



City of Ann Arbor

Formal Minutes

City Planning Commission

301 E. Huron St.
Ann Arbor, MI 48104
[http://a2gov.legistar.com/
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Tuesday, December 15, 2020

7:00 PM

Electronic Meeting

This meeting will be broadcast live on CTN Cable Channel 16, ATT Channel 99, and online at a2gov.org/watchCTN

To speak at public comment call 206-337-9723 or 213-338-8477 or Toll Free 877-853-5247 or 888-788-0099 Enter Meeting ID: 995 7768 1361

1. CALL TO ORDER

Chair Sarah Mills called the meeting to order at 7:00 p.m. with the following statement: Welcome to the Tuesday, December 15, 2020, electronic meeting of the Ann Arbor Planning Commission. The meeting is being held electronically to protect public health and safety due to the COVID-19 virus and to comply with orders issued by the governor, the Michigan Department of Health and Human Services, and/or the Washtenaw County Health Department. We intend to conduct this meeting similarly to an in-person meeting. However, please be patient if there are technical issues. Public comment will be via telephone only. To speak during any of the public comment opportunities please call 206-337-9723 or 213-338-8477 and enter Meeting ID 995 7768 1361. This information is also available on the published agenda, in the public notices section of the city website, and on the broadcast of this meeting on CTN channel 16, AT&T channel 99, and online at www.a2gov.org/watchctn, select "government channel."

2. ROLL CALL

City Planner, Chris Cheng called the roll.

Present 9 - Mills, Milshteyn, Gibb-Randall, Sauve, Abrons, Hammerschmidt, Disch, Lee, and Clarke

3. INTRODUCTIONS

Chair Mills introduced Sadira Clarke and Wonwoo Lee as the newest Planning Commission members.

Sadira Clarke said she considers Ann Arbor her hometown having grown

up in Scio Township. She studied at Eastern Michigan University where she received her Bachelor degree and her Masters of Science in Urban and Public Policy Analysis from The New School Milano, New York. Clarke has worked in non-profit housing for about 10 years and she's looking forward to working with the Commission.

Wonwoo Lee said he's been in Ann Arbor since 1997, attending grade school, high-school, and University of Michigan here in Ann Arbor. Lee said upon graduation he worked on zoning analysis on the D1 and D2 districts, in relationship to the R4C districts, here in Ann Arbor; since then he's worked as a Real Estate Analyst and Portfolio Manager for McKinley Inc., and for the last five years he's been with Oxford Companies. Lee said he's glad to be on the Commission, and is looking forward to being able to serve, listen, and hopefully contribute in a meaningful manner.

4. APPROVAL OF AGENDA

Moved by Alex Milshteyn, seconded by Sara Hammerschmidt, to Approve the Agenda as presented. On a voice vote, the Chair declared the motion carried unanimously.

5. MINUTES OF PREVIOUS MEETING

5-a. [20-1803](#) November 17, 2020 City Planning Commission Meeting Minutes

Moved by Lisa Disch, seconded by Alex Milshteyn, to approve the November 17, 2020 CPC minutes and forward to City Council. The minutes were unanimously approved.

5-b. [20-1977](#) December 1, 2020 City Planning Commission Meeting Minutes

Moved by Lisa Disch, seconded by Alex Milshteyn, to approve the December 1, 2020 CPC minutes and forward to City Council. The minutes were unanimously approved.

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

6-a. City Council

Councilmember Lisa Disch reported on the previous Council meeting;

Council approved the Brightdawn Condominium proposal and made an interesting modification in response to neighbor concerns of traffic cut-throughs; there will be a raised gate that will be temporarily installed where the connection was going to be at Eli Street, and hopefully that will help with the way traffic flows through the neighborhood. Disch further reported that the proposed Sign Ordinance also passed last night.

6-b. Planning Manager

No report.

6-c. Planning Commission Officers and Committees

6-d. Written Communications and Petitions

[20-1979](#) Various Communication to the City Planning Commission

Received and Filed

7. PUBLIC COMMENT/PUBLIC 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.)

Tom Stulberg, 1202 Traver Street, Ann Arbor, welcomed the new Commissioners, noting that there are only three Commissioners remaining from 2017 when the Lower Town project, 1140 Broadway, came before them and was approved. He said, "after it was improperly approved the neighborhood, for which he is the spokesperson and boardmember, hired an attorney not to sue the City but to educate Council," and he was hopeful that information had been forwarded to the Commission from that lawsuit. He said, "I did the lawsuit filing as a developer of subdivisions in Oakland County going back almost 30 years, and as one who had gone before many various Boards and Commissions, together with Eppie Potts (whom passed away this past year) came before the Planning Commission saying their process was wrong on this particular approval. The development was a residential development and the site was zoned for mixed use and at that time there should have been a master plan review for this issue, a revision for this process, and if the community decided we no longer wanted mixed use on this site, we wanted residential, there should have been a plan revision – I don't think we would have ended up with that conclusion, given the momentum towards ..(?) and mixed use and then we'd be done, we wouldn't be here talking about this right now because the master plan would not have been

changed to mixed use ...and about C1 and C1A/R were so badly misused to get around our zoning ordinance". He said, "If C1 and C1A/R are going to be so badly misused, just get rid of them; they haven't been used in 20 years, 50 years".

