community who propose to reside at 1919 Wayne Street have a relationship that is functionally equivalent to a family in that their relationship is of a permanent and distinct character with a demonstrable and recognizable bond characteristic of a cohesive unit. They have taken lifelong religious vows to the Jesuit order and intend to reside at this address indefinitely. The commitment of the Ann Arbor Jesuit community to each other assumes roles such as head of the household, pool financial resources, assign responsibilities such as cleaning, shopping and yard work, and have adopted other features of a cohesive family unit such as caring for sick members

and making medical decisions for each other, as necessary.

b. The Ann Arbor Jesuit Community is not a society, club, fraternity, sorority, association, lodge, organization or group of students or other individuals in a temporary housekeeping unit in which the common living arrangement or basis for the establishment of the housekeeping unit is temporary.

2. A functional family with an approved special exception use is considered a single family residential use, and thus is consistent with the objectives of the City Master Plan, and with the existing and planned character of the neighborhood. The household size is within the normal size range of households found in this zoning district, and will not have a detrimental effect on neighboring property or the natural environment.

3. No changes are proposed for the current site, which conforms to the R1C zoning district. Adequate off-street parking for the household will be provided, and the use of the site will not be hazardous or inconvenient to the neighborhood.

4. The approval will apply only to a functional family made up of no more than 6 individuals of the Ann Arbor Jesuit Community.

5. The Ann Arbor Jesuit Community has identified a contact person who will act as head of household in relating to the city.

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

Yeas: 7 - Bonnie Bona, Wendy Woods, Kirk Westphal, Eleanore Adenekan, Kenneth Clein, Sabra Briere, and Paras Parekh

Nays: 1 - Diane Giannola

Absent: 1 - Jeremy Peters

Commission Break.

ROLL CALL

Clein Departed.

Present 7 - Bona, Woods, Westphal, Giannola, Adenekan, Briere, and Parekh

Absent 2 - Clein, and Peters

03:34:514-0966
09-

Ann Arbor Housing Commission-North Maple Rezoning and Site Plan - A proposal to rezone this 4.82 acre site located at 701 North Maple Road from R1C (Single-Family Dwelling District) to R4B (Multiple-Family Dwelling District) to redevelop the site for 42 apartments in 8 two-story buildings, for a total of 56,807 square feet of floor area. A one-story community center building will be located on the west side of the site. The site will contain 73 parking spaces, accessed from the existing curb cut on North Maple Road and a new curb cut on Dexter Avenue. Twenty existing single-family dwellings on the site will be demolished. (Ward 5) Staff Recommendation: Approval

DiLeo presented the staff report.

PUBLIC HEARING:

Susan Push, 620 Allison Drive, Ann Arbor, said she lives directly behind the project next to the current basketball courts. She said the courts are highly used, but did not see them included in the new plan. She wanted to know if it was possible to include basketball courts since they are so valuable to the residents.

Jocelyn Gerich, 580 Allison Drive, Ann Arbor, asked if Seybold Drive which is part of Township would have to become the City in order for the vacation to take place.

John Mouat, Mitchell and Moat Architects, Ann Arbor, Architect for the project, said he wanted to give an update of some of the concerns raised at the last meeting, which were density and the setbacks on the west side. He said the density allowable on the site could be 72 units, but they are only proposing 42 units, so they are trying to find a nice balance point for the site. He said regarding the current setbacks on the west side, the buildings are between 14 to 22 feet from the lot line and in the proposed plans the building setbacks would vary from 37 to 57 feet. He said given the grade changes on site it is a challenge to find a large enough flat space for a basketball court.

Gwenyth Hayes, 727 Miller, Ann Arbor, resident and Ann Arbor Housing Commissioner, and resident of Ann Arbor Public Housing said that she felt that one of the main voices; that of the residents of public housing in Ann Arbor, was missing. She said this renovation is important so they have a quality place to live. She said the public housing in Ann Arbor is some of the best and they want to keep it this way. She said the comment about a fence around the site, felt like they were being painted with a broad brush, and without assistance from Ann Arbor Housing Commission's help and safe housing she wouldn't be able to make it from homeless teen to a masters degree in social work. She said the City needs cultural diversity and social and economic diversity, and the

City needs more affordable housing. She said, as a Housing Commissioner she hears a lot from families in the community about the need for affordable housing. She said as a resident, she can say not all residents are criminals and they don't like crime either, and are more likely to be the victims of crime than residents of the surrounding neighborhood.

