

MINUTES

ANN ARBOR CITY PLANNING COMMISSION

BUSINESS MEETING

7:00 p.m. – October 6, 2009

Time: Chair Bona called the meeting to order at 7:04 p.m.

Place: Council Chamber, Second Floor, 100 North Fifth Avenue, Ann Arbor, Michigan.

ROLL CALL

Members Present: Bona, Briggs, Carlberg, Derezinski, Giannola, Mahler, Pratt, Westphal

Members Absent: Woods

Members Arriving: None

Staff Present: DiLeo, King, Pulcipher, Rampson

INTRODUCTIONS

None.

APPROVAL OF MINUTES

a. Minutes of September 15, 2009.

Moved by Westphal, seconded by Carlberg, to approve the minutes as presented.

A vote on the motion showed:

YEAS: Bona, Briggs, Carlberg, Derezinski, Giannola, Mahler, Pratt, Westphal
NAYS: None
ABSENT: Woods

Motion carried.

APPROVAL OF AGENDA

Moved by Pratt, seconded by Giannola, to approve the agenda.

A vote on the motion showed:

YEAS: Bona, Briggs, Carlberg, Derezinski, Giannola, Mahler, Pratt, Westphal
NAYS: None
ABSENT: Woods

Motion carried.

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

Derezinski reported on the actions of the October 5 City Council meeting.

Pulcipher reported that the last public meeting for the Area, Height and Placement project would be held at Cobblestone Farm on Wednesday, October 7, 2009.

AUDIENCE PARTICIPATION

Jim Mogensen, 3780 Greenbrier Boulevard, spoke about transportation issues caused by the park and ride site plan approved by the Commission. He said there was going to be a shuttle that would run from the south neighborhood to Kroger for the park and ride bus. He believed that the City's transportation plan tracks the University of Michigan strategic transportation plan. He said it will be very difficult to balance between commuter and people in the urban area when trying to provide public transportation.

Ethel Potts, 1014 Elder Boulevard, spoke about agenda item 10, resolution regarding A2D2 Downtown Design Guidelines. She said to adopt this resolution would be a last minute betrayal of all the work that has been done in the past. She said the resolution goes against the Calthorpe workshops, reports, and the consultants who wrote the downtown guidelines. She believed that members of the local chapter of the American Institute of Architects would be stunned that their series of lectures have been ignored and design was being downgraded in importance with a required review process omitted. She added that the resolution went against what the Commission and the request for a design review process made at the joint meeting with the Downtown Development Authority and City Council. She believed that there should be a design review process in place now.

PUBLIC HEARINGS SCHEDULED FOR NEXT MEETING

Bona announced the public hearings scheduled for the October 20, 2009 Planning Commission meeting.

REGULAR BUSINESS

- a. Public Hearing and Action on Master Plan: Land Use Element. This document is the result of consolidating the four City Area Plans (South, West, Northeast and Central) into one document. The intent of this consolidation is to create a document that includes all substantive information from each area plan that can be updated more regularly and include goals and objectives that can be applied more broadly. No substantive information has been added during this consolidation process; major changes will be proposed in the second phase of this planning effort, which may be initiated in 2010. This document previously was recommended for approval by the City Planning Commission on May 5, 2009, but is being brought back for reconsideration with a revised resolution and no changes to the document have been made – Staff Recommendation: Approval

Pulcipher explained the proposed consolidation plan.

Ethel Potts said the only new element added was the Northeast Area Plan, which had a new urbanism aspect to land handling that was put into a general section that applies to all the other areas. She said by implication some changes were made but no real changes were made to the plan.

Tom Whitaker, 444 South Fifth Avenue, he said he was on the West Area Plan Steering Committee back in 1993 and 1994. He supported the Central Area Plan, but expressed concern about deletions from the plan. He suggested that staff post a version of the old Central Area Plan identifying all changes.

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

Moved by Pratt, seconded by Mahler, that the Ann Arbor City Planning Commission hereby approves the following resolution:

WHEREAS, The City Planning Commission and City Council are authorized by the Michigan Planning Enabling Act (P.A. 33 of 2008, as amended), to make and adopt a master plan for the City; and

WHEREAS, The City of Ann Arbor Master Plan: Land Use Element will serve as a guide for decisions and recommendations regarding the physical development of the City and for the implementation of related plans, policies and programs; and

WHEREAS, The City of Ann Arbor Master Plan: Land Use Element includes maps, appendices, descriptive and other matter contained therein as required by the Michigan Planning Enabling Act (P.A. 33 of 2008, as amended); and

WHEREAS, The City of Ann Arbor Master Plan: Land Use Element will replace four area plans: South Area Plan (1990), Central Area Plan (1992), West Area Plan (1995), and Northeast Area Plan (2006), into one comprehensive land use plan which will facilitate regular updates; and

WHEREAS, The City Planning Commission held a public hearing on May 5, 2009, to gather input regarding the City of Ann Arbor Master Plan: Land Use Element; and

RESOLVED, The City Planning Commission hereby adopts the City of Ann Arbor Master Plan: Land Use Element, now on file with the City Clerk as an element of the City Master Plan.

RESOLVED, The City Planning Commission recommends that City Council adopt the City of Ann Arbor Master Plan: Land Use Element as an element of the City of Ann Arbor Master Plan.

A vote on the motion showed:

YEAS: Bona, Briggs, Carlberg, Derezinski, Giannola, Mahler, Pratt,
Westphal
NAYS: None
ABSENT: Woods

Motion carried.

