

DRAFT MINUTES
ANN ARBOR CITY PLANNING COMMISSION
REGULAR MEETING

7:00 p.m. – September 21, 2010

Time: Chair Mahler called the meeting to order at 7:00 p.m.

Place: Guy C. Larcom, Jr. Municipal Building, 100 North Fifth Avenue, Second Floor, Council Chamber, Ann Arbor, Michigan.

ROLL CALL

Members Present: Bona, Carlberg, Derezinski, Giannola, Mahler, Westphal, Woods

Members Absent: Briggs, Pratt,

Staff Present: Cheng, Kahan, Thacher, Cooper

INTRODUCTIONS

None

APPROVAL OF AGENDA

Moved by Westphal, seconded by Woods, to approve the agenda.

A vote to approve the agenda showed:

YEAS: Bona, Carlberg, Derezinski, Giannola, Mahler, Westphal, Woods

NAYS: None

ABSENT: Briggs, Pratt

Motion carried.

MINUTES OF PREVIOUS MEETING

Moved by Derezinski, seconded by Carlberg, to approve the Minutes of July 8, 2010 and July 20, 2010.

A vote to approve the meeting minutes showed:

YEAS: Bona, Carlberg, Derezinski, Giannola, Mahler, Westphal, Woods

NAYS: None

ABSENT: Briggs, Pratt,

Motion carried.

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

a. City Administration

None

b. City Council

Derezinski reported that the City Council had received a request for an extension of their PUD site plan from the developers of Glen Ann Place. At the last meeting, the City Council passed an ordinance banning upholstered furniture on front porches. The Council also passed a resolution on Religious Freedom.

c. Planning Manager

Cheng gave a summary of the Notice of Proposed Land Division: Calvert and LaSalle Land Division; 2180 W. Stadium Blvd., explaining that they had requested a 45 day extension on their petition.

d. Planning Commission Officers and Committees

Bona reported that on September 28, 2010 at 7 pm, Pat Murphy, special lecturer, will be speaking at Malletts Creek Branch Library about climate change.

Westphal reported that the Downtown Designing Guidelines Task Force will be meeting on September 22, 2010 at 5:15 pm on the Sixth Floor of City Hall.

e. Written Communications and Petitions

1. Statement from Washtenaw Bicycling & Walking Coalition re: Fuller Road Station proposal – Distributed.
2. Email from Andy Hickman re: Fuller Road Station proposal – Distributed.
3. Email from Margaret Goodly re: University of Michigan Soccer Complex Noise – Distributed.
4. Email from Elizabeth Colvin re: Fuller Road Station proposal – Distributed.
5. Letter from William J. Wroblewski re: Arbor Day Daycare proposal – Distributed.

AUDIENCE PARTICIPATION

None

PUBLIC HEARINGS SCHEDULED FOR NEXT MEETING

None

REGULAR BUSINESS

- a. Public Hearing and Action on Arbor Dog Daycare Special Exception Use, 2856 South Main Street, 6.46 acres. A request to amend the approved special exception use to increase the total floor area from 3,200 square feet to a maximum of 8,800 square feet, to add five parking spaces for a total of 13 spaces, to extend the hours of operation, and to allow a maximum of 125 dogs on site [Postponed at 12/15/09 Meeting] – Staff Recommendation: Approval

Cheng presented the staff report and explained the proposed project, outlining what had transpired since the Planning Commission had postponed the item at its December 15, 2009 meeting.

Margaret Svoboda, 2856 South Main, spoke on behalf of the petition as the co-owner of the business.

Tim Thieme, 112 W. Oakbrook, spoke as a neighbor to the business regarding noise issues.

Linda Coon, 935 Wildwood Lane, spoke in support of the petition.

Jon Svoboda, 2856 South Main, spoke on behalf of the petition as the co-owner of the business.

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

Moved by Woods, seconded by Westphal, that the Ann Arbor City Planning Commission, after hearing all interested persons and reviewing all relevant information, finds the petition to substantially meet the standards in Chapter 55 (Zoning Ordinance), Section 5:104 (Special Exceptions), subject to: 1) limiting the size of the operation to a maximum of 10,000 square feet; 2) limiting the hours of operation from 6:00 a.m. to 8:00 p.m. Monday through Friday and 8:00 a.m. to 8:00 p.m. on weekends and allowing indoor boarding during the hours the day care is closed; 3) limiting the number of dogs to 125 with no more than 25 dogs outside at one time; and 4) occupant complies with Fire Department requirements for additional fire extinguishers, No Parking Fire Lane signs on site and a future Fire Department review if the business changes use, and, therefore, approves the Arbor Dog Day Care Special Exception Use.

Carlberg stated that she would be bothered by the noise from yapping dogs, and questioned the petitioner if the external noise could be contained in a better way than currently, or if the dog-run could be moved further south away from the residential units.

Svoboda mentioned that he had discussed the issue with the Balmoral condo association, and they realized there were noise issues, but some of the barking was coming from within the condo complex, and not only from the dog daycare facility. He noted that the dog-run couldn't be moved further south since the land didn't belong to the parcel they were on. He explained that the dog daycare had been in existence since before the Balmoral condo complex had been constructed.

Carlberg asked if the fencing could be insulated to decrease the noise.

Svaboda said he had looked into all possible noise insulations.

Derezinski asked Cheng if staff felt that the petitioner had done everything they could do to assist with noise containment.

Cheng explained that staff were relying on the noise study that had been done.

Westphal inquired if the City had received any formal complaints on the noise levels coming from the dog daycare facility, which might trigger a zoning review.

Cheng responded that the City hadn't received any complaints.

Westphal expressed not feeling comfortable about approving a Special Exception Use that would increase the amount of dogs at the facility, since there were residents that had expressed their displeasure with the current noise.

Bona agreed with Westphal.

Woods asked the petitioner how many dogs were allowed in the dog-run at any given time and during what hours.