Caleb Poyer, 1327 White Street, Ann Arbor, member of the MISSION nonprofit, said he was impressed with the scrutiny of the last item. He said here in Ann Arbor, people need a home. He said he is excited that the City is creating more housing, as it is a part of the big city picture, and in looking back over the last 10 years, there wasn't the money there to make affordable housing possible, so he encouraged the Commission to support this project. He said folks that live nearby are often scared of people they don't know yet, but that usually goes away after they know their names and meet their children.

Jennifer Hall, Ann Arbor Housing Commission Executive Director, said they are trying to be a good neighbor all across the city and one of the ways they can be a good neighbor is to maintain their properties. She addressed the question about the basketball court, noting that currently it is on the highest part of the site, where the buildings need to be built, and the remainder of the site is hilly. She said they had a lot of discussion with Peace Neighborhood, which provides programming for their residents and they will be offering other recreational opportunities. She said they decided that the housing need was more critical.

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

Moved by Giannola, seconded by Bona, that The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council rezone the 4.8-acre Ann Arbor Housing Commission North Maple Road site from R1C (Single-Family Dwelling District) to R4B (Multiple Family Dwelling District) and

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Ann Arbor Housing Commission North Maple Road Site Plan and Development Agreement, subject to approval of the requested Seybold Drive street vacation.

COMMISSION DISCUSSION:

Bona asked about the refreshing of the street markings and if there were any plans to do that.

DiLeo said the petitioner is not expected to do so, and when the project

has been completed, the City crew will need to refresh the markings.

Bona encouraged staff to flag this issue.

Bona asked Hall about the increased density allowed. She asked about the different mix of bedrooms.

Hall said HUD requires replacement of units [same number of bedrooms], so they will then be adding additional units.

DiLeo said there are currently 90 bedrooms and they are proposing to increase to 138.

Bona said she was concerned to opening the door to future development on the site, should the City sell the parcel. She said she was very supportive of additional affordable housing in the City.

Hall said HUD has a permanent restriction on the parcel that it always has to be affordable housing and the City has no authority to sell the parcel without HUD's approval.

Mouat said that with the odd shape of the site and topography, it would be challenging to get to the 72 unit limit.

Parekh asked if residents are being displaced, and if priority will be given to the current residents for the new units.

Hall said on federally funded projects they are required to find alternative housing for their residents, and since they run a Section 8 program, they will be offering residents a Section 8 voucher that they will be able to take and use in the private sector. She said if they are not able to find a place, there are other Ann Arbor Housing Commission units available and current residents all get first choice to come back to the renovated property.

Parekh asked about the timeframe.

Hall said they will find out by January 2015 on the project financing and could start construction next year.

Westphal asked about the nearest park.

Hall said she believed it is Veteran's Park, but there could be other ones nearby. She said the Peace Neighborhood Center picks children up from the site and buses them to their center and recreational sites around the city.

Westphal asked about bicycle parking.

Hall said they discussed the issue with Planning staff but decided not to put a high emphasis on bike racks since the tenants won't use them. Only the minimum required by code are proposed.

Giannola asked about the street vacation as mentioned by the public speaker.

DiLeo showed the Township boundary on the map, noting that the right-of-way would go to the City and was not Township.

Westphal asked about the fence on the west side of the site.

Hall said they do not have a fence around the site and the existing fences are individual residential fences of the Allison Drive properties. She said it is not feasible to have a fence given HUD's rules and the slope on the site. She said she would like to plant rose bushes or raspberries to provide a barrier.

Westphal asked if any of the privately owned fences will be disturbed by the construction.

Hall said she hoped not.

