



City of Ann Arbor
Formal Minutes - Final
City Planning Commission

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

Tuesday, October 15, 2013

7:00 PM

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

10-a 13-1299

Running Fit Addition Site Plan for City Council Approval - Construction of a three-story addition to the Running Fit Building at 121-123 East Liberty and 220 South Fourth Avenue. The petition proposes to add 6,015 square feet to an existing 2,515 square foot building on this 0.061 acre site. Retail use is proposed on the ground floor and residential is proposed on the upper three floors. No on-site parking is proposed. (Ward 1) Staff Recommendation: Approval

PUBLIC HEARING:

Tom Partridge, resident of the 5th Ward, called to the Commission's attention that approval of apartments and newly constructed buildings without adequate parking space is discriminatory and egregious to elderly and disabled. He recommended that the Commission table this item and all other residential developments for further examination with the building owner and developer to come up with adequate parking on-site or immediately adjacent, as well as public transportation to and from the parcel.

Ellen Ramsburgh, 1503 Cambridge Road, expressed support for the building. She said the scale, massing and design is very appropriate for that area and will make it a more vibrant and useful corner. She added that the project had quite a bit of support on the Historic District Commission.

Dana Dever, 301 North Main, Suite 250, Ann Arbor, attorney for neighboring property, 119 E. Liberty, said they would applaud this project except for one thing. In 1982, an agreement between his client and the owners of Running Fit to install three windows in the common wall. He said there have been residential units for 32 years and these windows will go away with this proposal, which means so will the residency of those units. Michigan code doesn't recognize need for light and air. He said in this case, the owner could step back along the rear wall to provide light and air. He said his understanding is that one of the standards is impact on neighborhood, and for this neighbor, they are taking a viable second story and cutting off light and air and fire escape. He said this matter has not been adequately addressed for impact on immediately adjoining building and loss of economic viability of second floor rental units. He said there are alternatives, including denial of the

project, which would be unfortunate, and they will continue to work with the proponent of the project.

Ames Simcoms, resident of 119 1/2 E. Liberty, said this would affect her apartment by completely shutting out light. She said the length of construction also concerns her, as well as parking and noise. She added that there are also luxury senior apartments on Fourth Avenue and she was concerned for them during this duration as well.

Ali Amiri, 3011 Lakehaven Court, resident of Ann Arbor for over 40 years, owner of 119 E. Liberty, said his partner got permission in 1982 to construct the windows. His partner and his wife has since passed away and there is no record of the agreement. He said this three story building will cover his window and he cannot rent the apartments and with only selling carpets for 40 years he needs the income property to help pay the taxes. His partner told him that everything is okay with the City of Ann Arbor, and every two years, the City has inspected the rental property and no one has said anything.

Tom Burke, attorney for owner, said the owners from 119 E. Liberty have provided a letter to them several months ago, but they have been unable to find any evidence that they obtained a zero lot-line variance to put in the windows. He said the windows are through their wall and through a wall still standing from when the fire was there. He said from a legal standpoint, if anything was ever granted, there was a copy of a letter from 1982. He said they do not believe this matter is a basis for tabling at Planning Commission as they believe it is an essentially legal issue to find out if they got permission to put in these windows in the first place. He said the City inspections that happened every two years were rental housing inspections where they assumed that were there legal windows. He said they have not been able to find any recorded easement or document that say those windows run with the land. He said they are happy to work with the neighbors to come up with a solution and have offered to have their architect, Brad Moore, look at their building to make suggestions.

Brad Moore, architect for the owner, said that the one required footing drain disconnect had been submitted to the Planning Department today. He said they found no evidence that there are other existing footing drains connected from the building to the City's storm sewer. He said the City has asked them to have an independent third party verify that information this week. He said as to the way the building is laid out, they investigated the existing footings, and found that they were already intended to support upper floors, although not if those floors are offset.

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

Moved by Briere, seconded by Bona, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Running Fit Site Plan, subject to verification of any footing drain connections to the sanitary sewer system prior to City Council action on the site plan, and subject to the construction of two Class A bicycle parking spaces in the Fourth & William parking structure or payment of a contribution to install these spaces being provided to the Downtown Development Authority prior to the issuance of a certificate of occupancy.

COMMISSION DISCUSSION:

Briere said that she did not notice the windows and she asked staff to explain to her why they would have needed variances and the practice when installed.

Thacher said she spoke to the Building Official who had concerns about whether the windows are fire rated and could allow a fire to be spread to the Running Fit building. She explained that the Planning staff searched files and did not find records of Planning or other approvals for the windows. She said she could not speak to the need for building variances from the Building Board of Appeals. She noted that the Building Official is aware of plans for this building in the City's off-site vault, and they have requested copies to find out more information about these windows, since they don't know if these windows were included in earlier remodels; however currently they have no evidence about them.