Ralph McKee, said he lives in the 5th Ward in Ann Arbor. He referenced an email he had just sent to the Commission (included in the Communications) reading from the communication, ' I listened to and spoke at the recent Ordinance Review Committee meeting on the review of the C1A and C1A/R zoning districts and have reviewed the staff recommendation just submitted by Brett Lenart. Though I am not surprised given Mr. Lenart's prior actions regarding these districts, I am still very disappointed in the recommendation. It does not follow the direction given by city council to, essentially, analyze potential restriction or elimination of those districts, and it ignores the similar public input provided at the committee meeting. Instead, the recommendation supports a vague expansion of use of those districts. The recommendation does not properly address 1) the original intent of these districts, 2) the problematic (at best) and arguably illegal use of these districts re the Lowertown and Garnet (325 E. Summit) developments, which resulted in community pushback, a lawsuit, and the council directive, 3) that the use of these districts will allow developers to avoid including affordable units and/or paying into the affordable housing fund, 4) the difficulties inherent in having a district with no geographic boundaries, and 5) the usurping of the master plan process. Let's start with the history. C1A and C1A/R are "Campus Business District" zoning "districts" (emphasis added). They were intended to allow re-zonings for developments near the "central area" of the city, where there was significant foot traffic using the businesses already located there. Approval of the Lowertown development allowed the developer to build a much bigger, more dense development than any residential zoning allowed, allowed the developer to avoid paying almost \$9M to the affordable housing fund.'

Noting no further public speakers, the Chair closed the audience/public comment portion.

8. PUBLIC HEARINGS SCHEDULED FOR NEXT BUSINESS MEETING

- 8-a.** **20-1985** Public Hearings Scheduled for Tuesday, January 5, 2021 Planning Commission Meeting
- Chris Cheng reported on upcoming public hearing items for the next*

business meeting.

Received by the Commission and Filed.

Received by the Commission and Filed.

9. REGULAR BUSINESS

Chair Mills recused herself from Agenda item 9-a noting she was a parishioner and donor to the project (she left the meeting). Vice Chair Gibb-Randall assumed chairing of the meeting.

- 9-a** **20-1980** St. Francis of Assisi (2150 Frieze Ave) for Planning Commission Approval - A proposal to construct a 2-story, 14,500-square foot parish addition on this 10.6-acre site zoned R1B (Single-Family Residential) in which church uses and expansions require Special Exception Use approval in a residential district. A landscape modification from installing the required parking lot bioretention is also requested. Staff Recommendation: Approval

PROJECT PRESENTATION:

Robert Kehn, CMA, Parish Business Manager St. Francis of Assisi Catholic Church, 2150 Frieze Avenue, Ann Arbor, provided information on the church and the work they do in the community.

Dan Kohler and Brian Bagnick, Hobbs & Black Architects, 100 N. State Street, Ann Arbor, provided the proposed project presentation.

Thomas Dumond, Landscape Architect for the project, and Father James were also available.

STAFF REPORT:

Chris Cheng, City Planner, provided the staff report.

PUBLIC HEARING:

Lisa Pine, 2033 Medford Road, Ann Arbor, asked about proposed time-frame for the construction phase, adding that she is very concerned with construction noise that this project is going to create in the neighborhood.

Noting no further public speakers, the Vice Chair closed the public

hearing.

Moved by Sara Hammerschmidt, seconded by Alex Milshteyn, that the Ann Arbor City Planning Commission, after hearing all interested persons and reviewing all relevant information, finds the petition substantially meets the standards in Chapter 55 (Ann Arbor Unified Development Code), Section 5.29.5 (Special Exception Use), and therefore approves the St. Francis of Assisi Special Exception Use for church and school uses. This approval is based on the following findings:

- 1. The proposed uses will be consistent with the objectives of the Master Plan permitting churches and schools by serving residents in the district.**
- 2. The proposed use will not adversely impact traffic, pedestrians, bicyclists, circulation, or road intersections based on the location and existing uses.**
- 3. A site plan documenting the existing and proposed conditions of the site has been submitted as part of this application.**

This Special Exception Use approval is based on the following conditions:

- 1. The church use maintains a maximum seating capacity of 1,000 persons and school occupancy is limited to 675 students.**
- 2. The floor area total for both the church, parish and school does not exceed 78,000 square feet, and**

The Ann Arbor City Planning Commission hereby approves the proposed landscape modifications in order to maintain the previously approved landscape plan according to Chapter 55 (Zoning Ordinance), Section 5.30.2A (2)(e) subject to approval of the site plan, and

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the St. Francis Assisi Site Plan, subject to approval by the Zoning Board of Appeals to not plant street trees in the public right-of-way and installation of required Electric Vehicle (EV) parking spaces if the EV Ordinance is passed before this site plan.