Mouat said they are not sure if any of the fences are on Ann Arbor Housing Commission property, adding that they will be grading in that area.

Adenekan asked about electrical outages.

DiLeo said she lives in the neighborhood and it does seem that they lose power more often but she believes it could be because of the large trees in the neighborhood often knock down power lines in storms and not because the electrical supply is inadequate.

On a voice vote, the vote was as follows with the Chair declaring the motion carried.

Approved 7-0.

Yeas: 7 - Bonnie Bona, Wendy Woods, Kirk Westphal, Diane Giannola, Eleanore Adenekan, Sabra Briere, and Paras Parekh

Nays: 0

Absent: 2 - Kenneth Clein, and Jeremy Peters

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.)

14-0967 Seybold Drive Street Vacation - A request to vacate all that part of Seybold Drive extending northerly 325' from the centerline of Dexter-Ann Arbor Road, together with the southerly portion of Vine Court (formerly known as Seybold Drive) beginning at a point 260 LF south of the centerline of Hollywood Drive extending 120 LF to the south. (Ward 5) Staff Recommendation: Approval

Moved by Giannola, seconded by Bona, that The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the partial Seybold Drive street vacation. On a voice vote, the vote was as follows with the Chair declaring the motion carried.

Approved 7-0.

Yeas: 7 - Bonnie Bona, Wendy Woods, Kirk Westphal, Diane Giannola, Eleanore Adenekan, Sabra Briere, and Paras Parekh

Nays: 0

Absent: 2 - Kenneth Clein, and Jeremy Peters

ROLLCALL

Adenekan departed.

Present 6 - Bona, Woods, Westphal, Giannola, Briere, and Parekh

Absent 3 - Adenekan, Clein, and Peters

Moved by Briere, seconded by Giannola, to continue the meeting past 11 p.m. On a voice vote, the Chair declared the motion carried.

10-b [14-0968](#)

State Street Village Rezoning and Site Plan - A proposal to combine the parcels at 2221 and 2223 South State Street and rezone the east portion of the site from M1 (Limited Industrial) to O (Office District) to match the western portion of the site. The petitioner proposes to construct a management office with two apartments adjacent to South State Street and two apartment buildings containing a total of 78 units at the rear of the site. Two existing warehouse buildings on this 5.26 acres site will be demolished. (Ward 4) Staff Recommendation: Approval
DiLeo presented the staff report.

PUBLIC HEARING:

Eric Toumey, owner's representative for McKinley Inc, 320 North Main Street, Ann Arbor, was available to respond to the Commission's enquiries.

Noting no further public speakers, the Chair closed the public hearing.

Moved by Giannola, seconded by Briere, that The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the State Street Village Rezoning from M1 (Light Industrial District) to O (Office District) and Site Plan and Development Agreement, subject to combining the lots prior to issuance of building permits.

COMMISSION DISCUSSION:

Parekh asked if they were proposing to build apartments.

Tuomey said they were proposing 2 residential apartment buildings and one leasing office building.

Parekh asked if this was the most appropriate zoning for the site.

Rampson said yes, that Office zoning provides the greatest flexible use, which allows for residential. She referenced the State Street Corridor Plan.

Bona asked about the State Street Corridor Plan and the idea of making this corridor more vital through pedestrian and transit friendly additions. She said the site plan looked fairly conventional and she asked what makes their site plan consistent with the State Street Corridor Plan.

Tuomey said their traffic study showed the project would have a minimal impact on State Street traffic. He said they are providing 44 additional bike parking spaces. He pointed out bike parking on the plans and added that they are looking into the possibility of providing indoor bike parking. He said there is an AATA transit stop nearby on State Street, noting that they will be conveniently located for different modes of transportation.

Bona asked where residents would cross to get to the other side of the street.

DiLeo said South Oakbrook is the nearest signalized intersection.

Bona said this project can help make this work, for their tenants as well as the neighborhood. Bona asked about the units, and if they are providing any affordable housing units, noting that they look low-income.

Tuomey said they are not low income.