Svaboda responded that there are usually 25 dogs in the run throughout the day beginning at 10:00 am until 5:00 pm.

Woods questioned if they intended to expand their hours of operation. She expressed that she was inclined to support the project given the noise study provided along with knowing that one will encounter barking or yipping dogs in any residential neighborhood. Woods felt that the petitioners had done everything they could do to contain the noise.

Giannola stated that she had objections to the petition because of the noise and would feel differently if the dog-run could be moved.

Westphal asked for clarification from staff on which department handles noise complaints, such as barking dogs, and if those complaints would be forwarded to Planning Services.

Cheng explained that noise complaints are handled by the City's Police Department, who use a noise meter to measure the decibels. He noted that those complaints are not forwarded to Planning Services; however, if a zoning complaint is brought to Planning Service's attention, they would investigate and follow-up on it.

Carlberg stated that she believed that the Police could ticket residents daily if they had a barking dog, irrelevant of the decibels, because residents had a right to quiet and enjoyment of their home. Carlberg asked how the petitioners would handle the dogs if they couldn't use the outside dog-run.

Svaboda's explained that they encourage the dogs to relieve themselves outside and having that possibility is a reason that their clients have chosen their business verses others that don't have an outside dog-run. Not having a dog-run would be a detriment to the business.

Mahler asked if they would lose customers if they didn't have the dog-run.

Svaboda answered that their clients are very pleased that they can offer this outdoor service, and it is something that potential customers look for when choosing a facility for their dogs.

Bona inquired about the status of the Arbor Dog Daycare's Special Exception Use should the Commission deny the proposal before them.

Cheng responded that they would be allowed to continue to operate under their current status, approved square footage of 3,200, and with 25 dogs, but the proposed expansion wouldn't occur.

[Enter Briggs.]

Mahler commented that he is sensitive to the noise issues which the neighbors have brought to the Commission, but he noted that they have also received several communications from people in support of the proposal. One such endorsement came from the Balmoral Condo Association president. Mahler felt that requiring the petitioner to do more than what they currently have would add an undue hardship on the owners, and he therefore supported their petition.

A vote on the motion showed:

YEAS: Briggs, Derezinski, Mahler, Woods, (4)
NAYS: Bona, Carlberg, Giannola, Westphal (4)
ABSENT: Pratt

Motion denied.

- b. Public Hearing and Action on Gacek Annexation and Zoning, 3011 Geddes Ave, 0.63 acres. A request to annex this parcel into the City and zone it to single-family residential use – Staff Recommendation: Approval

Cheng gave a staff report.

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

Moved by Derezinski, seconded by Westphal, that the Ann Arbor City Planning Commission hereby recommend that the Mayor and City Council approve the Gacek Annexation and R1B (Single-Family Dwelling District) Zoning.

A vote on the motion showed:

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

Motion carried unanimously.

- c. Public Hearing and Action on Lake Trust Credit Union Site Plan for City Council Approval, 2180 West Stadium Boulevard, 0.81 acres. A proposal to demolish existing structure and to construct a one-story, 3,686- square foot credit union building – Staff Recommendation: Approval

Cheng gave a staff report.

Woods mentioned that she lives directly across from the proposed project and if anyone felt that her dwelling proximity was a conflict of interest she offered to remove herself from the table.

No Commissioners felt that there was a possible conflict.

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

Moved by Derezinski, seconded by Westphal, that the Ann Arbor City Planning Commission, after hearing all interested persons and reviewing all relevant information, finds the petition to substantially meet the standards in Chapter 55 (Zoning Ordinance), Section 5:104 (Special Exceptions), subject to approval of the corresponding site plan; and, therefore, approves the Lake Trust Special Exception Use for a three-lane drive-thru bank facility.

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Lake Trust Credit Union Site Plan, subject to 1) approval of the Lake Trust Land Division; 2) approval of the Administrative Amendment to the previously approved site plan and 3) recording of the 11-space off-site parking easement prior to the issuance of any permits for construction of the new building.

Carlberg asked for more information on why the existing building was proposed to be demolished and the new building would only be 1000 square feet larger.

Jeff Bamer, from DEI, the Design/Builder for the proposed project, spoke on behalf of the project. He noted that the existing building wasn't large enough to handle the volume of customers the bank currently services and he believed that the Credit Union felt that through their expansion they were improving their services both to the customer as well as their surroundings.

Carlberg questioned Bamer if the proposed building was going to be a throw-away building, in that it would be easy to put up and easy to tear down.

Bamer responded that given the investment into the proposed building, the bank was definitely in for the long haul.

Denise Gately, Lake Trust Credit Union Vice-President Corporate Trust, spoke on behalf of the Lake Trust proposal. She noted that if the existing building could be renovated to meet their needs they would have chosen that option. Gately stated that they would remove the old building in a socially responsible manner and the bank was excited with the possibility of being located close by their competitors at the same intersection.

Westphal asked if the builder was aware of the setback changes that were being proposed. He noted that even though the project meets the current setbacks, it would not meet the newly proposed setbacks.

Bamer noted that the Credit Union had used the current setback restrictions, since through discussions with the City, there was no definitive date for when the new setbacks would come into effect.

Derezinski asked about the timeframe for construction to begin.

Bamer responded that they were ready to begin as soon as they had received their approvals from the City and the State.

Woods inquired about the neighboring stores and if they would remain, since they looked abandoned. Woods commented that all the businesses around the proposed project would benefit if the project looked good.

Bamer stated that he believed they would remain; and while their project would be a stand-alone project they would work on improving the over-all site.

Bona questioned if the petitioner had any mitigation measures involving the materials from the proposed demolition of the existing building.

Mamer responded that the demolition would be to the highest standards the Planning Commission dictates.

Westphal inquired about the drive entrances in relationship to the drive-thru and public sidewalks as well as clarification why the project would need a Special Exception approval.