COMMISSION DISCUSSION:

The Commission took into consideration the presented petition and discussed the matter. [For a complete record of the discussion, please see available video format]

Commissioner Wonwoo Lee asked about the proposed construction phase and timing, to which Bagnick responded they expect the project to go out for bids in January 2021, with construction beginning late spring or summer, depending on Diocese approval and fund raising, and they expect construction to be completed in 12 to 14 months.

Wonwoo asked what decibel levels occupants of Tappan School could anticipate during the construction, to which Bagnick responded he couldn't provide decibel levels, only noting they would limit the construction times to weekdays only, between 7 am to 4 pm.

Wonwoo enquired if there had been any communication with Tappan School letting them know about the proposed construction to which Bagnick responded, not yet, but they would be invited to a pre-construction meeting as would the other neighbors and should there be any drop-off or pick-up conflict with the school, they would coordinate it with them. Wonwoo said the architectural renderings were very thorough and he felt it would be a useful project.

Commissioner Ellie Abrons asked about the neighborhood participation meeting noting the report showed the petitioner had held a meeting in 2018, to which Bagnick responded they had held a few meetings a couple of years ago with the project starting in 2016.

Commissioner Sara Hammerschmidt asked if the City had a statute of limitations on neighborhood participation meetings, given that people move, and new neighbors might not receive notification if a project takes several years to bring it before the Commission to which Cheng responded he had posted several Public Hearing Notice signs given the large parcel and that it faces four streets; the meeting is also advertised in the newspaper and the City mailed out postcard notices to all owners and residents within 300 feet of the subject site. Cheng said upon reading the meeting minutes from the neighborhood meeting he didn't feel they needed to be included with the staff report, but they are included in the project file through eTrakit.

Hammerschmidt requested the petitioner to post some form of signage, on site, with contact information during construction should neighbors

have concerns, to which Bagnick responded they would post a sign with project information that included phone numbers for architects, developer, and owners. Hammerschmidt noted the architectural plans and renderings were very helpful and she thinks it will be a nice addition to their campus.

Vice Chair Gibb-Randall asked about the number of street trees to be planted in other areas of the site, to which Landscape Architect Thom Dumond responded, the number of street trees along Stadium are proposed to be located just outside of the right-of-way (ROW) on their private property.

On a roll call vote, the Vice Chair declared the motion carried unanimously. Vote: 8 - 0

Yeas: 8 - Alex Milshteyn, Shannan Gibb-Randall, Elizabeth Sauve, Ellie Abrons, Sara Hammerschmidt, Lisa Disch, Wonwoo Lee, and Sadira Clarke

Nays: 0

Recused: 1 - Sarah Mills

- 9-b.** [20-1981](#) 416 W Huron Parking Lot Pavement Improvements Site Plan for Planning Commission Approval - A proposal to re-construct existing parking lot, adding storm water controls and landscaping subject to restrictions due to the Allens Creek Drain easement. Parking space count will decrease from 96 to 72 spaces, 4 new bicycle spaces will be provided on this 0.81-acre site zoned D2 (Downtown Interface). The petition includes two Landscape Modification requests. A request to waive the requirement for trees in interior landscape islands and two right-of-way screening trees due to restrictions of the Allens Creek Drainage Easement. A variance is also required to waive the requirements for two street trees due to the Allens Creek Drainage Easement. Staff Recommendation: Approval
- Chair Sarah Mills was invited back into the meeting and resumed chairing.*

PROJECT PRESENTATION:

Matthew Budds, Attorney for the owner and applicant, West Huron Properties (Cathy Kimmell), LLC, 416 West Huron Street, Suite 23, Ann Arbor, provided the proposed project presentation.

Hugo Ceron, Engineer for the project, was also available.

STAFF REPORT:

Matt Kowalski, City Planner, provided the staff report.

PUBLIC HEARING:

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

Moved by Lisa Sauv , seconded by Lisa Disch, that the Ann Arbor City Planning Commission approves the 416 West Huron Parking Lot Site Plan conditioned upon a variance being granted by the Zoning Board of Appeals for two street trees, and

The Ann Arbor City Planning Commission hereby approves the proposed landscape modifications according to Chapter 55 Unified Development Code, Section 5.20.3.A, to require one tree for Right of Way screening where three trees are required and Section 5.20.3.B to require no trees in the interior landscape islands where six trees are required due to the location of the Allen Creek Drain directly below the site.