- b. Public Hearing and Action on Master Plan Review (whether elements should be studied for possible change or new elements added to the Master Plan) (postponed at 5/5/09 meeting) – Staff Recommendation: Postpone

Pulcifer spoke about the plan and staff's recommendation to postpone.

Bona asked if there was any legal reason for the Commission to adopt the Master Plan Review at any particular time. She asked whether the review would only be used for internal procedures.

Pulcifer replied that this was correct.

Noting no speakers, Bona declared the public hearing closed.

Moved by Carlberg, seconded by Derezinski, to postpone the Public Hearing and Action on the Master Plan Review.

A vote on the motion showed:

YEAS: Bona, Briggs, Carlberg, Derezinski, Giannola, Mahler, Pratt, Westphal
NAYS: None
ABSENT: Woods

Motion carried.

- c. Public Hearing and Action on The Moravian PUD Zoning District and PUD Site Plan, 0.85 acres, 201 East Madison Street. A request to rezone this site from R4C (Multiple-Family Dwelling District) and M1 (Limited Industrial District) to PUD (Planned Unit Development District) and a proposal to construct a 63-unit (164 bedrooms total), four-story multiple-family residential building with 90 parking spaces underground and three work units at the ground level - Staff Recommendation: Postpone

DiLeo explained the proposal.

Tom Luczak, 438 South Fifth Avenue, spoke in opposition of the project. He said the area is two-story houses and this project is out of scale of the neighborhood.

Margaret Shankler, 711 North Fourth Avenue, representing the North Central Neighborhood Association, said she strongly opposes the Moravian Site Plan. She stated that other developers will demand the same treatment.

Kiff Hamp, 306 South Main Street, spoke in strong support of the project. He said the project is exactly the type of building that has the ability to bring young professionals back to Ann Arbor and southeast Michigan.

Jessie Bernstein, 3552 Frederick Drive, former president of the Chamber of Commerce, spoke in support of the project.

Claudius Viheenz, 545 South Fifth Avenue, spoke in opposition of the project. He said there is a need for density downtown, but this neighborhood is not downtown.

Carl Renning, property owner at 522 South Fourth Avenue, spoke in opposition of the project.

The resident at 451 S. Fifth Avenue spoke in opposition of the project. He believed the project did not fit within the neighborhood and there would be no public benefit.

JP Nogis, 537 South Fourth Avenue, spoke in opposition of the project and agreed with the previous comments.

Kim Kachadorian, 204 East Davis Avenue, spoke in opposition of the project. She believed the project would destroy the neighborhood.

Ethel Potts, 1014 Elder Boulevard, spoke in opposition of the project. She said this intersection is already busy and it would be even more so if the Moravian building was built.

Joshua Brogeman, 1301 Lutz Avenue, spoke in support of the project. He said, overall, there would be a real benefit to building housing in the midpoint range because there is housing at the higher end and the lower end but not at the midpoint.

Chris Crockett, spoke in opposition of the project stating that the building is terribly out of scale.

The resident at, Stone School Road and I-94, spoke in opposition of the project. He said only 15 percent of the project would be affordable housing.

Susanne Whitaker asked if the public hearing would be continued later when it comes before the Commission. She said the project would be in the floodway making it illegal to build.

Pulcifer said the public hearing would be continued and those who spoke would also have the opportunity to speak at the next Planning Commission meeting.

Jeffrey Helminski, petitioner, thanked the Planning staff for working with them on the project. He said there was a broad base of community support developed for the project. He asked that the letters received in support of the project be placed in the public file. He stated that the Huron River Watershed Council commented that the Moravian project would be beneficial to the floodway. He said it was relatively unprecedented to have a private development in this community obtain the level of support that the Moravian had. He stated that a recent topic of City Council had been the importance of consistent application of the City's ordinances, standards and processes throughout the development approval process. He said this concept was fundamental in his willingness to assume the risk and make the significant investment that it takes to go through the approval process. He believed that the consistency should be made available to the project, the same way it was applied to other petitioners for Planned United Developments (PUD). He said initially he approached the planning staff for directions in terms of the standards and the historic application of PUDs. He said they had done a detailed analysis of past PUD benefits and variances; he believed the project compared considerably favorably to the other projects. He believed that the project meets and exceeds the standards of the PUD ordinance, and he looked forward to discussions and interactions with the Commission what would be helpful in making the project even better. He asked for a specific consensus of the Planning Commission so that the improvements comply with the Commission's suggestions.

Scott Betzold, of Midwestern Consulting, said the project was a unique opportunity and the new development would better the current situation. He said, historically, the site is located in the Allen Creek Watershed. He said the site is an unregulated floodplain and floodway on the FEMA maps because it is too far upstream; there is not two square miles of regulated drainage area that feeds this particular location. He stated before the petitioner became involved in the project, the City undertook a more detailed study of the watershed and, through that detailed study, the City shot further elevations through the area. He said the study determined that the floodway did not cross the site, the floodway remained within the curb line of Madison Avenue and the floodplain remained in its original location. The maps are currently being reviewed and should be adopted very soon, he said. He said the project would expand the floodplain, which will provide for additional storage that will help lessen the intensity of the floodway. He said the underground parking on the site would increase the storage capacity by 73 or 74 percent. The petitioner would be providing an additional 13,000 cubic feet of underground storage, he said.

Dick Carlisle, 605 South Main Street, spoke in support of the project. He said the benefits have remained consistent and he agreed with the staff report.