Cheng explained that in the C2B Zoning District, drive-thru's require Special Exception approvals.

Westphal asked if that was because the community was trying to discourage drive-thru's.

Cheng responded yes.

[Enter Pratt.]

A vote on the motion showed:

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

Motion carried.

- d. Public Hearing and Action on AT & T Optical Amplification Hut Site Plan for Planning Commission Approval, 3845 Varsity Drive, 4.15 acres. A proposal to construct a 325 square foot accessory building at the existing facility – Staff Recommendation: Approval with Conditions

Cheng gave a staff report.

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

Moved by Carlberg, seconded by Giannola, that the Ann Arbor City Planning Commission hereby approves the AT&T Optical Amplification Hut Site Plan for Planning Commission Approval, subject to approval by the Washtenaw County Water Resources Commissioner.

A vote on the motion showed:

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

Motion carried unanimously.

- e. Public Hearing and Action on Fuller Road Station Phase 1 Public Project Review, south side of Fuller Road, just east of East Medical Center Drive in Fuller Park, 10.35 acres. City-initiated project to

construct a five-level, 977-space parking structure, 44-space parking lot, and bicycle parking – Staff Recommendation: Approval

Eli Cooper, Transportation Programs Coordinator, gave a presentation on the Fuller Road Station (Phase 1) Public Project.

Kahan gave the staff report on the proposed multi-modal, multi-agency transportation center.

Larry Deck, 3050 Lorraine Street, spoke as a representative of the Washtenaw Bicycling & Walking Coalition. He expressed his concern with the unfinished trail system and how the non-motorized trails would affect the City in relationship to the proposed Fuller Road Station project.

John Saverino, 281 Rhea Street, spoke against the project and about parkland transfers and agreements.

Peter Zettland, 803 Duncan, spoke against the project and the use of parkland for parking structures.

Elizabeth Colvin, 1053 Maiden Lane, spoke as a representative of two residential condo associations and spoke in support of the project.

Cathy Griswald, 3536 Foxhunt Drive, spoke against the traffic plans presented though the concept plan.

Marta Mineldi, 1045 Cedar Bend Drive, spoke about the general public need vs. individual resident's needs. She also commented on the public hearing process.

Robert Johnson, 1413 Culver Road, spoke against the project, and for the protection of parkland, and the voice of the voters.

Ethel Potts, 1014 Elder Blvd., spoke against the project and questioned why the strong negative comments hadn't made it into the staff reports presented to the Commission.

Cathy Broise, 1726 Charlton, spoke against the use of parkland for the proposed project and against the process of circumventing the voter's voice by allowing use agreements, specifically to a non-tax paying entity such as the University of Michigan.

Jim Mogenson, 3780 Greenbrier, spoke of functionality in public structures to meet the needs of the handicapped. He also stressed the need for traffic studies before projects are constructed.

Christopher Graham, currently serving on the Environmental Commission, spoke of the history of Natural Features Master Plan and how he felt that the City was experiencing an ethical lapse through the proposal of using parkland for non-parkland use, without the vote of the people.

Gwynn Nystrom, 1016 Olivia Ave, spoke against the project and the use of parkland for transportation needs.

[Public Speaker during power outage] spoke against the use of public parks for public projects such as the proposed parking structure.

Anne Larimor, 916 Olivia Ave, spoke against the project in the proposed site and asked for the public report that represents alternate sites for the proposed project. She also stated that she felt a public vote is needed for this proposal.

Barbara Bach, 2061 Day Street, spoke against the project and requested that the Commission table the proposal. She questioned the process surrounding this proposal and the \$ 600,000 tax dollars that have already been spent, plus unknown staff time, to build a parking garage for the University of Michigan.

Kitty Morlock, 1050 Wall Street, spoke as a representative of the Maiden Lane Condo Association, in support of the proposed project.

Ellen Ramsburgh, 1513 Cambridge, spoke against the use of parkland for projects such as the Fuller Road Station. She read an article dealing with the preservation of parkland.

Noting no further speakers, Mahler declared the public hearing closed (9:27 pm).

[10 Minute break]

Moved by Pratt, seconded by Derezinski,

WHEREAS, the City Administrator is directed to obtain comments and suggestions from the appropriate City departments with regard to certain City projects meeting private development regulations prior to recommending that City Council approve funding for them; and

WHEREAS, such projects are to be reviewed by the City Planning Commission prior to City Council approval;

RESOLVED, that the Ann Arbor City Planning Commission finds that Fuller Road Station (Phase I) adheres to City private development standards, including natural features mitigation and storm water detention requirements, with the exception of the following:

The proposed drive approach dimensions for the two easternmost driveways exceed the maximums allowed by Chapter 47 (Streets). Documentation supporting the need for the larger dimensions has been provided.

Bona questioned Cooper on the traffic patterns from the traffic engineer's standpoint in regards to the access into the facility as well as the future drop-off area.

Cooper explained that the traffic engineers through their study showed that a direct crossover would be safer than an indirect or Michigan left turn. He stated that the study also showed that the roundabout could be used to access the drop-off area as well as for u-turn, and traffic flows in the roundabout would have the capacity to meet the traffic flow until year 2035. He stated that the City has completed a comprehensive area wide traffic study, completed by URS, which stretches beyond the proposed project. He noted that the City has completed a selection process on an RFP for the next phase of the project which includes a review of the roundabout, and staff currently is in the process of selecting a firm and work will begin shortly. He noted that the City has also contracted with North Carolina Transportation Institute who is looking specifically at the roundabout and its impact on the pedestrians and the non-motorized flows. Cooper stressed that the City is very much concerned with optimal safety for the pedestrians and bicyclists who will be using this area in the future.

Bona asked for a timeframe of construction for the roundabout, since it seemed like it should be constructed at the same time as Phase 1.