COMMISSION DISCUSSION:

The Commission took into consideration the presented petition and discussed the matter. [For a complete record of the discussion, please see available video format]

Commissioner Shannan Gibb-Randall asked staff to review the site plan, showing the location of the Allens Creek Drain that runs underneath the site as well as landscape plan. She noted there is a lot of hardscape on this site and she was glad to see the petitioner try to green it up as much as possible; however, upon review she agreed that the space is maxed out, leaving no space for additional trees. She asked the petitioner to do whatever they can during construction to protect the existing healthy Honey Locust that is located on site.

Commissioner Ellie Abrons asked when the existing trees were planted, noting that the Google streetview, dated July 2019, did not show any trees. Matt Kowalski noted that the street was redone in 2019 and he believed the trees were planted after the street was completed in the summer of 2019. Commissioner Sarah Mills added that several of the trees did not survive and had to be replaced this year again, which was

confirmed by Budds.

Chair Sarah Mills said she often walks and bikes along this street and must use the sidewalk because there is no infrastructure in the street; the sidewalk is heavily used by pedestrians as well and she appreciates the recent accommodations that have been made and continue to be made to make the curbcuts and sidewalk even safer. She expressed this proposed project will not make the current situation any worse, which she appreciates.

Commissioner Wonwoo asked if the petitioner has any plans to redo the existing monument sign, noting it is very large and auto-centric. Budds responded that signage has not been part of this project to date; however, he will be sure to pass along Commission and Staff comments to the owner.

On a roll call vote, the Chair declared the motion carried unanimously. Vote: 9 - 0

Yeas: 9 - Sarah Mills, Alex Milshteyn, Shannan Gibb-Randall, Elizabeth Sauve, Ellie Abrons, Sara Hammerschmidt, Lisa Disch, Wonwoo Lee, and Sadira Clarke

Nays: 0

- 9-c.** [20-1982](#) Lewis Jewelers Retail Plaza Site Plan for City Council Approval and Special Exception Use for Planning Commission Approval - A request to redevelop 300 S. Maple, a 1.98-acre site zoned C3 (Fringe Commercial). Plans include demolishing the previous restaurant building and constructing a new 24,520-square foot retail building. Request includes a special exception use application for a drive-through facility. Staff Recommendation: Postponement

PROJECT PRESENTATION:

Robert Kerr, Metro Group Architects, provided the proposed project presentation for owner and applicant, DNL Holdings, LLC, 2000 West Stadium Blvd, Ann Arbor.

Candice Briere, Metro Consulting Associates, Civil Engineer, Steve Brouwer, A.R. Brouwer, Petitioner and General Contractor for the project, along with Chris Sutton, Engineer, were also available to respond to enquiries.

STAFF REPORT:

Matt Kowalski, City Planner, provided the staff report.

COMMISSION BREAK

PUBLIC HEARING:

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

Moved by Sara Hammerschmidt, seconded by Alex Milshteyn, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Lewis Jewelers Retail Plaza Site Plan subject to obtaining the required off-site private storm sewer easement and the off-site public water main easement prior to the issuance of any building permit, and

The Ann Arbor City Planning Commission, after hearing all interested persons and reviewing all relevant information, finds the petition substantially meets the standards in Chapter 55 (Ann Arbor Unified Development Code), Section 5.29.5 (Special Exception Use), and therefore approves the Lewis Jewelers Retail Plaza Special Exception Use for one drive-through lane as part of a retail use. This approval is based on the following findings:

- 1. The proposed use will be consistent with the C3 Fringe Commercial District zoning district, which provides commercial activities accessed primarily by automobile.**
- 2. The proposed use will not adversely impact traffic, pedestrians, bicyclists, circulation, or road intersections based on the location. South Maple Road provides access to the site, and the proposed use is consistent with other surrounding uses' traffic impact.**

COMMISSION DISCUSSION:

The Commission took into consideration the presented petition and discussed the matter. [For a complete record of the discussion, please see available video format]

Commissioner Alex Milshteyn expressed concerns about the safety of a drive-through as proposed; he enquired about the drive-through and surrounding parking, such as access points, how many vehicles can fit in

the drive-through and what traffic issues might occur because of vehicle backups. He said the driveway into the site gets a lot of traffic because people confuse it with the nearby Kroger driveway as well as the other stores in the Westgate Shopping Center. Milshteyn said he is in favor of the development that is there but not the drive-through Special Exemption Use request if it is what it appears to be. He said he frequents some drive-throughs, especially given the current pandemic, noting the Starbucks on Ann Arbor-Saline Road (by Meijer) which is a similar drive-through as the one being proposed. He said cars are queued up and out onto the main road, which is problematic; another drive-through is the Northeast Credit Union bank on S. State Street where the cars are literally parking on S. State Street to get into the drive-through, just because there is not enough room for customers to maneuver around that area. Milshteyn said another issue is trash; having a trash container pointing towards Westgate Shopping Center does not look that great.

