

Tuesday, October 20, 2020	7:00 PM	Electronic Meeting

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### 1 CALL TO ORDER

Chair Sarah Mills called the meeting to order at 7:08 p.m. noting the Tuesday, October 20, 2020 electronic meeting of the Ann Arbor Planning Commission was held in accordance with efforts to mitigate the spread of the COVID-19 virus, to protect public health and safety and to comply with orders issued by the governor, the Michigan Department of Health and Human Services, and/or the Washtenaw County Health Department. Public comment was 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 962 3902 4427. 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

Planning Manager Brett Lenart called the roll.

- Present 6 Briggs, Mills, Ackerman, Sauve, Abrons, and Hammerschmidt
- Absent 2 Milshteyn, and Gibb-Randall

### <u>3</u> INTRODUCTIONS

None

### 4 APPROVAL OF AGENDA

Moved by Erica Briggs, seconded by Lisa Sauvé, to Approve the Agenda as presented. On a voice vote, the Chair declared the motion carried unanimously.

#### 5 MINUTES OF PREVIOUS MEETING

5-a <u>20-1586</u> September 15, 2020 City Planning Commission Meeting Minutes

A motion was made by Ellie Abrons, seconded by Zach Ackerman, that the September 15, 2020 Meeting Minutes be Approved by the Commission and forwarded to the City Council. On a voice vote, the Chair declared the motion carried.

5-b <u>20-1587</u> October 6, 2020 City Planning Commission Meeting Minutes

A motion was made by Ellie Abrons, seconded by Zach Ackerman, that the September 15, 2020 Meeting Minutes be Approved by the Commission and forwarded to the City Council. On a voice vote, the Chair declared the motion carried.

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

### 6-a City Council

Councilmember Zach Ackerman reported on the previous Council meeting; Council approved the Veridian development on Platt Road Rezoning to Planned Unit Development (PUD), with two associated sites plans. He explained this is a landmark decision and will be the first project in the Midwest that will be creating more energy than it consumes through solar power and will be the most equitable providing 50 units to low income families. Ackerman reported that Council took the next step in moving the Ann Arbor Commons (current surface parking lot above the underground parking structure) towards the next step by creating a public committee (of which one member would include a Planning Commissioner) to brainstorm on a plan for the site; Council extended a contract with Tom Crawford to be the City's new Administrator; Council voted down the fourth consent judgement as amended last night on the cleanup measures of the Gelman dioxane plume; Council voted to rename Rose White Park in lower Burns Park area to Graydon Park in honor of former Ann Arbor Councilmember Graydon Krapohl who passed away.

#### 6-b Planning Manager

No report.

#### 6-c Planning Commission Officers and Committees

No report.

### 6-d Written Communications and Petitions

**<u>20-1588</u>** Various Communication to the City Planning Commission

### **Received and Filed**

# <u>7</u> <u>PUBLIC PARTICIPATION/COMMENT (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.)</u>

James D'Amour, 2771 Maplewood Avenue, Ann Arbor, noting he was a former Planning Commissioner, acknowledged the important work of the Commission, the Ordinance Revisions Committee, and various Staff. He explained that while both Commissioners and Staff need to rely upon each other, he felt it becomes problematic when the Commission relies on Staff for their recommendation and suggested the Planning Commission could consider removal of Staff Recommendations.

### 8 PUBLIC HEARINGS SCHEDULED FOR NEXT BUSINESS MEETING

**20-1589** Public Hearings Scheduled for the Wednesday, November 4, 2020 Planning Commission Meeting

Brett Lenart reported on upcoming agenda items for the next business meeting.

### **Received and Filed**

#### 9 UNFINISHED BUSINESS

#### ROLL CALL

Enter Commissioner Shannan Gibb-Randall at 7:52 pm.

- **Present** 7 Briggs, Mills, Gibb-Randall, Ackerman, Sauve, Abrons, and Hammerschmidt
- Absent 1 Milshteyn
- **9-a 20-1590** Unified Development Code Floodplain Management Overlay District and Regulations for City Council Approval An ordinance to amend Sections 5.14.2, 5.18.4, 5.18.6.d.1.a, 5.23.4, 5.27, 5.29.1, 5.29.3.f.4, 5.29.12.d, and 5.37.2 of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor. Staff Recommendation: Approval

### **PROJECT PRESENTATION:**

Jerry Hancock, City of Ann Arbor Floodplain Coordinator, provided the presentation.