Cooper agreed that the construction of the roundabout was a fundamental element and criteria of the over-all project. He mentioned that the RFP that went out had a completion date of 2012 on the roundabout, but he

wasn't able to give any guarantees on specific dates due to not knowing about timing and funding at the present time.

Bona asked why the incomplete bike trail hadn't been incorporated into the plan of the Fuller Road Station Proposal.

Cooper responded that the elements of the proposed plan didn't include them because they weren't able to secure resources to move forward with the trail element at this time.

Bona questioned Mr. Kosteva about what percentage of University of Michigan staff (at the new medical facilities) at any given time would be using alternative transportation to access the facility.

Kosteva responded that they currently estimate that 40% of University of Michigan employees, across the entire campus, are coming to their workplace in something other than a single occupancy vehicle.

Derezinski asked what the role of AATA was in this proposed project.

Cooper stated that AATA had been involved in this proposed concept from the very beginning, assisting with shaping the floor plans to ensure there is ample room for the amount of buses that will serve the area, as well as assisting in completing grant applications from the Federal government to offset the costs of the transit elements of the project. He noted they are also working with the City as a co-lead agency on the Environmental Assessment Report. He believed that as the project moves forward through the phases, AATA is looking at a system metamorphosis and how they can expand their service.

Derezinski commented that with the stage development of this project it would become a major entrance or gateway to the City. He brought up the fact that there is new federal funding that has become available for train stations through the transportation agencies, and a multi-modal, multi-agency transportation system is definitely something that we need looking at our future needs.

Cooper agreed, stating that the City is looking at the vision of the future in hopes of incorporating alternative transportation needs for those who live and work in the City, or even those who are looking to use a future rail system to access others points. He said that MDOT is also a partner with the work that the City is doing through this project as well as SEMCOG, who is facilitating the commuter rail program.

Briggs stated that she would like for the Commission to address the concerns that the project is proposed to be built on parkland. She noted that it was very helpful to hear a little about the history and the vision that existed for the specific open space where the project is proposed to be built. She expressed concern that the City had not followed a public process to develop this open space parkland for public use and that the Planning staff was recommending approval of Phase 1 when there were still so many outstanding issues that need to be addressed. She felt that Phase 1, in contrast to Phase 3, was in contradiction to the plans of a walking bridge as had been discussed for this area.

Briggs commented on the design of the project, noting that the parking structure wasn't very inspiring or incorporating any progressive design which would seem inviting to newcomers or visitors to the City, should this become the gateway to the City. She stated that even the current Amtrak station has a 'Welcome to Ann Arbor' on the building. She noted that she wouldn't be able to support the project at the current stage since she felt there were several elements that had been overlooked and would need further discussion and clarification.

Cooper responded that regarding the parkland, the City's Attorneys had reviewed the deeds to the parkland and as far as they knew there were no restrictions to the use of this specific parcel, and the project would not be considered an impediment upon it. Park parcels have always been zoned as public land, and this land has

been used as a parking lot for almost twenty years. He stated that the City values and prides themselves in their parks and the minimal footprint was a driving factor in the design of this project.

Cooper stated that what staff have brought forward in this project meets the requirements and the community have the right to make the decision and that will be left with the City Council on this project. He noted that the resources currently available do not allow for the completion of a number of trail path connections that in the non-motorized plan are not identified as short-term opportunities but as part of a long-term plan.

Dick Mitchell from Mitchell and Mouat, one of the architects of the project, clarified some details on the schematics of the south elevation of proposed building, noting that it is the most incomplete since it won't become active until in the later phases which will include platforms and an overpass, and there will be numerous openings which aren't currently shown.

Briggs stated that she was very surprised by the architecture of the parking structure, since it didn't seem to incorporate best practices and was rather plain.

Mitchell responded that they have looked at incorporating public art into the building while they created an active level through their design. Local building materials will be used as well as recycled.

Carlberg questioned Cooper about the timeframe for completion of the potential trails across the river as well as where funding would be coming from.

Cooper answered that he didn't have any timeframe for its completion since it would require environmental analysis before anything could be proposed, but he believed it would take approximately three years to bring the trails to the same process point where the City was currently with Fuller Road Station project. He noted that funding at this time was not identified but he thought that the City might look to transportation enhancement funding, which are federal dollars made available through the State DOT as well as other grant possibilities, such as through the County Parks.

Westphal asked Kahan for clarification on the Commission's charge at the evening's meeting. He noted that the Commission had been requested to review the project to meet private development standards, and since the zoning was designated as public land he inquired if the height and placement restrictions applied.

Kahan responded that the restrictions do apply; however under the PL (Public Land District) chart they called for none, giving public land owners, such as the City or the State tremendous flexibility. He further explained that per a Council Resolution on public projects which was approved in 1989, the City Planning Commission is required to review all public projects before City Council approval if the project costs more than \$250,000.

Kahan outlined that this process was set up so that there would be reviews conducted by all City departments and input given to insure that City projects meet the standards for private developments. He explained that the standards for private developments included specifications that needed to be met, which encompassed several zoning chapters such as streets, site plan requirements, off-street parking, bicycle parking, landscape requirements, soil erosion management, as well as water and sanitary standards.

Kahan further explained that City staff had reviewed this project and found that the proposed project did not meet the standards in Chapter 47 (Streets) in regards to the proposed drive approach dimensions for the two easternmost driveways, which exceed the maximum allowed. He stated that the Commission's charge was not whether they liked or disliked a particular project before them, rather, if that project met the outlined standards for a private development.

Westphal asked if the Commission should be looking at the Master Plan Land Use Element (2009) or the Parks & Recreation Open Space Plan (2009) in making their decision.

Kahan explained that the Master Plan looks at *elements* which are different than *standards*, and the Planning Department still reviews the various plans for direction but not for standards.

Westphal asked if Chapter 57 Natural Features requirements would be met by this proposed project.