Bona said if they need to make them affordable she understood why such cheap-looking design was proposed, adding that she is a big supporter of affordable housing.

Tuomey said it will depend on their financing and if they go Low Income affordable, they would be targeted for 60% AMI. He said they are targeted at mid income, for people working at the 777 Eisenhower Building, or the athletic department, or Briarwood Mall.

Bona asked if they thought about enhancing the building by adding personal outdoor spaces like balconies.

Tuomey said ADA requires sliding windows on first floors and they wanted to keep the upper floors consistent with the first floor. He said he has looked at other complexes in the area, and this is superior.

Bona said the buildings have no residential scale or character to them and could be office buildings, and given the opportunity to do something new and aggressive on South State Street she felt they would be blowing their opportunity by building something that's mediocre at best. She felt the project had much greater potential for this location.

Tuomey said that from an elevation perspective, one will only be able to see roof tops from the street. He said they will be using superior materials on the Leasing Office.

Bona said there is great potential for the site and she felt the bar needed to be set higher.

Giannola said there is limited bus service on South State Street and asked if they are working on additional service.

Tuomey said they are interested in providing the most optimal service to their residents.

Giannola said they should work with AAATA.

Parekh asked if there was any consideration of small business use for the buildings.

Tuomey said they own the office building to the south, and given the location of the proposed buildings they would not lend themselves to commercial use on the ground floor.

Parekh asked if the second building could include commercial use.

Tuomey said the first floor is the leasing office.

Woods asked about the Citizen Participation Ordinance meeting and a comment that they would not be marketing the units to University of Michigan students.

Tuomey said they have very high leasing standards that have to be met, and they would not be opposed to it, but for a long-term interior perspective, they would prefer to have families.

Woods asked about standards.

Tuomey said they do a criminal background checks, and require a co-signer and have pet restrictions.

Woods asked about noise from the railroad and if Tuomey had the results of the noise study they conducted.

Tuomey said that the decibel level is just below MSHDA standards, but they meet the LIHTC standard.

Woods said this would be helpful to have at Council meeting.

Woods said she shares the concern about the lackluster proposed elevations, noting that they look fine, but she too was looking for a wow factor.

Briere said it is difficult to find a balance between meeting code parking requirements and what is on site for tenants, noting that a large impervious surface is shown on the plans.

Tuomey said they have three bioswales that are not indicated on the plan.

Briere wonders if they can remove some of the hard surface.

Tuomey said the proposed unit type will require 1.5 parking spaces per unit.

Briere asked why they had decided not to put parking below.

Rob Wagner said it would be too costly for McKinley.

Tuomey said the soil borings would need to go deeper, which would increase cost.

David Esau said they would have to have an extra floor of structure for parking, and the building code limits them to four stories for stick-built wood-framing construction. He said the parking area in needed to support the units, and they will be taking stormwater from the office complex through their stormwater management system.

Bona said the Commission was talking about items beyond code. She re-emphasize additional parking concerns and that it would be heading in the wrong direction to provide more than the minimum code requirement. She said the more parking you provide, the more cars you will get. She said transit will only be getting better and suggested that they provide 86 parking spaces and 10 of those should be for Zipcars. She said the Commission is putting their aspirations on them.

Briere said the push back from the Commission is because they are exceeding the code by the number of parking spaces, but not in ways they want to see it.

Westphal agreed, adding that in terms of making units affordable, they are not making use of the maximum density. He said it meets code and was a step in right direction towards meeting the South State Street Corridor Plan for now.

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

Approved 6-0.

Yeas: 6 - Bonnie Bona, Wendy Woods, Kirk Westphal, Diane Giannola, Sabra Briere, and Paras Parekh

Nays: 0

Absent: 3 - Eleanore Adenekan, Kenneth Clein, and Jeremy Peters

A motion was made by Giannola, seconded by Councilmember Briere, to continue the meeting and take up Item 10-c. On a voice vote, the Chair declared the motion carried.