### PUBLIC HEARING:

James D'Amour, 2771 Maplewood Avenue, Ann Arbor, expressed his wish to see even less construction in the floodplain moving forward, since it is better to err on the side of caution. He expressed the need for evaluating any exiting structures in the floodway that might become destroyed, and whether those structures, even if historic in nature, should be rebuilt.

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

Moved by Zach Ackerman, Seconded by Erica Briggs, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the amendments to Chapter 55 Unified Development Code: Add Section 5.14.2 and modify Sections 5.18.4, 5.18.6.D.1.a, 5.23.4, 5.27, 5.29.1, 5.29.3.F.4, 5.29.12.D, and 5.37.2 to establish a Floodplain Overlay District and Regulations to effectively regulate Floodplains throughout the City. 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]

# On a roll call vote, the Chair declared the motion carried unanimously. Vote: 7 - 0

Yeas: 7 - Erica Briggs, Sarah Mills, Shannan Gibb-Randall, Zachary Ackerman, Elizabeth Sauve, Ellie Abrons, and Sara Hammerschmidt

**Nays:** 0

Absent: 1 - Alex Milshteyn

### 10 REGULAR BUSINESS

**10-a 20-1591** Brightdawn Site Plan for City Council Approval - This vacant 8-acre site, located at 2805 Burton Road, is currently zoned R4B (Multiple-Family Dwelling District). The petitioner is requesting to construct four, four-story buildings that include 120 units at market rate with parking garages located beneath each building. A community club house is also proposed on the ground floor of Building #2. Staff Recommendation: Approval

PROJECT PRESENTATION:

*Iddo Schwartz and Haim Schwartz (property owners) provided the introduction on their team.* 

*Tom Covert, Ted Hirsch, and Mike Cool, Midwestern Consulting, LLC.,* 3815 Plaza Drive, Ann Arbor, petitioner's representatives provided the proposed project.

Also available was David Plunkett, Petitioner's Attorney, and Bob Overhiser, Architect for the project.

STAFF REPORT:

Chris Cheng, City Planner, provided the staff report.

### PUBLIC HEARING:

Juliet Pressel, 2625 Lillian Road, Ann Arbor, said she is glad to only have 120 units in this development; while not thrilled about the 4-story buildings, she is thrilled that they are using underground parking for which she commends the developers. She expressed concern with the proposal to open Burton Road to Eli Road, saying it will be too much of a burden on the adjacent neighborhood if it is opened. She said when the up-zoning was done by City Council in 2007 they agreed to keep a pedestrian walkway. Pressel said this is a neighborhood where children walk on the streets, expressing concern with all those extra cars added to the existing neighborhood.

James D'Amour, 2771 Maplewood Avenue, Ann Arbor, echoed what Ms. Pressel said, adding it appears that the last major parcels left to be developed in the City are those corner parcels that are difficult to develop. He stressed the need to limit access to Burton Road to Eli in order to make this project palatable.

Angie Smith, 2803 Lillian, Ann Arbor, said she has lived on Lillian for 20 years, and she is sad to see a loss of affordable housing in their area, but understands what is likely driving up the need and cost of these units will be that they are handicapped accessible units. She said she is surprised the development is proposed to be built so close to the road. Smith said the City's Healthy Streets initiative has been very helpful in their neighborhood. She expressed the need for a traffic study that would include the opening of Eli Road; Smith said the safety of current residents in the area should be a main concern.

Gerald Leckrone, 3616 Eli Road, Ann Arbor, said he has lived across from the pool since 1979 where they've raised their family. He invited the Commission to come look where Eli Road dead ends and where it would be connected, noting that the neighborhood uses that pool, and he is concerned about the safety of children. He said, come to Burton Road and look where these condos are proposed to be built; is this a place where you would want to live or have developed? There will be a huge increase in traffic generated on Eli Road.

Peter Avram, 3630 Terhune Road, Ann Arbor, said he is opposed to the traffic connection to Eli Road, adding the study was done without any analysis of traffic within the subdivision. He said, I request that a new traffic study is conducted that considers more than the trips that this development would create; anyone trying to get to the highway is not

going to go to Packard; no data was collected, and nothing was analyzed. Avram said the Healthy Streets initiative has been fantastic in our neighborhood.