Kahan responded that the applicant had presented alternative ways in which they could meet the standards, which do not result in the removal or degradation of a particular natural feature. For the proposed project there are four landmark trees which are proposed to be removed.

Westphal inquired if the river valley wouldn't be considered a natural feature.

Kahan answered that the river valley under Chapter 57 is not a regulated feature, whereas steep slopes, woodlands, trees, wetlands, and the river are natural features.

Westphal asked where he would find the citizen's comments which were to be included in the Final Citizen Participation Report, and if those comments required a written response.

Kahan explained that these comments are in the full report, which is quite extensive and lengthy and only the Executive Report was included in the Commissioner's packets. He said he would verify if a written response was required.

Cooper stated that all of the citizen comments had been professionally compiled and were included in the full report. He clarified that there is a section titled FAQ's which are generalized responses to the comments and questions received from citizens. Cooper also noted that there is a webpage on the City's website designated to this project.

Westphal asked if it was even possible for the Commission to make their decision prior to having the full report provided to them.

Woods asked if the City Attorney's review of the deed restrictions could be made available to the Commission by tomorrow morning, since it would help clarify some questions. She also questioned the total building site.

Cooper responded that he would check with the Attorney's Office and, if the document was available, he would request it to be available to the public. He noted that the footprint of the development site is three and a half acres (3.5) but the whole area affected by the project is larger.

Woods inquired of any alternative sites that have been looked at by the City.

Cooper answered that the City has looked broadly for parcels large enough to handle the size of the proposed project, but one of the key factors was the need to be located next to a railroad.

Woods asked for the Memorandum of Understanding that the City had signed with the City Council.

Cooper stated that the Memorandum of Understanding was a public document that was signed last year in December by the City Council and was provided to staff in the full report.

Mahler stated that he had located the Memo of Understanding at the City's Legistar website, in the documents provided to them as well as the public.

Woods stated that people took offense to Cooper's earlier statement when he mentioned that the area in question was nothing more than a parking lot. She felt that others didn't see it as he did.

Giannola asked how many bus lines were planned for Phase 2. She also inquired when the pedestrian crossing would be constructed.

Cooper said he didn't have any details on the number of bus lines but noted that the transit center had available space for twelve (12) buses. He explained that the future phases would be constructed only after available funding became available.

Pratt, on behalf of the Commission, thanked the members of the public who had come to bring their valid concerns and comments. He stated that what lay before the Commission and ultimately the City Council was a very difficult policy decision, regarding how the City handles their park land. He noted that as a taxpayer he felt that the City has invested a lot of money and thought into its parks and will continue to do so, and their decision on this small piece of land shouldn't send the message that the City didn't value their parks.

Westphal asked if the proposed land was public land within parkland.

Kahan answered yes, Fuller Park.

Westphal inquired if the City's ordinances defined that structures within park land had to be used for park uses.

Kahan responded, No.

Westphal asked if there would be any constructed elements that would preclude the underpasses of trails.

Cooper responded there were no such restrictions.

Westphal stated that he had concerns with the process issues surrounding the proposed project and would only like to see a contingent approval of the project with the completion of the trails that have been discussed so frequently in the past. He felt that approving a plan without any definite timeframe for completion of the trails wasn't in the best interest of this public project, and if the project were a private development he wouldn't approve a project with an open ended deadline for completion of the trails.

Mahler thanked the public for coming to the meeting and for their comments and input. Mahler asked if the plans showing the larger approaches could be provided. He asked which City staff had approved the deviation. He said the motion in question would lead him to believe that the staff didn't approve of the exception with the wider turns and he would like clarification on this specific exception. Mahler also asked for the current status on the alternative layout being developed as explained on Pg. 6 of the Staff Report, Engineering;

1. Two hydrants on dead-end main is not permitted.
2. Water main should be no closer than 20' from building structures.
3. Extend the looped water main layout westerly to better serve the possibility for a future train station to be added to this site.

Kahan responded that he could provide copies of the plans and that City Senior Engineer, Troy Baughman was the staff person who had approved the plans to allow for the wider than necessary standards on the turns which would be needed to facilitate the busses. Kahan asked City Engineer, Dave Dykman, to respond to the specific question regarding the alternative layout.

Dykman stated they are looking at the feasibility of extending a loop main to the west end of the facility that would service hydrants along that main that would satisfy City requirements and standards. He noted that they

have been working with City Engineer Troy Baughman on the layout. He agreed that the three specific items are a work in progress.

Mahler asked for someone to address the storm water issue on the site. He also noted that the report stated that the County doesn't have jurisdiction over the storm water on the site and inquired who does.

Brian Barrick of Beckett & Raeder, 535 W. William, responded that the City has jurisdiction over the storm water on site. Barrick explained that for storm water concepts they have a small surface parking lot on the west end of the site and the parking structure itself, along with the entry drives and the non-motorized pathway. He stated that these impermeable surfaces on the site drain to a series of twelve (12) bioswales, that have overflow outlets, along the north façade of the facility, that drain to the east.

Barrick also explained that there is a large 24" storm line running from the surface lot on the west, to the existing detention basin on the far east end of the site, that would take overflow water in the case of storms. He clarified that the accumulated silt will be removed from the existing detention pond so that the original storage volume is restored. He also revealed that soil borings and water infiltration testing in the area showed that there is tremendous granular material on site for infiltration.

Mahler asked about the proposed volume of U of M buses to the site, noting that the report stated that there would be approximately 460 U of M buses per day.

Cooper responded that with the technical feasibility study, during peak periods they are running about one to one and a half (1 ½) minute headway, which results in a bus every two (2) minutes, or thirty (30) to forty (40) busses an hour.

Mitchell added that not every bus on this route would be expected to make a stop at this proposed site.

Mahler assured the public and the Commission that the facilitation of the type of use agreement that had been generated between the City and the University of Michigan are standard procedure and wasn't an unprecedented agreement for this project alone. He noted that there are other projects, like the Forest structure, that the City and the University have collaborated together on.