Briere noted that there is a history of providing windows for new bedrooms. She asked Moore if he considered designs that included light or air wells for the adjacent residential unit.

Moore said they looked at offsetting walls, but those don't fit with the current foundation so they abandoned that idea. State code does not require windows in bedrooms and there are other means of bringing in natural light, including sky lights or sun-pipes. He said his client has offered to have him go and view the structure and offer suggestions on bringing in natural light to the neighboring residential unit.

Briere said she understands that, but wonders if there is a possibility of building inset and creating a vertical shaft.

Moore said such a shaft would be 2/3 to 3/4 of the building length and would not be economically viable.

Adenekan asked if these units will be condos or apartments.

Moore said the determination will happen when they go to market, adding that there might be a little of both.

Bona asked how the refuse will be handled, given that there is no alley.

Moore said there is dedicated space in the existing alley to the west, along Washington and E. Liberty. He said the carts are stored in the alley, and bags are taken there.

Bona asked about grade level spaces that appear as windows.

Moore said these are currently product display space that could be used for public art display to enhance the pedestrian experience.

Bona asked about the two level glass at the corner, that is specified as clear thermal glazing on the plans. She asked if there was a wall behind.

Moore said that the corner unit has a two story space with a two-story window; no spandrel panels.

Bona followed up on a public comment regarding ADA requirements. She asked Moore to explain what the requirement in apartment buildings is, noting that there is no elevator in this building.

Moore said the ADA doesn't govern apartments, but rather the Federal Fair Housing Act that deals with residential units, when there are a group of more than 3 dwelling units. He explained that they have crafted this layout to be two 3-bedroom assemblages, with each of them having a stair that serves a 3-bedroom assemblage, but there is no commonality to the circulation system so there would not be an elevator required.

Bona asked about transit access.

Moore said it is about 2/3 block to the AATA transit station.

Bona asked about DDA's request for pedestrian access to the building and if there was any assurance that the City had on this matter or if this is something the City has required in the part as part of the site plan.

Thacher said she could not think of a mechanism in place that would assure that the sidewalks would remain open during the entire duration of the project, because it is a small site.

Bona said it would be nice if the petitioner would be able to provide a plan for how they would approach this before the item goes to Council.

Bona said she has worked on buildings with windows on zero lot line, and in those cases they had to go to the Zoning [Building] Board of Appeals to get a variance to be on the property line, because windows are not allowed on a zero lot line, unless they are very special and they have a special fire suppression. She explained that the only way to maintain windows, in her experience, was to buy an easement. She said she didn't know if this was a Planning issue but didn't feel that the issue should hold this project up. She stressed that if there was an easement, that should be maintained, and since that is a legal issue they should be seeing that. Staff should have more information on this matter before the item moves on to Council.

Peters echoed Bona's comments adding that while this is real, he felt it seems to be more of a legal issue between the two property owners than a Planning issue, and he hoped that the building owners can work out a remediation outside of this process. He said he walked by the site today, and doesn't feel this would be out of character, which the Historic District agrees with also. He said the public benefit of the green roof is a benefit for storm water as well.

Westphal asked staff to characterize what could happen between now and when the item moves to Council

Thacher said staff will continue to work with the petitioner and owners and the Building Official regarding what is there legally and what is not. She said she did not believe this is a site plan issue, but could become a design issue if the design is changed. She said they do need a definitive answer before the project goes to Council.

Westphal asked about construction noise.

Thacher said there are set construction hours in the code that don't allow work on Sundays and allow it Monday through Saturdays, 7 a.m. to 8 p.m.

Westphal asked about City permit requirements for sidewalk closure.

Thacher said permits are required to close or re-route sidewalks and to close parking spaces that they intend to use for construction staging areas. She noted that sidewalk closure permits are issued through the City and the parking permits are through the DDA.

Westphal asked about sidewalk closures and if there is a limit involved as to how long sidewalks can be closed.

Rampson explained that each construction related sidewalk closure is

specific to the site circumstances and what type of construction methodology is being used. She said there are sidewalk occupancy and barricade permit requirements with the fees based on daily closure. She added that these occupancies are monitored by the City's Project Management Unit.

Woods asked if Running Fit will remain open during the construction period.

The owner said yes, they will.

Woods asked about a stairway in the building that had been walled off.

Moore said the stairway remains to access the basement and was floored off when the upper levels were removed after the fire.

Woods asked about possible fire concerns with the stairway.

Moore said they addressed the issue in their last remodeling when all required walls were fire-rated, so it is ready to go.

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

Yeas: 8 - Bonnie Bona, Wendy Woods, Kirk Westphal, Diane Giannola, Eleanore Adenekan, Sabra Briere, Paras Parekh, and Jeremy Peters

Nays: 0

Absent: 1 - Kenneth Clein