Newcombe Clark, 113 ½ West Liberty Street, spoke in support of the project. He said more people need to live downtown and believed that the site was a good place to build.

Tom Whitaker, 444 South Fifth Avenue, spoke in opposition of the project. He said there are downtown boundaries and this project is way out of bounds.

Beverly Strassman, representing the Germantown Neighborhood Association, spoke against the project. She said the association would be in support if the site was located near the Y.

Deanne Relyea, 541 South Fourth Avenue, she said the developer had not done their due diligence in outreach with the neighborhood.

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

Moved by Derezhinski, seconded by Mahler, the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve The Moravian Planned Unit Development (PUD) Zoning District and Supplemental Regulations, PUD Site Plan dated September 2, 2009, and Development Agreement, subject to removal of the district from the floodway by adoption of modernized flood insurance rate maps, and subject to variances granted by the Zoning Board of Appeals related to the number and dimensions of curb cuts.

DiLeo said the Department of Housing and Urban Development (HUD) publishes the income and affordable housing limits for Ann Arbor and the greater Ann Arbor area. Affordable incomes are based on household size. The median income in the Ann Arbor area for a one person household is \$56,100 and for a two person household it is \$64,100, she said. She said, by definition, a low income household in the Ann Arbor area would be a one person household earning \$43,050 annually or less, a two person household is \$49,200 or less, and the allowance is raised for additional members of a household. She stated that HUD sets the fair market rents at the 40th percentile of rent in the area and a fair market rent for an efficiency unit would be \$690 and \$774 for a one bedroom unit. She explained that using the home program, there are high and low rental rates; an efficiency rent would have to be between \$690 and \$690 and a one bedroom must be between \$772 and \$774. She said Ann Arbor's median income is 77% of the national average and because the City is more affluent than other City's, some adjustments had to be made.

Bona asked the Commission to focus on issues and questions relative to PUD standards during the discussion. She added that she wanted the Commission to deliver a concise consensus of its issues and questions to the developer.

Pratt believed that any group with a regulatory rule should only table an item if there is important information that is missing needful to make a decision or if there are specific items that the Commission would like to see changed. He said he was not interested in tabling items more than once. He asked staff to comment on whether the site was outside the regulated floodplain or floodway area.

DiLeo said the site is not regulated by the Michigan Department of Environmental Quality (MDEQ). She said the City of Ann Arbor does not have a floodplain ordinance. She stated that building permits could not be issued because of building code issues, and added that approval of this project would not violate any state or local codes concerning the floodplain.

Carlberg asked what variances the project would require. She said she noticed that according to the staff report, the northern service drive is too close to the neighboring driveway. She also asked the petitioner if he had a alternative plan if he did not receive a variance and how he would deal with service issues.

Helminski stated that they have proposed to expand the driveway north of the site. He said the neighboring site has a small easement on a portion of their property. He said the Zoning Board of Appeals (ZBA) in the past has granted variances for similar situations. He said he was relatively confident that the ZBA would believe it made sense at this site, but he could change the plans so there would not be a separate direct access to the street for the service entrance, which is where the recycling center and dumpster would be located. He said the service area would be accessible from the main vehicular drive by paving the surface between the service entrance and the vehicular drive.

Carlberg asked if the petitioner's plan was for the recycling and trash collectors to use the service entrance to provide those functions.

Helminski said this was correct. He added that the mechanical and electrical room would be located in this area and the service drive would be used for those purposes as well.

Carlberg asked if the service entrance would continue to the building.

Helminski stated that the service entrance would not continue to the building. He said there would be a wall on the inside of the building between the service drive that separates the trash, recycling, electrical, mechanical, and maintenance room from the parking area for the residents.

Carlberg asked if the petitioner had an alternative plan.

Helminski replied yes. He said the plan could be revised if necessary.

Carlberg asked what would happen with the neighbor's drive.

Helminski said the neighbor's driveway is currently located on their property and is a relatively small gravel driveway. He stated that the plan was to expand the small driveway to a full-sized driveway and grant a wider easement to the neighbors.

Carlberg asked if the expansion would be done as a courtesy.

Helminski replied yes, and that the expansion would occur on their property.

Carlberg said one troubling aspect of the plan was how close the house is located on the north side and there is a considerable difference of a couple of stories between the height of the planned project; and the very small house to the north. She asked if the petitioner had any conversations with the property owner.

Helminski said he spoke with the property owner in the very beginning and the owner is in support of the project. He said the owner is listed as a supporter of the project in the packet before the Commissioners.

Carlberg asked if the north property was a rental property or if the owner lived at the property.

Helminski said the owner did not live at the property; it was a rental property.

Carlberg stated that there had been criticism about the public outreach for the project. She said the information that was provided by the petitioner indicated there was only three people from the immediate neighborhood in attendance at the community meetings. She said the attendance did not seem very representative.

Helminski stated that he was certain there has been many more than three at the community meetings.

Carlberg said there are more than three people listed but the addresses of only three that actually live in the block of Fourth and Fifth Avenue.

Helminski said there had certainly been many more than three. He added that there was one meeting where half the attendees were people who lived in the immediate area. He said part of the reason attendance may look a little disproportioned is 90 percent of the structures in the three blocks between Main, Fourth Avenue, and Fifth Avenue from Madison to Packard are rental units. He said there is a very limited amount of owner occupied units and this may have contributed to the low attendance. He said there had been five individuals who live on Fifth Avenue that attended one of the meetings. He said another individual that lived on Fourth north of Packard.

