

FEBRUARY 19, 2009 PLANNING COMMISSION MINUTES

d. Public Hearing and Action on Revisions to the Downtown Rezoning and Amendments to City Code to Implement the Ann Arbor Discovering Downtown (A2D2) Recommendations. (Properties within the Downtown Development Authority District (DDA) boundaries, excepting those zoned R2A, R4C, O, PL or PUD; properties zoned C2B on the west side of South Ashley between West Madison and West Mosley; properties zoned C2B on the south side of East Madison between the railroad and South Fifth Avenue; properties zoned C2B on the east side of South Fifth Avenue between East Madison and Hill; properties zoned C2A on the north side of Willard between East University and South Forest; properties zoned C2A on the east side of South Forest between Forest Court and the DDA boundary; and property zoned C2A on the south side of South University east of the DDA boundary.) A revised proposal to implement the recommendations of the A2D2 initiative, to include: 1) text and map amendments to Chapter 55 (Zoning) to eliminate the C2A, C2A/R and C2B/R districts and their references; 2) text and map amendments to Chapter 55 (Zoning) to add downtown core and interface base district uses and area/height/ placement requirements; 3) text and map amendments to Chapter 55 (Zoning) to add downtown character overlay districts and related design standards; 4) text amendments to Chapter 55 (Zoning) to revise floor area premium options; and 5) text amendments to Chapter 59 (Off-Street Parking) to revise requirements for the downtown special parking district – Staff Recommendation: Approval

Rampson explained the proposed revisions to the Downtown Zoning and Amendment to City Code.

Mark Gerstein, 1321 Forest Court, reminded the Commission that he had previously spoken before them regarding 601 Forest and A2D2 rezoning. He asked the Commission to consider, as they deliberate, the effect that rezoning would have on them and those who live near them on South University. He asked the Commission to consider a mandatory 30-foot setback for bases and towers of new buildings. He believed that anything less than that was a threat to their privacy.

Jim Mogenson, 3780 Greenbriar, warned that in the plan that just passed and in the rezoning before the Commission, nobody was keeping track of core campus islands that are being rezoned. He believed developers would parse whatever final documents were passed in order to find loop holes. He also warned that parcel assembly on the edges of newly zoned districts could pose problems, noting that the new zoning did not precisely follow DDA boundaries.

Dan Mooney, 255 E. Liberty Street, believed the proposed rezoning could endanger efficiencies through diagonals and unforeseen consequences to things like premiums. He said that diagonals were perceived as too restrictive, and so were expanded. When applied to plans, however, he said the new guidelines may result in poor design. As buildings go up, he said, floor plans become inefficient. He believed some developers may pass by opportunities to build due to diagonal requirements. He also said premiums can be problematic, because the buildings had to first be built in order to receive credit for compliance. He referred to several studies stating that 700% was necessary to achieve Gold recognition. He finished by saying penalties may be too harsh.

Alice Ralph, 1670 E. Stadium Boulevard, read from a handout she gave to the Commission titled "Zombie Zoning."

Ray Detter, Chair of the Downtown Area Citizens Advisory Council, said the original intent was to include review guidelines and design standards. He believed the project failed to do this, and that there was a lack of emphasis on design review in terms of referencing zoning to changes to design review. He believed that approving zoning should be contingent on completion of a design review process. He was afraid that zoning would change, but design guidelines would never be adopted. He suggested inviting back the consultants to train staff and to integrate the

documents. He also called for public education regarding the documents and processes. He believed buffer areas adjacent to residential and historic districts, and historic buildings were important, and that providing them would help accomplish the goals of protecting significant historic structures.

Chris Crockett, 506 E. Kingsley Street, said that zoning had to follow a policy statement, which was just passed in the form of a new Downtown Plan. She opposed box developments, and believed guidelines, as part of zoning, would help to clarify intent. She was concerned not only with new buildings, but also their look, including diagonals and their relationship to residential and historic areas. She urged the Commission to get the design guidelines process underway in order that all residents understand what is being talked about.

Eleanor Linn, 1321 Forest Court, said that 30-foot rear setbacks were important, and that the recommended 15-foot rear setback was not enough. She noted that New York City, the densest city in the country, required 30-foot setbacks when large buildings abutted residential neighborhoods.