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

Moved by Sara Hammerschmidt, Seconded by Lisa Sauve, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Brightdawn Village (2805 Burton Road) Site Plan and Development Agreement, and

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Wetland Use Permit for the Brightdawn Village (2805 Burton Road) development, and

The Ann Arbor City Planning Commission hereby authorizes activity in the natural features open space for the Brightdawn Village (2805 Burton Road) development. Per 5.29.4 of the Unified Development Code (UDC).

### 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]

Zach Ackerman asked about storm drainage from the site, to which Ted Hirsch explained the exceptional draining soils on site as well as the proposed stormwater system to be install with this project, so none of the current stormwater draining onto Burton Road would leave the site.

Brett Lennart explained how the City is currently working with new developments to upgrading its' over-all wastewater/stormwater infrastructure throughout the City.

Ackerman said he's become very familiar with this neighborhood over his past 5 years as their Council representative, and he knows that traffic and pedestrian safety in this area, and along Packard Road and Washtenaw Avenue, is a chronic issue and he understands why the neighborhood is concerned with the proposed connection of Eli Road to Burton Road. He requested that Staff look at possible alternatives, such as controlled access, while he puts his energy into making Eli as safe as possible to pedestrians and residents. Ackerman said he supports the project because it is a 'by-right development' and meets all requirements of the City code and he doesn't believe that an additional traffic study would change the 'by-right' status of this project.

*Erica Briggs thanked Ackerman for his work and involvement in trying to keep pedestrians and residents safe. She asked about the responsibility of keeping streets safe in the City.* 

Lennart responded that the public right-of-way improvements that would be components of the site plan, while being partially undertaken by this particular development, ultimately the City is going to be the arbiter of the adequacy of those designs and methods of how that connection would be realized, or any other City road or improvements, through the City's civil plan review process, as they relate to new developments.

Briggs said she encouraged the neighborhood to work towards getting traffic calming measures added to the area that will help if be safe and friendly to pedestrians, children, and bicyclists. She suggested the developer think about air pollution when they design their heating and air conditioning system, given their proximity to a highway. She said she appreciated the developer thinking about noise pollution as well.

Shannan Gibb-Randall asked about proposed sidewalk and their connections, to which Tom Covert explained they will be adding sidewalks in front of the development on Burton Road and beyond, to connect to Packard Road as well as Eli Road sidewalks. Gibb-Randall said connecting sidewalks beyond their development is beyond 'by-right' to her, and kids will no longer need to walk or bike on the street. She said as someone who walks and bikes a lot she likes to have connected neighborhoods and there will be huge changes when this vacant land is developed; however she noted that people can already use Yost Street and Brandywine as cut-throughs, so she felt the Eli connection would need to be well designed in order to slow down traffic.

Lisa Sauvé said she was glad to hear about the benefits of the Healthy Streets Initiative. She asked about the possibility of deferring parking or reducing parking spots, to which Tom Covert said they could look at deferring parking, that they had added as a response to the neighborhood concern of cars parking on the street. Sauvé said it was hard for her to reconcile barrier free housing units with eight parking spots to which Covert explained the underground parking spots would be considered for residents needing barrier free parking while the exterior parking spots would be considered for visitors needing barrier free parking.

Sara Hammerschmidt said she appreciated the discussion about the streets, and she supports the connection of streets she asked that the developer look at adding as many energy saving measures as possible, such as friendly stairwells, and healthy building principles. She asked about windows to which Bob Overhiser responded, there are windows in the end elevations and they could add windows to the stairwells as well. Hammerschmidt said she was glad for the new units this development would bring to the City.

Sarah Mills agreed with the comments of the Commission, asking about the City's Green Streets requirement, to which Covert explained it deals with how stormwater is dealt with and conveyed with the street they improve, such as Burton Road that is a gravel road. Covert said many streets in Ann Arbor have stormwater that is collected but not conveyed into a retention or detention system that filtrates that water on their site. Covert said they will be taking care of the entirety of Burton Road, beyond their project. Mills said she felt this would be beneficial to the whole area. Mills said with the City anticipating the passage of the Electric Vehicle (EV) ordinance shortly, she wanted to let the developer know that the parking spaces needed to be built with this EV requirement of the future, in mind. She said this added improvement cost might help them to decide to defer some of the current shown parking or through adding solar panels to their development. She said another possibility is to use electrification of the project, such as all-electric appliances. She appreciated the developer looking at all possible sustainability options available to them.