Carlberg said she would not count the people that live north of Packard because they would not be impacted by the project. She said she was looking for residents that live between Packard and Madison.

Helminski said in addition to the required public notices for the radius around the project they had sent out individual mailings to all of the owner occupants in the surrounding three blocks inviting them to either group public or individual meetings. He said one of the neighbors on Fifth Avenue after the December 23 meeting asked for another meeting to be hosted by the petitioner in response to the neighbor's request. He said the neighbor who asked for the additional meeting actually coordinated the meeting.

Carlberg stated that she was unaware of the second meeting. She said the petitioner mentioned a conversation with the neighbor next door who would be immediately impacted. She said she was unsure of the neighbor's current opinion of the project.

Helminski said he could try to summarize the most recent conversation he had with the neighbor Walter Spiller. He summarized Mr. Spiller's opinion and said that redevelopment of the property was likely to occur considering the condition of the property and the zoning on the industrial side. He added he believed Mr. Spiller's opinion was that redevelopment would not necessarily be a bad thing and the proposed planned project uses would be good in concept but any project that was taller than two and a half stories he would not support.

Carlberg asked if there would be nine or ten affordable units. Carlberg said the petitioner had indicated he would dedicate the one bedroom apartments to the lower income population. She said Ms. Hall sent the Commission information about keeping the affordable housing between 50 and 80 percent and people with vouchers with 50 percent would be able to rent. She asked if the petitioner was committed to this amount of affordable housing.

Helminski said absolutely. He said they worked with Ms. Hall on a number of different iterations of what this might look like in terms of affordability at various affordability levels and different sized units. He added they went through the evolution of understanding both how the system is administered and what Ms. Hall had described as the greatest need for certain types of units with a certain range of incomes in mind. He said the proposal is what Ms. Hall had said is needed in the community. He said Ms. Hall stated the affordable units need to be bedroom units and set at the fair market rent; and the units would be affordable to individuals between 50 and 80 percent of average median income (AMI) with a partial voucher. He said individuals with a greater voucher, for example someone with 30 percent AMI, would be able to afford the rent. He clarified that nine would be the number of units devoted to affordable housing.

Carlberg said Ms. Hall made a good point that in downtown it had not been possible for developers to actually build the affordable units because the costs are very high. She said Ms. Hall's job is to review the developers pro formas to compare their projected profit to their projected expenses and there had not been any developer that could afford to build. She added that even the 14-story development on the former Y site could not manage the affordable housing aspect needed in the community. She said they had a special portion for the Y housing, but the rest could not manage affordable housing. She said managing affordable housing is a very real problem. She said the cost of land at the old Y site is over three million dollars or perhaps eight million dollars and there is no way this development could financially succeed at that site. She said there would not be any choice other than to allow the affordable units. She stated she was glad the units would be provided and that the petitioner was not buying out of the system. She added that she hoped the petitioner's costs will be reasonable so that the affordable housing is provided. She said there is a great shortage in the whole City of new affordable housing for people who use vouchers. She said there are a lot of landlords in town who do not accept vouchers even though it is illegal and, because of this, there are people living in very substandard housing in terms of how it looks

and how it operates, using their vouchers. She said most people have to leave the City to find decent affordable housing.

Helminski said he was pleased to be able to provide the affordable housing units.

Derezinski asked the petitioner to explain the former industrial uses' contamination on a portion of the site and their appropriate due care plan. He asked for the specific contaminants found.

Helminski replied the contaminants there are mostly low impact solvents, such as gas and oil products, probably a result of car repair. He stated the impact of contaminants are not at the level of Polychlorinated biphenyls (PCB's). He added Volatile Organic Compounds (VOC) have appeared on site.

Derezinski asked how the petitioner could redevelop a building that is going to be removed.

Helminski replied the report should read that the building would be removed and the site will be redeveloped.

Derezinski asked if the building was vacant.

Helminski replied no, there are apartments on the second floor. He said there are two garages below the apartments used in the past as a service station for Detroit Edison vehicles and this is also the location of most of the contaminants.

Briggs asked the petitioner if the design of the building was geared towards student housing with there being an abundance of three and four bedroom units. She asked the petitioner to explain how the design would be attractive to the young professionals' population.

Helminski said the goal was to have housing designed for young professionals. He said he hopes to create a sense of community within the building and residents will want to stay. He believed the project would be appealing to a very broad array of people. He stated that he had been contacted by a retired couple interested in renting one of the units. He said Law School and MBA students would also be interested in this type of housing from a collegial stand point and to cut their personal cost. He added that the one bedroom units would be affordable and the efficiency units for someone older in their career. He said the two and three bedroom units added the maximum flexibility to appeal to the broadest range of people in the market. He gave an example of there being two married professionals that wanted the third bedroom as a home office or a couple with children.

Briggs asked about the loss of affordable housing currently at the site and what the rent would be for each unit type.

Helminski replied that many times, from a price standpoint, what is technically affordable would not be high quality or designed for this type of environment. He said at the site the current housing from a per bedroom basis would be considered affordable housing, but only because the quality of the units did not allow for any more rent to be charged. He said the units are not restricted at all and if any renovations or new development was done, the rent would be raised because of the change in quality. He said his project was proposed to restrict the units importunately both as rentals and if ever converted to a for sale property. He asked the Commission to consider the current units as affordable only because of the quality. He said the site once developed would always be housing stock in the City that is restricted to the affordable standards. He said the affordable housing one bedroom units would be in the \$700 range. He said he is hopeful that the two bedroom units would rent for approximately \$1000 per individual per

month. He said the three bedrooms would be in the \$800-\$900 range and the four bedrooms would be in the \$700's on an individualized basis dependent on the cost of construction in the next two years.