Commissioner Sara Hammerschmidt agreed with Milshteyn regarding the location of the trash containers right by the park and would like to see more details on that as well as the drive-through; she loved that the project is being pulled up to the sidewalk and activating that stretch.

Commissioner Sadira Clarke asked about the traffic circulation when traffic enters from South Maple if they will have to cross the traffic exiting from the drive-through, which Kowalski responded yes.

Chair Sarah Mills asked how many vehicles could queue in the proposed drive-through. Kerr responded three, but they could lengthen that drive isle to allow five vehicles depending on the placement of the menu board.

Kerr commented that they are not aware of any easement that would allow the shopping center to use that driveway; thereby, it would not need to be a two-way drive, rather just a one-way as they proposed originally, before the City's Traffic Engineers said it would have to be two-way and set up for 'collision'.

Kowalski clarified that the language in the registered easement states specifically for two-way – ingress and egress traffic. He pointed out that the left turn into the site from S. Maple is the only such turn that allows traffic to enter Westgate Shopping Center.

Mills said having one-way traffic seems to make the vehicular pattern with the drive-through safer, while she realizes how traffic gets confused thinking that entrance is intended as an entrance to Krogers. She said

while the shopping center is car-centric it is also one of the most transport accessible shopping centers in the City. Mills said she is concerned with foot traffic from the shopping center taking a direct route to the bus stops located just south from this site on S. Maple; pedestrians would end up in the drive-through traffic and it wouldn't be safe.

Commissioner Shannan Gibb-Randall said the drive-through, even with only a few cars queuing, would end up blocking the interior parking lot as well and she sees the drive-through as problematic, whether one or two-way traffic. She said she is in support of the development but believes the proposed drive-through is too problematic and would find it difficult to support.

Commissioner Lisa Sauv  said the current conditions at the left turn lane into the site are already problematic because left-turning Jackson Road traffic gets stuck behind vehicles waiting to turn into the site, and if it becomes one-way traffic, we will get one less entrance point into the Westgate Shopping Center and more conflict up at the lights. She said going one-way, in context, creates more traffic congestion, issues, and risk-taking to turn left at the other Westgate entry further up. She expressed that the traffic flow has to work in concert, and she would like to see the easement language when the item returns before the Commission, because she said it's hard to support one-way traffic in order to make a drive-through work, to the detriment of traffic to flow for the over-all area servicing the community. Sauv  said there is no sidewalk connection from the bus stop to the patios of Suite 3, which she would love to see.

Kowalski noted a grade change which would not allow for ADA compliant sidewalks on the southeastern corner. Candice Briere agreed, noting they could add steps if the City would approve the sidewalk.

Milshteyn said it would be great if the City's Traffic Engineer could attend the meeting when the agenda item returns before the Commission.

Commissioner Wonwoo Lee said he really likes what is proposed from a material and elevation standpoint; the way the layout pulls the building towards the road and helps slow traffic down on S. Maple with the landscape buffer on that side; he believes it's a better design than what the previous Quarter Bistro restaurant used to be, but thinks there's a sufficiency with the stacking lane. Lee said he would like to see the conflict with the ingress/egress lane get resolved.

Moved by Milshteyn, seconded by Sauv , to postpone agenda item

until the February 2, 2021, Planning Commission meeting.

COMMISSION DISCUSSION ON POSTPONEMENT:

Lee asked how they felt about returning on February 2, 2021, to which Kerr responded they would like to come before the Commission in January.

Steve Brouwer commented that it seems clear that the drive-through just needs to be removed, which would allow them to return in January.

Councilmember Disch said she'd like to see the trash issue resolved as well as a possible ADA accessible sidewalk as discussed by the Commission.

Brouwer said the trash receptacle site has been in this same location for the past 40 years.

Mills expressed leaving the postponement open ended, allowing the item to return as soon as the outstanding issues have been addressed.

Hammerschmidt said she agrees that the dumpster location needs to be addressed, given that this area is considered a public space; no one would like to use a 'park' so close to a dumpster.

The Commission discussed procedural issues on postponements.

Friendly amendment offered by Abrons, accepted by Milshteyn and Sauv , to postpone to a date uncertain. Approved unanimously,

DISCUSSION ON FRIENDLY AMENDMENT:

Gibb-Randall said she does not want to add this item to the January 21 meeting if it means the meeting will go to midnight.