Sean Zieta, 633 Church Street, believed design was important, and said his focus was on South University. He believed this process was an opportunity to change the perception that this area was a student slum. He asked the Commission to keep in mind that decisions made today would impact development for the next 20 to 30 years, and the community and environment for longer than that. He believed higher density would allow for a variety of retail and office space, and attract young professionals. He also believed it would reduce traffic by allowing people to live near their jobs. He asked the Commission to consider the competitive advantage of density, and also the environmental advantage of building up, not out.

Susan Morrison, of the Michigan Historic Preservation Network, said other speakers quoted positive statements in Downtown Plan about preserving historic structures, but she asked where that language was in the new zoning. She said the zoning was silent, and that the new Metro 202 plan would allow taller structures near an historic building. She encouraged the Commission to send this plan back to planning staff to talk about how historic buildings will be protected. She mentioned the text she drafted to create an historic preservation buffer area. She believed that once higher density was out of the box, there could be unintended consequences, unless the issues were addressed now.

Ted Kennedy, 213 E. Kingsley Street, said zoning and design review guidelines were rules for future people to argue or wage wars about what they want the City to look like. Without clarity, he believed those with the greatest resources or concentrated interest would win out. He said clarity in rules protects individuals and the under-resourced.

Noting no further speakers, Mahler closed the public hearing at 10:47 p.m.

Moved by Derezhinski, seconded by Westphal, that the City of Ann Arbor Planning Commission hereby recommends that the Mayor and City Council approve amendments to Chapter 55 (Zoning) and Chapter 59 (Off-Street Parking) to implement the Ann Arbor Discovering Downtown recommendations.

Moved by Derezhinski, seconded by Westphal, that the City of Ann Arbor Planning Commission hereby recommends that the Mayor and City Council approve the proposed D1, D2, and PL District Rezoning, the Character Overlay Zoning District Rezoning, and the Building Frontage Rezoning as shown on the attached maps.

Moved by Derezhinski, seconded by Westphal, that the City of Ann Arbor Planning Commission hereby directs Planning staff to collect data about

the impacts of the Downtown Rezoning and Amendments to City Code and further, that staff report back to the City Planning Commission about these impacts one year from adoption of the amendments.

Bona said the Executive Committee met and, given the complexity of the proposed amendments, believed that it would be helpful to offer Council and the public an explanation of the Commission's rationale for supporting the changes. With the assistance of Commissioners

Mahler and Westphal, she drafted a memorandum (Memo) detailing a list of facts about the proposed amendments, based on past topics. She said she would read the memorandum, and the Commission could offer amendments to it as she proceeded. She noted that the memorandum was not meant to be all inclusive, and she wanted the public to know that the Commission read all of their emails and listened to all of their comments.

Moved by Borum, seconded by Mahler, to amend the draft ordinance to add the following text to the end of the second sentence of the "Usable Floor Area, Nonresidential" definition: "...except those portions of a parking structure used for required premium or PUD parking."

A vote on the amendment showed:

YEAS: Bona, Borum, Derezinski, Mahler, Potts, Westphal, Woods
NAYS: None
ABSENT: Carlberg, Pratt

Amendment carried unanimously.

Bona read Item 1, South University Character Area, from the Memo, and summarized the Commission's position as follows: the Planning Commission continues to support the previously recommended compromise of maintaining D1 density while restricting the maximum height to 120 feet (accompanied by an elimination of the tower diagonal limits) and clarifying the building setback requirements adjacent to residential districts. Should the height limit prove to be too restrictive for any specific site, a Planned Project could be pursued if an acceptable public benefit is provided.

Potts said she was disturbed by the current D1 zoning and limit on height.

Bona said the current height limit was 120 feet.

Potts said 15 feet was not enough for a setback.

Moved by Potts, seconded by Woods, to amend Table 5:10.20C – Downtown Character Overlay Zoning Districts Building Massing Standards in the draft ordinance by increasing the minimum Side and Rear Setbacks in the South University Area from 15 feet to 30 feet for a building base of up to 30 feet.

Westphal asked staff to clarify what the existing setback was in that area, under current zoning rules.

Rampson said the rear setback was 30 feet and the side setback was 14 feet. She said that where the C2A boundary area is, the size of the setback depends on whether it is a side or rear property line.