Briggs asked if it would be approximately \$2800 for the 4 bedroom units, \$2400-\$2700 for the 3 bedroom units and \$2000 for the two bedroom units.

Helminski replied yes. He said without the cost of rental initially set in these ranges it would be terribly difficult to provide the green features or the quality of the units.

Briggs asked why a green roof or some type of open space on the roof had not been proposed in this project.

Helminski said there was a green roof proposed in the original project that was much taller but one of the challenges is from a structural standpoint and the associated cost with what it would take to make the structure stable enough to hold a green roof. He said on a wood framed building, green roofs are tremendously difficult due to the weight of the water when the roof is full. He believed there were other options that they could dedicate dollars to that provided more benefit without the negative components of a green roof. He said they considered a roof terrace and balconies. He said terrace can be a problem due to the weight of individuals that would have to be supported. He said the public was concerned with balconies because in the past people have used them for storage and the level of noise if a crowd gathered.

Scott Bonney, of Midwestern Consulting, said the petitioner would be submitting the building for LEED certification. He said the reason for green roofs is to reduce the heat island affect in cities and the petitioner is proposing to put a high albedo light colored roof on the building, which is considered the equivalent of a green roof without the weight.

Westphal asked if residents would be given first preference regarding the live/work spaces and when space would be available to the general public if leasing to residents did not work out.

Helminski said they would consider leasing one unit to the general public if 50 percent of the space was not leased by a resident and lease another unit if 90 percent of the space was available. He said the ideal was not to have empty storefronts. He said he was open to suggestions concerning when it would be acceptable to lease space to the public. He said if residents of the building did not choose to occupy the workspace, the space would then be marketed to the general public. He stated that the restrictions would remain the same in terms of the uses and the size of the units regardless of whether the occupants lived in the building or not.

Westphal said if the project were to go further, he would like the petitioner to state at what point workspace would be marketed to outside occupants. He asked if there was a provision if the building did not receive LEED certification.

DiLeo said on page five in the supplemental regulations, the first paragraph contains the penalty, which says "failure to obtain certification shall be a violation of this ordinance. The penalty of such violation shall be 20 percent of the construction value of development in the district as set forth on the building permit application(s)."

Westphal asked if the amount would be 20 percent of the assessed value.

DiLeo said as written the penalty would be 20 percent of the construction value as set on the building permit. She said she modeled the language after the penalties in the Ann Arbor Downtown Development (A2D2) zoning amendments.

Westphal asked if aside from the obvious benefits that are a part of any major redevelopment in terms of detention, if the proposed storage in this project was above the normal requirement.

DiLeo said the storm water detention was as required by the Washtenaw County Water Resources Commissioner.

Westphal asked if there was any additional public benefit.

DiLeo replied no, not for the storm water component. She added the requirement would be the same for any development.

Bonney said the underground storm water detention is required by the Washtenaw County Water Resources Commissioner and is slightly oversized from the ordinance. He said in addition there would be a 2000 gallon rain barrel on the site for irrigation. He said their floodplain storage was 73 percent larger than what currently exists.

Westphal asked if 17 dwelling units would be allowed by right if the entire site was treated as R4C.

DiLeo replied yes.

Westphal asked if the proposal was for 93 dwelling units.

DiLeo replied no. She said 63 units are proposed in the building.

Westphal asked if 93 units were proposed in the regulations.

DiLeo said the regulations are written to allow up to 93 units with front doors, but there was also the bedroom component. She stated the current building had 63 units and 164 bedrooms and the supplemental regulations would regulate both the number of units and the number of bedrooms. She said the petitioner could split up some of the larger units and make them into two separate units. She added that the petitioner could work their way up to 93 units but they only have room to add one more bedroom.

Mahler said the language in the supplement regulations regarding the units seemed rather permissive. He believed the proposed project had too many dwelling units currently and if the petitioner had plans to subdivide to go up to 93 units he would like to know now. He said he was willing to postpone based on the petitioner's plan to subdivide the units because he believed that 63 dwelling units was already more than what should be allowed. He asked the petitioner if they had checked into using geothermal energy as a viable source for heating and cooling and what other renewable energy sources would be available. He asked what the petitioner's plan was if none of the renewable sources were viable. He asked what the petitioner's willingness was regarding adding a penalty associated with the renewable energy component as well as the LEED certification.

Helminski said they presently had no intention of increasing the number of units. He said he would like to have flexibility to adjust the number of units just in case the public need changed in the future. He said he wanted flexibility available in the supplemental regulations regarding the units so that the building would not become obsolete. He said the geothermal energy is viable on the site and had been confirmed.

Mahler asked how confident the petitioner was regarding the use of geothermal energy.

Helminski said he would work with Alexis to attach a penalty to the geothermal energy mechanism. He added that green energy offsets might be available as an optional penalty.

Giannola asked if there was existing housing in the currently M1-zoned portion of the site.

DiLeo said yes. She said the existing houses pre-dated the current zoning map, which has been in place since 1965.