On a roll call vote, the Chair declared the amended motion carried unanimously. Vote: 9 - 0

Item Postponed

Yeas: 9 - Sarah Mills, Alex Milshteyn, Shannan Gibb-Randall, Elizabeth Sauve, Ellie Abrons, Sara Hammerschmidt, Lisa Disch, Wonwoo Lee, and Sadira Clarke

Nays: 0

10. OTHER BUSINESS**10-a. 20-1983 Site Plan Review Thresholds**

Moved by Milshteyn, seconded by Abrons, that the Ann Arbor City Planning Commission hereby approves the following update to City Council on Resolution R-20-260 and summarizes Planning Commission's intent for proposed amendments.

COMMISSION DISCUSSION:

The Commission took into consideration the presented agenda item and discussed the matter. [For a complete record of the discussion, please see available video format]

The Commission expressed that they believed the communication reflected what the Commission has discussed and evaluated.

Chair Mills said it would be helpful to have City Council weigh in and for the Commission to receive direction on what issues Council would like them to focus their efforts on initially, given their full workplan.

On a roll call vote, the Chair declared the motion carried unanimously. Vote: 9 - 0

Yeas: 9 - Sarah Mills, Alex Milshteyn, Shannan Gibb-Randall, Elizabeth Sauve, Ellie Abrons, Sara Hammerschmidt, Lisa Disch, Wonwoo Lee, and Sadira Clarke

Nays: 0

10-b. 20-1984 C1A & C1A/R Communications Update

Moved by Milshteyn, seconded by Sauvé, that the Ann Arbor City Planning Commission hereby approves the following update in response to City Council Resolution R-20-267 and summarizes Planning Commission intent for proposed ordinance amendments.

COMMISSION DISCUSSION:

The Commission took into consideration the presented agenda item and discussed the matter. [For a complete record of the discussion, please see available video format]

Councilmember Disch asked about the removal of premium eligibility

and if it was in order to set a height cap. She said based on some of the feedback the Commission is getting, she senses there will be concerns raised that any portion of the site within 300 feet of a residential zoning district could go as high as ten stories. Disch said there will be concern that they keep these as 'live' zoning designations anyway and there's a reasonable question as to whether or not these will simply be supplanted by T1, when we finish T1, and these may never even come into play, or in the next year, so the discussion may be moot.

Matt Kowalski said he'd have to get back with the Commission on the question of premiums.

Chair Mills said this matter has come before the Commission a few times before Councilmember Disch was appointed to the Commission. Mills said they didn't have a lot of discussion about it, because they didn't see it as broken, as reflected in the memo, that there might be a typology that they don't want to entirely throw out.

Mills said the discussion on the premiums included that while height is not always used as a premium, in some of these districts, they don't come with a height limitation (as there is in the D2), which is one of the concerns, and putting these things together was providing some extra protection.

Mills said she felt the last two bullets in the memo go together and help make it a little clearer, that is you want to go 100 feet tall and you are adjacent to a residential district, you now have to (based on the multiplier as outlined in the second to last bullet point) be 100 feet setback from that back line. So even if you are right new door, in order to be that high, (for every foot over set feet) you have to move back, which provides an additional layer of protection over that. Mills said this is borrowing from what they have in other neighboring districts and we know that this concern over unlimited height can be addressed in this way to quell those concerns.

Commissioner Sauv  added that the premiums only apply to the D1 and D2 and these designations so to remove it from this only applies to D1 and D2 which is a clearer boundary where the boundary of this is following the campus area. Sauv  said what it did, especially residential, by removing the premiums, any resident that could be next to this zoning designation they know the density that's going to happen on that site; there is no possibility to go denser or higher than those two limits. She said increasing FAR, all of a sudden, you're seeing much more on that

site than what it is zoned for; however, premiums are still 'by-right' if you do this or that, so by eliminating it there is less uncertainty.

Commissioner Abrons had procedural clarification, noting communications they have received from member of the public. She noted the Commission is not voting on anything specific tonight regarding this topic, rather voting on sending this communication to City Council. She said she has questions on this topic, but tonight is not the time to bring those concerns – just agreeing to discuss these matters further in the coming year. She asked for affirmation, which Matt Kowalski responded to, stating, "that is absolutely correct", it's an update to Council letting them know these are some of the areas we want to explore, but in no way are these code amendments, and by voting on sending this communication to Council does not mean the Commission is agreeing to these things in the memo or committing them to specific matters.

Abrons said she would like it to say she supports the memo, but wants to make sure that when they bring this up for discussion, next year, they take the time to go through the points that are being raised in the communications which have been received by the Commission and for them to address those concerns, such as, height relative to D2, affordable housing, what we think the appropriate criteria for evaluation would be when considering whether something qualifies in a rezoning petition. She hopes the Commission takes the time to discuss these topics in the future.