Westphal asked, specific to Forest Court, whether the boundary was a side or rear property line.

Rampson said it depended on the nature of the development proposal.

Potts was interested in this issue because there was a greater setback from buildings over three stories. She believed a 15-foot setback was unlivable.

Bona asked staff to clarify setback uses.

Rampson said no buildings could be constructed in a setback space, and that parking would require a conflicting land use buffer.

A vote on the amendment showed:

YEAS: Borum, Potts, Woods
NAYS: Bona, Derezinski, Mahler, Westphal
ABSENT: Carlberg, Pratt

Amendment failed.

Westphal asked staff to address comments from the South University Area Association, and whether the 700% and 900% premiums could be attained with zoning as it stands now.

Rampson replied that as a practical matter, the Association said they could not do the buildouts. Theoretically, she said they could by maximizing the footprint on site.

Bona noted the Courthouse Square as an example, at 120 feet tall and just under 900%.

Westphal asked for staff comments on the height of the modified 601 Forest project.

Bona said it was 163 feet in height and 14 stories.

Rampson believed she saw 140 feet, but she was not sure which was final.

Westphal believed someone had rounded the number to 170 feet. He hesitated to suggest redrawing the original recommendations, because lots of thought went in to it. But he said the 601 Forest project served as a kind of recent test case. He believed the project demonstrated a compromise between no height limit and a 120-foot height limit. If the City wanted affordable housing and to encourage people to go after premiums, he believed it was counterproductive to water down that ability with restrictive height limits. He believed that the 601 Forest project was a pretty good indication of where staff, council, and the community have netted out regarding height limits.

Moved by Westphal, seconded by Mahler, to amend Table 5:10.20C – Downtown Character Overlay Zoning Districts Building Massing Standards in the draft ordinance by increasing the Maximum Building Height in the South University Area from 120 feet to 170 feet.

Mahler supported the motion, because he said competitiveness and environmental soundness require flexibility. He said projects need to be profitable and provide some benefit to the area. He believed that the 170 foot height limit would add more businesses, residents, and transactions, and would help establish South University as a business core.

Potts had a real problem with the proposed height increase, stating that if South University were truly core, she would consider the proposed height. However, she said there was no buffer between core and neighborhoods, and she wanted to do everything possible to make D1 look residential.

Bona said that looking at the numbers on projects where premiums were met indicated that the projects were being built lot-line to lot-line. She believed the additional 50 feet was significant, and would add variety to the area and help avoid a solid mass of buildings on South University, which she believed was important.

Borum noted that when the height limit was imposed, diagonal requirements were removed. He asked whether the proposal to increase height limits should be accompanied by a reintroduction of the diagonals. He believed diagonals would be reasonable since the height was being increased by 50 feet.

Bona asked staff at what point diagonals made sense again.

Rampson said it was a judgment call.

Bona recalled the diagonal as being smaller. She asked Commissioner Borum if he wished to reintroduce diagonals. She also said Rampson determined the actual height of the 601 Forest project, which was 163-feet.

A vote on the amendment showed:

YEAS: Bona, Derezinski, Mahler, Westphal
NAYS: Borum, Potts, Woods
ABSENT: Carlberg, Pratt

Amendment failed.

Moved by Borum, seconded by Woods, to amend Table 5:10.20C – Downtown Character Overlay Zoning Districts Building Massing Standards in the draft ordinance by reintroducing diagonal requirements for the South University Character Area of 200-foot maximum for the lower tower and 120-foot maximum for the upper tower.

Mahler asked Commissioner Borum to help him understand the rationale for diagonals.

Borum explained that with no height limit, diagonals help to decrease the footprint of a tower. He said a diagonal on short buildings severely limits upper floor area, and that higher buildings are more conducive to diagonal requirements.

A vote on the amendment showed:

YEAS: Bona, Borum, Derezinski, Westphal
NAYS: Derezinski, Mahler, Potts
ABSENT: Carlberg, Pratt

Amendment failed.

Bona made a motion to continue the meeting beyond 11:00 p.m.

There was no second, so Commission Action on Revisions to the Downtown Rezoning and Amendments to City Code to Implement the Ann Arbor Discovering Downtown (A2D2) Recommendations was postponed to the March 3rd Commission Meeting.