Bona stated that R4C was already a dense zoning district with 20 units per acre and mass transit was supported by four to six units per acre. She said the argument that density was needed to support mass transit was not valid because it was already supported by the R4C zoning. She said the Fingerle property would become D2 which has a 60-foot height limit and she had a very hard time providing a 70-foot buffer to a 60-foot district. She said the buffer would be part of the concept of the petitioner's proposal to buffer the neighborhood from the development that would be built on the Fingerle property. She said, at the 17 units allowed, if the property was zoned entirely R4C, it would allow for 102 bedrooms. She said the building would have significantly more square footage than what the R4C district would allow. She stated the benefits associated with this project would be the LEED certification and the park dedication. She did not believe that the petitioner was providing the 40 percent open space requirement necessary in the R4C district and she asked the petitioner to explain.

Helminski said R4C has a 40 percent open space requirement. He added that when the overall site is blended with R4C and M1 zoning, the required open space would be less than the open space they would be providing. He believed the open space requirement and the M1 zoning is zero or minimal.

Bona said she would require more specific calculations to accept the open space as a benefit. She said her past work on the Ordinance Revisions Committee was specifically for sites similar to this one and the intent was if someone lives in an apartment setting without a yard, that open space that is useable be provided. She stated she would not be comfortable exempting this project for the open space requirement. She believed the required useable open space should be 300 square feet per unit. She said if the bedrooms were reduced to 102 bedrooms from the 164, she believed the architecture would need to be a benefit. She believed it was necessary for the project to be compatible with the D2 district as well as the residential neighborhood. She asked the petitioner to come up with a great project that could be supported by the Commission.

Pratt asked how the project would impact the area at peak times on Fourth and Fifth Avenues.

DiLeo stated that the numbers she had were prepared for the Madison project. She said the overall conclusion of the Madison report indicated no decrease in levels of service and since fewer units are proposed in the Moravian project, there was not a need to provide another report. She asked the Commission to consider the numbers as "high numbers" stating that the Madison was a larger project. She stated the Madison and Fifth Avenue intersection A.M. peak hour existing traffic counts were 259 and the existing plus background traffic (additions from other developments aside from the Madison) would be 288 when traffic was coming down the hill and going straight through the intersection. She said the traffic flowing down the hill but turning on to Madison would be 44 and the addition would be 49. She said the P.M. peak's existing was 336 and proposed 364 and for the traffic flowing down the hill and turning right, the existing is 143 and proposed 155. She said coming down the hill on Fourth Avenue, traffic turned either right or left. She said coming down the hill and turning right towards Main Street, existing was 27

and proposed would be 33; coming down the hill and turning left towards Packard, the existing 9 and proposed 11.

Pratt asked how many developments were taken into consideration regarding the background traffic.

DiLeo stated that usually it was a factor of surrounding developments, but in this case one development was applicable.

Pratt said considering the larger Madison development and the background traffic, the increase in traffic would only be approximately 10 percent. He agreed that the proposed project was not downtown and added that the downtown boundaries were reaffirmed recently through the Calthorpe process, both D1 and D2. He stated that according to Chapter 55, in Section 5.80, Planned Unit Developments have to be looked at independently. He said LEED certification was something the Commission normally viewed as a high standard of public benefit and that affordable housing was also important. He stated he had the same concern with the underlined zoning, as Commissioner Bona, and wanted the zoning addressed. He said the supplemental regulations identified 20 percent open space, yet this project calculated out to 24.5 percent and asked why the project did not reflect the current open space. He asked that the open space be set at the level of benefit. He said an additional concern with the supplemental regulations was the 12-foot minimum setback. He said in the future a developer would have the right to build a wall 12 feet from the property line all the way across the rear lot line and that was of concern to him. He believed the L shape was appealing, but he realized the Commission did not want a legal description in the supplemental regulations. He thought referencing a drawing would be helpful. He asked the petitioner if he had a short version description regarding the architectural concept of the project.

Helminski said there was no portion of the building that is 70 feet tall. He stated the tallest point of the building is approximately 60 feet. He suggested that he and staff develop a different mechanism to measure the building in certain locations or something of that nature.

Pratt asked about the height of the elevator tower.

Bonney said the elevator tower would exceed the 55 feet.

Helminski said if there was a threshold at 60 feet that seemed to be the bulk of the building, he would open to another form of measurement to put in the supplemental regulations without allowing the building to be taller.

Bonney spoke about the architectural aspects of the building, the changes that had been made to the original plans and the handout given to the Commissioners.

Pratt asked if the roof change would lower the height of the building.

Bonney said the height would be approximately 51 feet with the exception of the elevator room. He said the elevator could be changed to a special cab that would not have the penthouse on the top.

Briggs said in general the project was decent. She said it was hard to see this scale of building next to the homes there currently. She said the density of this project would come at the high price neighborhood. She did not believe the project would be a transition in the current neighborhood. She stated that something of lesser density should be built at this location that could pave the way to a larger project across the street at some point the future. She said the project would have to return before the Commission on a much smaller scale for her to be supportive.

Giannola said because of the slope of the roads, the building would fit the scale of the neighborhood. She said if the proposed project was viewed from Madison, it would help the scale of the road, adding that the current Perry building was the only large building in the area. She said in the future when the D2 area is built up, the proposed building would be within scale.

Mahler said he liked the added density, the LEED certification and the affordable housing components. He stated that the storm water retention would be a viable benefit. He believed when developed in the future, Madison Street would become a corridor that made the area more massive as a commercial district between Packard and Main Streets. He said the neighborhood would remain intact with a building on the site. He did not believe the two were incompatible. He stated his concern was whether the project was consistent with the Master Plan and the Central Area Plan. He said another unresolved issue was with the floodway and floodplain.