Commissioner Milshteyn stated instead of taking several months to come up with a plan, and because there has been a change on City Council, the Commission doesn't want to work on something that City Council will vote it down because things changed. He said the Commission worked for months and months of ADUs (Accessory Dwelling Units), by the time it got to City Council, they voted it down. He said he likes the idea of sending memos in order to receive some feedback from Council, so they know where the Commission stands, given their already lengthy workplan. He said, "let's work on things that will be productive!" Milshteyn said it's helpful to prioritize what the Commission looks at, what Council wants them to look at.

Abrons asked if the Commission can expect feedback on their memo or if they need to add anything specifically requesting such, to which Kowalski responded, "yes, they will receive feedback". Kowalski said memos help indicate if they are moving in the right direction or if they need to change course.

Disch asked if the memo was asking for prioritizations, what trade-offs were there.

Mills said she believed it was staff time, given the limited hours in each day; she wondered if the Commission would have time to get to the four listed items, by April, as stated in the memo, or if Council will direct them elsewhere. Mills noted there are other matters, beyond those four things listed in the memo, such as original intent in the language in various districts, which has been brought by members of the public. She believes the issue they will not be able to solve, beyond the items listed in the memo, is where our Master Plan calls for a specific district or where it doesn't call for a specific district, and the concern whether it is the appropriate district to apply, will keep coming back. She said she remembers a working session where she said the Commission isn't ready to scrap this until we look at the Master Plan again; however, without the budgetary availability right now for that, she expressed she felt that is the part missing from this communication. She said when sites are re-zoned to C1 and C1/AR people say this is not what is called for in the Master Plan. The Commission sees the issue of the Master Plan as being one of the challenges, in moving forward, and she wants Council to realize this.

Sauvé said she sees this as a two-step communication; we are sending the memo before we are doing additional work and the harder part being the placement of the Master Plan which requires a lot more staff time. She said the four points help tidy up what the district really is and are very feasible and reasonable ordinance changes to accomplish by April 1st, without losing the intent of the matter, while addressing some of the concerns they are beginning to see. She agreed with Milshteyn that this gives Council the checkpoints while allowing the Commission to go back to Council with the issues they are seeing and asking them if they would like to pursue them, after highlighting those issues. She felt the memo addressed the Commission's position, and that they are prepared to do the four things listed, unless Council tells them differently.

AMENDMENT I

Moved by Ellie Abrons, seconded by Alex Milshteyn, to amend the last sentence before the four bullet items listed to indicate, 'ways to achieve this including, but not limited to, the following: (list bullet items)' and,

the last paragraph could be amended to explicitly request feedback

from Council and remove the hard April 1st date. (after comma)
'...pending direction from City Council.'

DISCUSSION ON AMENDMENT I:

Milshteyn agreed to removing the April 1st date, given the many items the Commission is working on and the limited available meetings when these four bullet items could be discussed.

Mills expressed the desire to receive feedback from Council on all of the issues included in the memo.

Discussion on further amending the memo continued. They decided leaving it open-ended with Councilmember Disch delivering the message.

VOTE ON AMENDMENT I:

On a vote, the Chair declared the amendment approved.

On a rollcall vote, the Chair declared the amended motion carried unanimously. Vote: 9 - 0

Yeas: 9 - Sarah Mills, Alex Milshteyn, Shannan Gibb-Randall, Elizabeth Sauve, Ellie Abrons, Sara Hammerschmidt, Lisa Disch, Wonwoo Lee, and Sadira Clarke

Nays: 0

11. PUBLIC COMMENT/PUBLIC PARTICIPATION (Persons may speak for three minutes on any item.)

Tom Stulberg, 1202 Traver Street, Ann Arbor, stated he wished he could've helped the Commission make their decision easier, by scrapping the list and scrapping the two zoning designations, and have the Commission spend all their time on transit oriented development instead. He said there has only been one attempted use of C1A in the past 20 years and one C1/AR in 50 years, with the C1A request being turned down, and the other approved. He said "both were inappropriate... and so, let's just get rid of them!" Stulberg said you're trying to make something palatable, while it's fine where it is left alone – where they exist; it's small lots so you don't have to worry about the FAR pushing the height limit anyhow and they are in core areas and that's why the premiums are for D1 and D2, C1 and C1/AR because they are in core areas. If you keep them where they belong, then you solve the whole problem – I think

the real issue here was not to make them palatable so they can be spread everywhere – it was to corral them so these things could become not palatable elsewhere. He said if you let them spread to big lots then all of a sudden you get into the height issues because of the FAR. Stulberg stated, you wouldn't have to put the fixes on if you corral them where they really belong in the first place. Stulberg said you are still stuck looking at that issue when this comes back to you – where do these really belong? That's probably the biggest issue and solves the most problems, but it's a done deal and you've sent it off to Council...so you've accomplished that before the end of the year, but as we look at this further I really want to provide more input on why it really isn't appropriate-inappropriate to spread these past where they were really intended to do and I urge you to do, in the time between now and when this comes back to you with direction from Council to read the documents we provided, to read the actual lawsuit filing, to read the November 2017 letter from Susan Friedlander, which includes a letter from a previous Planning director to Planning Commission. Stulberg said there is a wealth of information in there and it is all conclusive that these do not belong to be spread outside where they belong, which is a very limited area.