# On a roll call vote, the Chair declared the motion carried unanimously. Vote: 7 - 0

- Yeas: 7 Erica Briggs, Sarah Mills, Shannan Gibb-Randall, Zachary Ackerman, Elizabeth Sauve, Ellie Abrons, and Sara Hammerschmidt
- **Nays:** 0
- Absent: 1 Alex Milshteyn
- **10-b** 20-1592 2775 Newport Road Annexation and Zoning for City Council Approval A request to annex this 12.21-acre parcel from Ann Arbor Township and zone it R1A (Single-Family Dwelling District) for connection to City utilities and

continued use by Rudolf Steiner School Association of Ann Arbor. Staff Recommendation: Approval

Shannan Gibb-Randall recused herself from taking part of Agenda item 10-b noting that she and her company has had a professional relationship with the applicant several years ago and their name is also included on the applicant's plans submitted to the City.

### PROJECT PRESENTATION:

Sian Owen-Cruise, School Administrator, and Carolyn Raschke, Finance Manager for Rudolph Steiner School Association of Ann Arbor, were available to respond to any questions from the Commission.

### STAFF REPORT:

Chris Cheng, City Planner, provided the staff report.

### PUBLIC HEARING:

Linda Young, 2828 Englave Drive, Ann Arbor, referenced her letter sent to the City Planning Commission (included in Communication File to CPC). She asked that the Planning Commission consider denying the annexation since the parcel has had City water and utilities; and if the application moves forward, the conditional use permit will run with the land, and will only be used for K-8 grade, because the school has full knowledge of the intention to expand to a full-year program for 8-month to 5-year old children. Young said this proposed expansion was brought to the Township before, and the advertising for the program ceased after that. Young also asked that any new construction on the site be limited to the phases described in the plan and that they work with the property owners to ensure property boundaries are respected. She asked for assurance that the 'Memorandum of Land Contract dated 10-1-1986' Liber2085 Page888 (Register of Deeds) run with the property. It is "an easement in favor of the public for the use of existing and future exterior playground and nature areas on the premises. subject to Purchaser's reasonable restrictions and control and ----"

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

Moved by Zach Ackerman, Seconded by Sara Hammerschmidt, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Rudolph Steiner School

## Association of Ann Arbor (2775 Newport Road) Annexation and R1A (Single-Family Dwelling District) Zoning and Area Plan Waiver.

### 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]

Ackerman said he will always support annexation into the City when it's within the City's boundaries for utilities, and he was not opposed to additional Pre-Kindergarten centers as there is a clear need for them in the City. He asked the petitioner if that was their intention, to which Owen-Cruise responded, "No, not at this time, at all. We are dealing with the challenges of Covid-19, dealing with, and listening to the concerns of our neighbors. We are not planning to expand, in any way; we are not planning to build. We intend to keep the site available, as it has been, outside of school hours, to the neighborhood. Those things are all in place." Ackerman said he was happy to support the petition.

Sarah Mills asked staff if any changes to the school would need to go through the City's site plan approval process, to which Chris Cheng responded, yes, any changes to the site or use of the site would require site plan review of any proposed changes and the petitioner would be required to contact all their neighbors within 1,000 feet radius, hold a meeting, as well as come before the Planning Commission and City Council for approval. Mills asked if the site could be re-developed into single-family use in the future.

Brett Lenart explained that if the site were to be realized as an R1A zoned property, without any site plan review, the site could be demolished, and a residence could be built on the property; furthermore, it could be divided into a limited number of parcels and single-family homes could be built on them. He said if the whole site were to be developed into something larger, it would need to go through the City's rigorous site plan review process as any new development would.

*Mills referenced communication received about previous attempts to annexation that failed.* 

Chris Cheng said, he wasn't sure, but guessed it could have been a City Initiated Annexation that was denied by the State of Michigan. Brett Lenart said he believed it could have been one of the 100 + City Initiated Annexation parcels that were denied at the State level, given the timing referenced. He explained the

Owen-Cruise said they did not initiate or apply for annexation into the City last year; the request included a large group of parcels around them as well, and their understanding was that the denial included those parcels around them as well. She said they would have wanted to be annexed at the time, because they felt having both of their locations under the same jurisdiction would be a good move, and that's why they are now requesting the annexation.