Mitchell explained that these types of on-going operating agreements as well as the connector study are among numerous agreements and arrangements the University has with the City showing an on-going partnership sharing mutual interests in cooperation between each other.

Mahler asked for a vote on continuing the meeting past 11:00 pm.

A show of hands showed:

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

Bona also thanked the public for coming to the meeting and stated that she too has had many of the same concerns that the public presented to them at the evening's meeting. She noted that her struggle includes how we can have this exciting new transit center while also protecting our parks.

Bona expressed that the project creates a complex issue, and she is fully in support of the City's Master Plan which calls for a transit center at this location, and she is also supportive of putting parking in this location vs. Maiden Lane or Wall Street. She felt that while the University is in need of parking, they are more effective at using alternative transportation modes.

Bona noted that the City needs to be ready for the future in regards to a transit center. She commented that she felt the building had a presence but it was less than what she would expect for a gateway to the City. She stated that she was aware that architecture of beautiful buildings is expensive and the City is looking to use funds wisely, yet she struggled with the presentation that the building was to become the gateway to the City, yet it just looked like another parking garage. She challenged the City and the University to really make the project into a gateway or if that wasn't possible, then just call it a parking garage.

Bona challenged the City Council and the Parks Commission to find a win/win relative to the loss of the parkland. She stated that she would like for us to look at the proposal not only in terms of loss of acreage and dollars, but rather at the quality of our parks that we have.

Mahler agreed with Bona that if this multi-modal hub was to become a gateway to Ann Arbor it needs to look like something that Ann Arborites can be proud of he would encourage something that will WOW the people. He stated that we know that in the State of Michigan we have the best combination of human and other capital to pull off a project like this and become a future hub of this type. Mahler noted that we need to be a leader in terms of anticipating economic growth along this corridor and this is an exciting opportunity to do it.

He asked the Commissioners to weigh these future opportunities when voting on the project.

A vote on the motion showed:

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

Motion carried.

- f. Public Hearing and Action on Amendments to Chapter 55 (Zoning Ordinance) to Add Regulations Concerning Medical Marijuana Dispensaries and Home Occupations – Staff Recommendation: Postpone

Thacher gave the staff report.

Mark Curtis, 7678 Matthews Road, Spring Arbor, MI spoke in support of medical marijuana and asked the City to realize that their proposals could be modeled by other cities in Michigan. He felt that caregivers shouldn't be limited as well as the fact that there could be multiple users in the same household.

Gersh Avery, 9205 Dexter-Chelsea Road, Dexter, MI spoke in support of the use of medical marijuana, and for less government repression, noting that chronic pain sufferers need alternative drugs such as marijuana. He stated that marijuana is less toxic than water and there are 1800 patients that die every year as a result of side effects from chronic pain medications with a cost of \$ 500,000,000 to the healthcare system.

Mahler stated that the discussion wasn't to decide the benefits or defects of medical marijuana since the voters of Michigan have passed the law and the Commission is now looking at how to zone for it through the ordinances that have been drafted so the medical marijuana can best be dispensed in our community. He stressed that comments regarding the ordinance would be most helpful.

Sam Mendez, 2447 Stone Road, Ann Arbor, MI spoke in support of the proposed medical marijuana ordinance as a caregiver as well as a patient. He requested that City Council would consider a grandfather clause for those clinical facilities that are already in existence to be allowed to operate in order to assist the sick. Mendez expressed that there is a clear difference between clinics that dispense marijuana and caregivers who cultivate

marijuana for their patient's use. He stated that there needs to be a clear differentiation in order to allow more than 3 patients in the same home to produce their own medicine and not be designated as a home business.

Erik Mendooz, a free lance reporter from Traverse City, MI spoke against the requirement that public speakers should have to give their home addresses to be broadcast in a live forum, especially since they are caregivers and growers, putting their crop in jeopardy. He stated that it is against the laws of the Health Dept to disclose the addresses of caregivers.

Chuck Ream, handed out and spoke on the provisions of The City Charter, Section 16; 2 e. He noted that there is no reason to be 200 feet from a residential area, no reason not to allow it in District C, no reason to be 500 feet from another dispensary, no reason to force the operation indoors, and landlords can't be made to incriminate themselves in writing to say they are giving permission for tenants to grow something that is a Schedule One substance. He noted that Section 4 should be omitted from the ordinance; Home Occupations, since it is completely covered under the State law.

Dave Lott, 4792 Washtenaw, Ann Arbor, MI spoke of the need for medical marijuana patients to be treated the same as patients who had other prescriptions in regards to access to medicine.

Michael Mead, 550 Delwood Drive, Ann Arbor, MI spoke as an Ann Arbor resident for 32 years. He commented that Part 1, paragraph b, is inappropriately worded and should be removed since it is already covered under State law. He requested that medical cannabis not be further stigmatized and for legislation not to be based on fear and stereotyping. Mead felt that Part 4, paragraph a, was too restrictive.

Matthew Able, 2930 East Jefferson Ave, Detroit, MI, Attorney, spoke regarding spacing requirements. He stated that since each site plan would be considered on its own merits, the 200 feet buffer was unnecessary. Able noted that since there is no crime being committed the 1000 foot spacing requirements from a school didn't carry any rationale.

Dennis Hayes, Attorney, spoke on behalf of the Ann Arbor Medical Patients Collective Organization, which represents 1,400 patients. He also represents several dispensaries and has written several criticisms dealing with the patients needs that aren't being met under the State statutes. He expressed that Ann Arbor has been on the forefront of dealing intelligently with the regulating of marijuana and the recognition of its accomplishments for the patient.