10-c [14-0969](#)

2625 Jackson Drive-Thru Site Plan and Special Exception Use - A proposal to demolish the existing gas station and remove the gas pumps on this 0.55 acre site and construct a single story retail center totaling 5,000 square feet with a drive thru facility. (Ward 5) Staff Recommendation: Approval

Alexis DiLeo gave a summarized staff report.

PUBLIC HEARING:

Noting no speakers, the Chair declared the public hearing closed.

Moved by Parekh, seconded by Giannola, that the Ann Arbor City Planning Commission, after hearing all interested persons and reviewing all relevant information, finds the petition to substantially meet the standards in Chapter 55 (Zoning Ordinance), Sections 5:10.23(3)(b) and 5:104 (Special Exceptions), subject to approval of the corresponding site plan; and, therefore, approves the 2625 Jackson Ave. Special Exception Use for a one-lane drive-thru restaurant facility.

COMMISSION DISCUSSION:

Parekh asked about the traffic study and the proposed impact.

DiLeo stated that staff agreed with the impact study that, even with the estimated volume, it would not cause a negative affect; rather, the proposed site improvements would assist with the impact given the new Westgate Shopping Center access, which currently does not exist.

Parekh asked if the tenants of the drive-thru had been established.

Jim Chaconas, JDP Management Company, 2440 West Stadium Blvd, Ann Arbor, representing the Westgate Shopping Center, said, not yet, but that they currently have 4 proposals; AT&T, 2 coffee shops, and a smaller fast-food restaurant concept (not a McDonalds).

Briere asked how many of these uses would actually be in the new location.

Chaconas said only 2.

Westphal asked if there were any concerns with the storage tank disposal.

DiLeo said the City's Systems Planning Department did not have an issue with the matter.

Bona asked about the service delivery entrance.

Chaconas said there would be 2 tenants back-to-back and that deliveries would be made through the Westgate Shopping Center.

Bona asked about the direction of the drive-thru. and which elevation drawing would be considered the rear of the building.

Chaconas said that they would have a building with 4 fronts, given its location, and would make it dressed up since they don't want to have an ugly building in Westgate, adding that they try to improve the shopping center each year.

Bona said she appreciated their efforts to make the building look nice, knowing that it isn't always easy when working with a 4-sided frontage. She said having the shopping center parking lot to work with was definitely to their advantage.

Chaconas said the only reason they picked up the addition site, adding it to Westgate was because it was an ill-kept gas station that needed attention.

Bona said she was hopeful the new building will have outside seating, which will be nice.

On a roll call, the vote was as follows with the Chair declaring the special exception use motion carried.

Yeas: 6 - Bonnie Bona, Wendy Woods, Kirk Westphal, Diane Giannola, Sabra Briere, and Paras Parekh

Nays: 0

Absent: 3 - Eleanore Adenekan, Kenneth Clein, and Jeremy Peters

Moved by Briere, seconded by Bona that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City

Council approve the 2625 Jackson Ave. Retail and Drive-Thru Restaurant Site Plan, subject to recording of cross access, parking and trash enclosure easements.

Westphal asked staff if they felt the location of the building enhanced the pedestrian experience along Jackson Avenue or on all four sides.

DiLeo said she felt the building configuration was appropriately sized for the lot and given the close proximity of the building to the existing sidewalk on Jackson, would make it convenient to pedestrians. She also pointed out the bus stop close to the proposed project and the proposed sidewalks and walkways that will improve access for pedestrians.

On a roll call, the vote was as follows with the Chair declaring the site plan motion carried.

Yeas: 6 - Bonnie Bona, Wendy Woods, Kirk Westphal, Diane Giannola, Sabra Briere, and Paras Parekh

Nays: 0

Absent: 3 - Eleanore Adenekan, Kenneth Clein, and Jeremy Peters

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

None.

12 COMMISSION PROPOSED BUSINESS

13 ADJOURNMENT

Adjourned at 12:10 pm.

A motion was made by Woods, seconded by Giannola, that the meeting be adjourned. On a voice vote, the Chair declared the motion carried.

Kirk Westphal,
Chairperson of the City Planning Commission

Mia Gale
Recording Secretary

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