## On a roll call vote, the Chair declared the motion carried unanimously. Vote: 7 - 0

- Yeas: 7 Erica Briggs, Sarah Mills, Shannan Gibb-Randall, Zachary Ackerman, Elizabeth Sauve, Ellie Abrons, and Sara Hammerschmidt
- **Nays:** 0
- Absent: 1 Alex Milshteyn
- **10-c 20-1594** Amendment to a Special Exception Use Approval for City Planning Commission Approval - A request to amend the approved conditions of Special Exception Use for Marijuana Provisioning Center and Marijuana Retailer at 2385 E. Ellsworth Road (SEU18-034) to extend the deadline to receive site plan and land division approval by six months. Staff Recommendation: Approval

### PUBLIC HEARING:

Christine (no surname provided) 2410 Laurelwood Circle, Ann Arbor, said she has a close friend who was involved in serious car accident and as a result became addicted to opioids to manage his pain. He was able to transition to the use of marijuana and has since become a functional professional in the society. She also said her mother was recently diagnosed with a lesion on her lung and is starting to inquire about the options available to her. She supports the use of legalized marijuana because it has shown to increase property values, keep illegal drugs out of the hands of children by replacing it with legal sales to adults. She said she lives within view of the property and her children play on the adjoining property so it's literally in her back yard, and she looks forward to having the center open and to having conversations with them as well as educating her children about this industry. She said the developer has addressed her concerns with landscaping and it seems that it will be aesthetically pleasing, and the center will be a welcome addition to her neighborhood.

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

Moved by Lisa Sauvé, Seconded by Sara Hammerschmidt, that the Ann Arbor City Planning Commission, after hearing all interested persons and reviewing all relevant information, finds the amended Special Exception Use application meet the standards in Chapter 55 (Unified Development Code), Section 5.30.4.C (Approved Special Exceptions) and therefore approves a six-month extension to the land division and site plan approval conditions of the previously approved 2385 East Ellsworth Road Special Exception Use for a Medical Marijuana Provisioning Center/Marijuana Retailer. This approval is based on the following findings:

1. The amended application has been reviewed in conjunction with the previously approved Special Exception Use to determine the aggregate impact of the proposed changes in conjunction with the existing use.

2. The proposed use remains consistent with the C1 (Local Business) District, which provides for commercial retail uses as well as office and residential uses.

3. The proposed use continues to not adversely impact traffic, pedestrians, bicyclists, circulation, or road intersections based on the location. East Ellsworth Road provides access to the site, and the proposed use is consistent with other surrounding uses' traffic impact.

4. The site plan documenting the existing and proposed conditions of the site previously submitted continues as part of this application.

5. Through documentation submitted by the petitioner regarding waste disposal, inventory tracking, security, and other methods of operation of the facility, the provisioning center/retailer will be operated in a manner that will not have an adverse impact on the neighboring properties or area, and will not have a detrimental impact on natural features.

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

1. A land division application to create an approximately 8,000-square foot lot is submitted and approved by May 19, 2021, one and a half years from the City Planning Commission approval of the previously approved petition, and the special exception use shall only apply to that lot.

2. A Site Plan for City Council for an approximately 1,500-square foot, one story commercial building must be approved by May 19, 2021, one and a half years from the City Planning Commission approval of the previously approved petition, and the special exception use may only occupy the development approved on that site plan.

3. The petitioner obtaining and maintaining both a State of Michigan Marijuana License and a City of Ann Arbor Marijuana Permit, and providing documentation to Planning Services by November 19, 2022.

4. The petitioner operating a marijuana business at this address by November 19, 2022.

5. And that the Ann Arbor Planning Commission approves the attached Area Plan which demonstrates compliance with the applicable Special Exception Use standards.

### COMMISSION DISCUSSION:

None

# On a roll call vote, the Chair declared the motion carried unanimously. Vote: 7 - 0

- Yeas: 7 Erica Briggs, Sarah Mills, Shannan Gibb-Randall, Zachary Ackerman, Elizabeth Sauve, Ellie Abrons, and Sara Hammerschmidt
- **Nays:** 0
- Absent: 1 Alex Milshteyn

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

None

### 12 COMMISSION PROPOSED BUSINESS

None

### 13 ADJOURNMENT

Moved by Shannan Gibb-Randall, Seconded by Lisa Sauvé, to adjourn the meeting at 11:05 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