Ralph McKee, 1116 Red Oak, Ann Arbor, said he has a similar take of these things as Tom does, but with a different perspective. He said the original direction from Council was pretty clear, figure out how to restrict these or get rid of them; somehow in the initial instructions and comments from staff it took on a completely different direction which was more like, how can we expand them to use them and still make them palatable; that's exactly the opposite of the direction that was given and that's what's causing you the heartburn here, in terms of figuring out how to use it here, because the original direction has not been followed. McKee said the point here is they cause all sorts of decisional problems and zoning twists and turns if you take them out of the original areas where they were originally intended. If you try to make them fit other places, you run into all sorts of other problems, which you've correctly already identified. He said if you go back to the original direction you can solve a lot of problems. McKee said the last part of the discussion is one of the most confusing discussions he's heard in a long time, about how to grapple with it and he appreciates the problem but it's sort of a self-inflicted problem; if you want to prioritize, you'd be a lot better off, getting rid of that problem. McKee said there is something in all the material that you are doing; you will be very productive because virtually all the issues that Tom and I have identified are front and center when you're dealing with the transit oriented (T1) or whatever you want to call it. He encouraged the Commission to read the documents as Tom stated, which will give you

background that will be applicable to your other problem, which is going to be your priority going forward, as I understand it, so that piece will be helpful. ... McKee said you guys spent 35 minutes talking about what date to move the Lewis Jewelers site plan review to, and I don't know about the use of time if you want to prioritize and keep your meetings short.

12. COMMISSION PROPOSED BUSINESS

Commissioner Milshteyn asked Kowalski to forward the following information to Planning Manager Brett Lenart;

He said one of the communications added to their packet late today, was a letter from Barton Hills saying they are embarking on a Master Plan revision. He said one of the things happening now is the Lower Town mobility study and it's very close to the Village of Barton Hills, so he believes there must be some communication from the City, regarding that study - that the City would want that study to be a part of their Master Plan process. He requested that Lenart get back to the Commission regarding this request.

Chair Mills thanked staff for stepping in to help cover the meeting during Brett Lenart's illness. She wished him a speedy recovery and acknowledged how fortunate the Commission is to have such professional staff to assist them.

13. ADJOURNMENT

Moved by Alex Milshteyn, seconded by Ellie Abrons, to adjourn the meeting at 10:38 pm. Without objection the meeting was adjourned.

Sarah Mills, Chairperson
/mg

eComments for the Commission may be left via our Legistar calendar page (column to the very right)
<http://a2gov.legistar.com/Calendar.aspx>

Commission public meetings are held the first and third Tuesday of each month. Both of these meetings provide opportunities for the public to address the Commission. All persons are encouraged to participate in public meetings. Citizens requiring translation or sign language services or other reasonable accommodations may contact the City Clerk's office at 734.794.6140; via e-mail to: cityclerk@a2gov.org ; or by written request addressed and mailed to: City Clerk's Office, 301 E. Huron St., Ann Arbor, MI 48104. Requests need to be received at least two (2) business days in advance of the meeting. Planning Commission meeting agendas and packets are available from the Legislative Information Center on the City Clerk's page of the City's website (<http://a2gov.legistar.com/Calendar.aspx>). Agendas and packets are also sent to subscribers of the City's email notification service, GovDelivery. You can subscribe to this free service by accessing the City's website and clicking on the 'Subscribe to Updates' envelope on the home page.

(If an agenda item is postponed, it will most likely be rescheduled to a future date. If you would like to be notified when a postponed agenda item will appear on a future agenda please contact Planning staff. 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. 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.)

These meetings are typically broadcast on Ann Arbor Community Television Network Comcast 16 / AT&T 99 live at 7:00 p.m. on the first and third Tuesdays of the month and replayed the following Saturdays at 8:00 PM. Recent meetings can also be streamed online from the CTN Video On Demand page of the City's website <https://a2gov.org/watchctn> . The complete record of this meeting is available in video format at <https://a2gov.org/watchctn>, or is available for a nominal fee by contacting CTN at (734) 794-6150