Hayes noted that even after requesting information on the zoning classifications or the setback requirements it has never been explained as to its reasoning on how or why they were chosen. He stated that the setback issue seems to be creating segregated zones by people who are neither patients or caregivers while there are real patients who have real medical needs and caregivers who are working very diligently to meet those needs. He suggested that the City reach out to the patients through setting a model ordinance that will be used not only by the State but by the country.

Brian Fenneck, Ann Arbor, MI attorney, spoke on the vague language of the State law that was passed , requesting that the City choose ordinance language that won't add to the pitfalls which cause problems. He asked consideration for language on caregivers being classified as businesses and becoming stuck in that same category. He also pointed out concerns with language choices such as *odors* etc when the issue is dealing with caregivers providing medicine for patients.

Liz Pierce, Ann Arbor, MI, spoke on the redundancy of Section 4, g, noting that there are patients that don't feel comfortable providing their addresses because they don't want their personal information disclosed. She stated that these patients feel more comfortable visiting their caregiver. Pierce felt that Section 4, f, addressed the issue and should include those patients who didn't feel comfortable having the caregiver come to their home.

John Gallius, representing a local dispensary in Ann Arbor, MI spoke on Section 4, i. regarding the need for each dispensary to be reviewed and judged on its own merits. He expressed his concerns regarding the proposed ordinance and the need for existing dispensaries to be grandfathered in and allowed to continue to operate to provide medicine to their patients. He stated that the proposed ordinance language would exclude several already existing dispensaries, who have taken the initiative to provide the services that were approved under the State law.

Bona stated that she felt that public applause would be an intimidation for anyone in opposition.

Mark Patserinee, resident of Ann Arbor, spoke as the co-founder of OM Medicine, stating that the issue before them wasn't political but rather a health issue. He said this issue wasn't only for Ann Arbor but for thousands of patients all around Ann Arbor who needed safe access to medical cannabis. He pointed out that the State law was written and passed to protect patients not to restrict them. He requested the Council to grandfather in existing facilities and to allow for caregivers to donate their medical cannabis overages to dispensaries, which would assist patients in getting their medicine in a safe place during the times when their caregiver's crops might have failed or when they might be out of town. He also explained that there are special patient needs for different delivery methods of the medicine, noting that some need balms or salves while others need tinctures. He encouraged the Commission and Council to educate themselves on an issue that was voted in on a 74% margin.

Alex Limeran, 4095 Stone School Road, Ann Arbor, MI spoke regarding removal of the zoning to allow caregivers and those dispensing a safe and easy way to provide the medicine and not confine them to a zone smaller than other retail or medical businesses which would restrict patients in getting the medicine that they need.

John Westerman, resident of Ann Arbor, MI invited the Commission to interview the patients and caregivers to get a full understanding of the situation before they made their decision, since he felt that there were old fashioned ideas being brought to the table.

Noting no further speakers, Mahler declared the public hearing closed (11:56pm).

Moved by Derezinski, seconded by Pratt that The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the amendment to Chapter 55 (Zoning), to add a new Section 5:52 Regulations Concerning Medical Marijuana.

Moved by Derezinski , seconded by Carlberg to amend the motion to postpone action on the proposal until the October 5, 2010 meeting until further suggestions have been received from staff.

Bona suggested that Commissioners bring their questions or concerns to staff before the October 5th meeting in order to give staff a chance to respond to their inquiries.

Westphal inquired if it would be inadvisable to take action on the proposal tonight if Commissioners didn't have too many questions.

Derezinski stated that he was following staff's recommendation on postponing any action until staff was able to consider and incorporate information received from the public during the evening's public hearing.

Thacher noted that staff would prefer they postpone action since there were ordinance language issues that needed to be clarified before the amendment move on to City Council.

Derezinski informed the Commission that he and other Commissioners had visited dispensaries giving them a better understand of the dynamics involved with the zoning issue that lay before the Commission.

A vote on the motion showed:

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

Motion carried.

Briggs stated that there were some very good points brought before the Commission and she had some concerns about the exclusion of odors in home occupations noting that in summertime when windows are open and people are smoking the odor could pass property lines, just like tobacco smoke and that would seem a little much to regulate.

She requested staff to present the Commission with reasoning behind several of the ordinance points at the next meeting specifically *patient pick-up* and the proposed *200 feet* restriction from residential areas, if at the next meeting, these points are left in the proposed ordinance. She pointing out that given the public comments received these might be too limiting causing hardships.

Pratt asked for clarification on Section 1 g. if it meant that home occupations weren't allowed in non-residential and multi-family dwellings.

Pratt brought his concerns with the language choice *written permission* in Section 3 e. He asked for clarification if that was in conflict with the State law on this issue. He conveyed that landlords can resolve conflicts between tenants currently.

Pratt asked if Section 4 d. could have more consistent language with Section 3 i. relating to indoor vs. outdoor issues.

He expressed his concern with the proposed language in Section 4 g. relevant to delivery of medical marijuana. He stated that if we disallow the transfer of marijuana on the parcel in home occupations then the question arises where will we allow them to go to do the transfer. He asked for staff to review this language.

Pratt noted that in Section 4 i. the annual zoning compliance permit might be problematic with State law, and asked for review of that point.

In Section 4 f. he questioned if the proposed language *in the vicinity* was too undefined.

Pratt remarked on the public comments noting that given the proposed ordinance there are lots of places where dispensaries and home occupations would be allowed to operate and he didn't find that using the word "exclusionary" was appropriate. He denoted that pharmacies are restricted to certain areas and even though we might think that there aren't that many places for them to go, there still seems to be a lot of them. Pratt didn't see the proposed distances as too restrictive or concerning in providing services as outlined.

Carlberg asked if they were to consider pursuing *grandfathering* existing dispensaries how would they obtain such a list.

Mahler questioned if they were to approve the proposal with amendments that included grandfathering of existing dispensaries, how many of those dispensaries would be nonconforming. He stated that it would be helpful for the Commission to have such a list to review by the next meeting.