Westphal did not believe the project would be consistent with the Central Area Plan. He said the first bullet in the plan was to protect, preserve and enhance the character, scale, and integrity of existing housing in established residential areas. He said the lines on the maps delineated the border of the zoning district are laws for a reason and he had difficulties in justifying what should be on the site as opposed to what could be built across the street. He said the site was not considered to be in the D2 district. He said the Commission did not scrutinize every single parcel each time a rezoning was done, which would allow some flexibility, but in terms of scale, the project did not comply with the plan. He believed the energy benefit regarding LEED certification was large and would be an accomplishment. He took issue with the other standards, including innovation and land use. He said there seemed to be a need for new rental housing that would serve individuals who did not want to live in student areas, but he did not believe the current configuration of the units in the proposed building would fulfill the niche market. He said the allowances for live/work space would be innovative if they were required, but he did not believe the density in the building would be sufficient enough to occupy the work spaces. He said if the petitioner reverted to general leasing, he did not believe that would justify innovation and believed the benefit should be removed. He stated that additional density had been proposed by the petitioner in order to provide affordable housing, but only at the 15 percent requirement of a PUD. He added the percentage of affordable housing did not constitute a benefit to him. He believed the project would change the nature of this neighborhood. He said people choose these neighborhoods to live in and the residents expect the protection afforded by zoning in the Master Plan to be enforced and to remain intact.

Carlberg said if the building was to be a two-story building, the underground parking and the energy efficiency would be taken away, adding that geothermal energy would be too expensive to justify. She said when looking at the map, she sees the site relating to Madison Street, Fingerle, Perry School and to Main Street. She believed this location, being zoned R4C, was underutilized and not very dense. She did not believe the houses going up the hill would be impacted by the proposed project and the neighborhood would remain charming as it is or there may be owners interested in more development in the area. She said it would be easy to separate the site from the rest of the area up the hill, but it is all rental housing, which indicated to her that the neighborhood had not been desirable to single families on a large scale. She said the area had evolved into rental housing and added the proposed site might make the area more viable as single-family homes. She said her expectation would be that Fingerle would not be redeveloped because it is in a floodway and there would not be anyone willing to buy the land. She said the downtown boundaries of the DDA District are totally arbitrary and did not bear a good relationship to what is happening in the City as businesses are moving down Main Street into new areas. She said most people living in this area did so because they see themselves as part of downtown and value being close to downtown. She stated many of the owners are recent residents and knew that there was business, industrial, student housing and apartments already in the area. She said the project would be valuable and fit into the neighborhood. She added that the underground parking would also be a benefit. She said the supplemental regulations should be specific concerning the height allowance for the project. She said

a building that is two-stories higher than the buildings, particularly in an urban setting, would not be terribly out of scale or incompatible with residential housing. She said if the building was made smaller, there would be a loss of important benefits. She said building homes would not require improvements to the storm water and detention systems and added that the current neighborhood was creating a problem for storm water. She said the proposed development would improve the sanitary sewer system because the petitioner would be providing footing drain disconnects and creating a benefit to the City's storm water system.

Derezinski said the real issue was making the project viable. He believed the area was a transitional neighborhood in terms of space and time. He said the Moravian had made progress over the time. He believed there would be a lot of public benefit. He said affordable housing and getting rid of contaminants would be great benefits. He believed the accommodations that had been made were very good.

Bona believed the building was too dense with too many bedrooms. She believed the height could be put into the supplemental regulations as two maximum heights. She said the open space was very important to her.

Moved by Pratt, seconded by Mahler, to continue meeting.

A vote on the motion showed:

YEAS:	Bona, Briggs, Carlberg, Derezinski, Giannola, Mahler, Pratt, Westphal
NAYS:	None
ABSENT:	Woods

Westphal stated that the land was priced as it was currently zoned and should be treated that way. He did not believe this was an appropriate way to rezone the area to such a degree. He did not believe the site should be rezoned to PUD.

Bona asked if the M1 zoning was originally included in the D2 District but removed from this property.

Rampson replied no. She said this M1 was envisioned to be down zoning to R4C in an earlier version because it was recommended in the Central Area Plan.

Moved by Carlberg, seconded by Giannola to postpone.

Pratt stated the a reason for postponement would be to determine any additional benefits to allow the open space issue to be resolved.

Bona summarized that location, open space, height; scale and character were the issues.

Briggs believed that the project could be downsized in scale and would provide a lot of the same benefits.

Bona stated even with the issues addressed, the project would be evaluated as a whole when it came back before the Commission.

Carlberg did not agree with Commissioner Briggs that the benefits would be doable on a smaller scale.

Westphal said he would not be in favor of postponement.

Mahler stated that only the major issues should be considered as far as postponement was concerned. He asked if the petitioner was willing to reduce the scale and the number of bedrooms. He believed some of the smaller issues could be resolved before the project went on to Council for a final vote.

Helminski asked if the reference to density was regarding units or the number of bedrooms.

Bona said in her mind it was bedrooms.

Briggs said it was a combination.

Bona asked if the petitioner would consider reducing the density.

Helminski said absolutely.

Derezinski said he believed there was a chance to come to an agreement and it would be worth a shot to grant the postponement.

A vote on the motion showed:

YEAS:	Bona, Briggs, Derezinski, Carlberg, Giannola, Mahler, Pratt,
NAYS:	Westphal
ABSENT:	Woods

Motion Carried.