Thacher responded that not all the operations want to be identified or provide their current location. She stated that as they come forward they are identified but staff currently doesn't have a comprehensive list.

Carlberg referred to a list from public speaker Hayes.

Thacher commented that the list had been provided to City Council and she had read it for the first time this evening. She offered to scan the list and send it to the Commissions.

Westphal asked for clarified on the zoning compliance permits, if they excluded caregivers.

Thacher answered that the permits would be for home occupations, dispensaries and cultivations and not for caregivers.

Westphal asked for further clarification on the odor issue mentioned his understanding was that there would be odor issues that went beyond smoking.

Thacher mentioned that they understand there could be odor issues related to growing as well as packaging and repackaging. She cited that the odor language is the same language used as for any other type of home occupation zoning, which wasn't unique to this zoning proposal.

Westphal asked how the complaints would be handled of odor issues, and how would someone go about bringing a complaint.

Thacher responded that it would be enforced similar to noise and other complaints. She stated that the City would have to send out a zoning official to stand on the property line to see if they could smell an odor.

Westphal asked if a violation was found and a civil infraction was issued would those accrue.

Thacher indicated that the infractions would go to court and a judge would decide.

Westphal asked if in instances where civil infractions were involved if annual zoning compliance permits might be withheld for compliance.

Thacher answered yes.

Westphal stated that he would be waiting for forthcoming information on the grandfathering and spacing issues.

Woods asked if home occupations wouldn't be allowed if you lived in an apartment.

Thacher responded that you wouldn't be allowed to operate a home occupation if you lived in a multi-family dwelling, which an apartment is considered.

Woods asked if a caregiver and a patient who lived in an apartment wouldn't be able to operate from their apartment. She requested clarification on this issue since not everyone can afford to live in their own home.

Thacher answered that a patient can always grow in their own home wherever they live. She noted that in Section 4 a. it states that two (2) registered caregivers per single family dwelling are each limited to providing medical marijuana to five patients other than themselves.

Woods agreed that the language *drug paraphernalia* in Section 1 b. and Section 3 k. seemed contradictory in how the definition was being used and she felt it might send the wrong message. She asked for clarification on this possible contradiction.

Woods stated that she understand the school buffer and believed it was in compliance with State or Federal laws.

Thacher indicated that it was State law that there be a 1000 foot buffer around private and public secondary schools. She noted this was another issue that staff were looking into to see if there were any conflicting laws surrounding this point.

Bona mentioned that the City, through the Ordinance Review Committee, has tried to maintain consistency with Home Occupations. She stated that it would be helpful for the Commission as well as City Council to know which sections and which language was not consistent with the other existing Home Occupation language.

Briggs asked if for future public hearings if speakers could simply state that they live in Ann Arbor and not need to state their home address for the record.

Mahler noted that they would bring it up for future discussion.

Mahler asked if staff was aware of any deliberations or public hearing being held at the State level to supplement the amendment through the Administrative Code that the Commission needed to be aware of before they could act of the proposal.

Thacher said she wasn't aware of anything but she would check with the City Attorney's office.

Woods asked how the proposed amendment would apply to University of Michigan students in a residence hall.

Mahler responded that he believed that the University wasn't under our zoning laws so it wouldn't affect them, but he deferred the issue to the City Attorney's office for their response.

Westphal asked for further clarification on the regulations for the number of patients and caregivers if there were no transfers.

Giannola asked the City allowed other home occupations in an apartment and if so she felt that the City needed to be consistent with other home occupations. Discussion concerning landlord's rights to further restrict uses followed.

AUDIENCE PARTICIPATION

None

COMMISSION PROPOSED BUSINESS

Westphal stated that the Commission had received some advice from Senior City Attorney, Kevin McDonald regarding reconsideration of the Arbor Dog Daycare Special Exemption Use, since all Commissioners were now present and could vote on the petition.

Moved by Westphal, seconded by Derezinski that the Ann Arbor City Planning Commission reconsider the Arbor Dog Daycare Special Exemption Use as proposed.

A vote on the motion showed:

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

Motion carried unanimously.

Pratt asked for a brief summary of previous discussion and concerns on the petition.

Westphal and Mahler summarized the evening's discussion and concerns related to the issue.

Moved by Woods, seconded by Westphal, that the Ann Arbor City Planning Commission, after hearing all interested persons and reviewing all relevant information, finds the petition to substantially meet the standards in Chapter 55 (Zoning Ordinance), Section 5:104 (Special Exceptions), subject to: 1) limiting the size of the operation to a maximum of 10,000 square feet; 2) limiting the hours of operation from 6:00 a.m. to 8:00 p.m. Monday through Friday and 8:00 a.m. to 8:00 p.m. on weekends and allowing indoor boarding during the hours the day care is closed; 3) limiting the number of dogs to 125 with no more than 25 dogs outside at one time; and 4) occupant complies with Fire Department requirements for additional fire extinguishers, No Parking Fire Lane signs on site and a future Fire Department review if the business changes use, and, therefore, approves the Arbor Dog Day Care Special Exception Use.

A vote on the motion showed:

YEAS: Briggs, Derezinski, Mahler, Pratt, Woods, (5)
NAYS: Bona, Carlberg, Giannola, Westphal,(4)
ABSENT: None

Motion failed. [6 votes needed to carry]

Mahler stated that for the record Pratt was absent for item 8. a. and 8 b., and was present for item 8 c. but abstained from voting as he entered immediately preceding the vote. Pratt was present and voted on items 8 d. 8 e. and 8 f.

ADJOURNMENT

Moved by Carlberg, seconded by Pratt, to adjourn the meeting at 12:35 p.m.

A vote on the motion showed:

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

Motion carried unanimously.

Wendy L. Rampson, Planning Manager
Planning and Development Services

Diane Giannola, Secretary

Prepared by Mia Gale
Community Services Area