AUDIENCE PARTICIPATION

Claudius Viheenz said the people that live in the area were not aware of the contamination problem at the site and asked that the problem be addressed by the petitioner. He asked the Commission to take the hazard seriously.

Jim Morgensen said he did not believe people were in support of density. He did not believe the city's meetings were adequately advertised. He said the limited amount of people in the audience was not an indication that the public was in support of more density.

Beverly Stussman said Walter Spiller was in opposition of the Moravian project. She said the project was good for the neighborhood.

Chris Crockett said Walter Spiller had signed the stop the Moravian petition. She added that the postponement of the Moravian project seemed to be a very unusually protocol.

COMMISSION PROPOSED BUSINESS

- a. Resolution regarding A2D2 Downtown Design Guidelines

Moved by Pratt, seconded by Mahler, that the Ann Arbor City Planning Commission hereby approves the following resolution:

WHEREAS, The Ann Arbor City Planning Commission (the Planning Commission) has continuously supported and worked to recommend appropriate documentation to implement the Ann Arbor Discovering Downtown (A2D2) efforts, specifically the A2D2 Zoning Amendments, Downtown Design Guidelines, and related Master Plan amendments; and

WHEREAS, The Planning Commission discussed the Downtown Design Guidelines at its working session on September 10, 2009, and participated in a joint working session with City Council and the Downtown Development Authority board on September 14, 2009; and

WHEREAS, The Planning Commission discussed the Downtown Design Guidelines at its October 6, 2009 business meeting; and

WHEREAS, The Planning Commission supported revisions to the A2D2 Zoning Amendments earlier this year to make certain aspects of the proposed design guidelines such as setbacks, building height, and streetwall offsets part of the proposed D1 Downtown Core District and D2 Downtown Interface District, making these design elements a standard of the Zoning Ordinance and thus a mandatory part of the site plan approval process; and

WHEREAS, The Downtown Design Guidelines encourage high quality downtown site and building design, promote the pedestrian experience, complement the proposed downtown zoning districts and character overlay zoning districts, promote green development technologies, and clearly illustrate the intent and goals of each design guideline while being open to creative design and objectivity, and have been written to allow a range of implementation procedures;

RESOLVED, The Planning Commission recommends that City Council adopt the Downtown Design Guidelines as presented;

RESOLVED, The Planning Commission further recommends that the Downtown Design Guidelines be reviewed based on actual submittals and implementation after no more than 6 "major" (as defined by the Citizen Participation Ordinance) or 10 total projects have been approved. Said review will assess both the content and process for the Downtown Design Guidelines.

Pratt asked if the project had to meet 100 percent of the design guidelines. He said there were concerns with several items being mandatory. He believed the steering committee would like to move forward and get the design guidelines in place.

Carlberg believed that there should be a mandatory process for petitioners to go through and after 6 months evaluate if the desired results were accomplished. She said if the process were, voluntary, architects would not be willing to sit down with the public to go through the guidelines. She said the public believed there should be a way to get beautiful buildings out of having design guidelines in place.

Mahler believed the process should be voluntary. He said the current draft was not a mandatory- ready document and there was too much room for interpretation. He favored voluntary compliance with the process, and possibly making it mandatory after 6 months.

Westphal agreed with Commissioner Carlberg's assessment. He said citizens' comfort level with density was linked to the inferred promise that the Commission would work against having unattractive buildings in the downtown. He was in favor of a mandatory process. He believed a mandatory review with a board in place would be highly beneficial as long as the review would not delay the process. He said if the petitioner was able to respond early to professional input, the process would benefit the projects.

Giannola believed the guidelines should not be absolutely mandatory. She stated that it would hinder the creativity and the out-of-the-box thinking during the design process. She added that the mandatory process fell into the same category because it would bring the developer into a discussion with the City or residents that would make them think out of the box. With the mandatory process, she said, petitioners would not be stuck with their one design, but someone else could bring to the petitioner's attention another idea that might work. She favored the mandatory process as long as the guidelines had some flexibility.

Derezinski said the Commission was starting to re-debate the guidelines, which are currently before the City Council. He stated that City Council spoke about the same issue at their meeting last night. He said the process needed to go to the next level at this point in regards to where the input should come from and the process that City Council follows. He said if there is a body that will review the process later; he hoped it would be the Planning Commission. He stated he was in opposition of the resolution at this time, adding that he would like to see how the process unfolds at City Council.

Briggs agreed with the mandatory process and mandatory compliance.

Bona believed the guidelines were well written. She agreed that there should be mandatory requirements, but she would like City Council to decide. She added that she would like a set point and time for the Commission to review the design guidelines.

Carlberg said she would like the design guidelines to be discussed at a Council meeting.

Derezinski said he would take Planning Commission's discussion back to City Council.

Pratt said the purpose of the resolution was to get a vote on record for City Council and to forward concerns the Commission had with the design guideline process. He believed there should be formal communication of the Planning Commission's perspective taken to City Council.

Westphal clarified that as the resolution was written, the process would be completely voluntary.

A vote on the motion showed:

YEAS: Bona, Carlberg, Giannola, Mahler, Pratt,
NAYS: Briggs, Derezinski, Westphal
ABSENT: Woods

Motion carried.

ADJOURNMENT

Bona declared the meeting adjourned at 11:48 p.m.

Wendy L. Rampson, Interim Manager
Planning and Development Services

Kirk Westphal, Secretary

Prepared by Carol King
Management Assistant
Planning and Development Services