CORRECTED DRAFT MINUTES

ANN ARBOR CITY PLANNING COMMISSION

BUSINESS MEETING

7:00 p.m. - May 4, 2010

Time: Chair Bona called the meeting to order at 7:02 p.m.

Place: Council Chamber, Second Floor, 100 North Fifth Avenue, Ann Arbor, Michigan.

ROLL CALL

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

Members Absent: None

Staff Present: Kahan, Rampson

INTRODUCTIONS

None.

MINUTES OF PREVIOUS MEETING

a. Minutes of April 6, 2010.

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

A vote on the motion showed:

YEAS: Bona, Briggs, Carlberg, Derezinski, Giannola, Mahler, Pratt,

Westphal, Woods

NAYS: None

Motion carried unanimously.

a. Minutes of April 20, 2010.

Moved by Carlberg, seconded by Westphal, to approve the minutes.

Pratt asked that the fifth paragraph under the discussion regarding the Glacier Hills Revised Planned Project Site Plan be changed to read as follows: "Pratt stated that he was not concerned with the placement of the sidewalk in an easement since the existing walk had already been placed in an easement. He believed that the sidewalk should be provided continually between the property lines, including a short section at the south end of the property, and asked that the issue be revisited as the property is forwarded to City Council."

A vote on the motion showed:

YEAS: Bona, Briggs, Carlberg, Derezinski, Giannola, Mahler, Pratt,

Westphal, Woods

NAYS: None

Motion carried unanimously.

APPROVAL OF AGENDA

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

Westphal asked that the item, "Transmittal of Minutes," be placed on the agenda under Commission Proposed Business.

A vote on agenda as revised showed:

YEAS: Bona, Briggs, Carlberg, Derezinski, Giannola, Mahler, Pratt,

Westphal, Woods

NAYS: None

Motion carried unanimously.

REPORTS FROM CITY ADMINISTRATION, CITY COUNCIL,
PLANNING AND DEVELOPMENT SERVICES, PLANNING COMMISSION
OFFICERS AND COMMITTEES. WRITTEN COMMUNICATIONS AND PETITIONS

Westphal announced that the Downtown Design Guidelines Task Force would be meeting on May 5, 2010 at 6:30 p.m.

Carlberg reported that the R4C Committee had its last meeting, although it agreed to meet at least one extra time and perhaps more. She said a great deal of work still needed to be done on the four areas the City Council asked the committee to address. She said the committee would try to meet its deadline, but believed additional time was necessary to discuss outstanding issues.

Bona reported that the Planning Commission Executive Committee met earlier this evening to prepare a proposed work program for 2010-2011, which the Planning Commission would be discussing at its May 11, 2010 working session.

AUDIENCE PARTICIPATION

Jim Mogenson, 3780 Greenbrier Boulevard, discussed conventional and unconventional wisdom and questioned how wisdom was determined. Some people believed it was wisdom if it was conventional, but this

was not always the case, he said. He spoke about what was happening economically and stated that one way to move toward wisdom was to use unconventional thinking, which he thought could be applied to planning. When considering zoning changes, he suggested that an unconventional look be used to arrive at better solutions.

PUBLIC HEARINGS SCHEDULED FOR NEXT MEETING

Bona announced the public hearing scheduled for the meeting of May 18, 2010.

REGULAR BUSINESS

a. Public Hearing and Action on Text Amendments to Chapter 55 (Zoning), Section 5:10.13, in the list of permitted principal uses of the PL (Public Land) zoning district. Permitted principal uses in the PL district include such uses as, outdoor public recreation, schools, museums, hospitals, buildings containing essential services, electrical substations, municipal airports, civic centers, government offices and courts. This text amendment proposes to replace "municipal airport" with the term, "transportation facilities". This proposed amendment is intended to allow a diversity of transportation facilities on land zoned PL – Staff Recommendation: Approval

Kahan explained the proposal.

Rita Mitchell, 621 Fifth Street, representing the Ad Hoc Citizen Group for Sensible Planning, distributed a statement containing the group's concerns with the proposed ordinance amendment. Concerns included inadequate review of background information regarding the Parks and Recreation Open Space Plan; the proposed parking structure and train station at Fuller Park violating zoning regulations because they were structures; the City's exempt status from the zoning regulations; and this process not following the requirements of the City Charter.

John Satarino, also representing the Ad Hoc Citizen Group of Sensible Planning, noted that there was no definition for "transportation facility." He said the group believed this proposed amendment was ambiguous and premature without a request for advice by City Council.

Gwen Nystuen, 1016 Olivia, questioned what a transportation facility was and whether it would have any conditions, stating that there should be a clear definition. She also questioned what the City believed was the public's understanding of parks, what the process would be if the City wanted to change parkland, and the legality involved in changing dedicated parkland.

Ethel Potts, 1014 Elder Boulevard, questioned why only one type of transportation would be specified as public land, making the assumption that the AATA facilities would then be rezoned to public land. She expressed concern that this amendment was being done to legitimize the Fuller Road parking structure and possible train depot on officially designated parkland, as well as repurposing other parkland to be used for parking on football Saturdays. She asked that this amendment not be approved without explaining how the various public land uses have become so interchangeable.

Alice Ralph, 1607 East Stadium Boulevard, expressed concern about how changing two words in the zoning ordinance could weaken the regulations to the point of inadequate protection, referencing the 2008 ballot

initiative for parkland protection. She suggested that not only the two words be changed, but that section 2a be amended so it read, "no structure shall be erected or maintained upon dedicated parkland that is not customarily incidental to use of land."

Jim Mogenson, 3780 Greenbrier Boulevard, believed the purpose of PL zoning was to convey what was supposed to happen on a piece of property and also provide an expectation of what kinds of uses could occur. He expressed concern about the zoning category being used as a way to avoid paying taxes and questioned why the University did not buy the Fuller Park property for its parking use.

Margaret Wong, 418 South First Street, expressed concern about the distance between a park and a parking structure being reduced as a result of this amendment. She asked that the Planning Commission look at the unintended aspects of this and the subtleties that could be introduced by this seemingly minor change.

Moved by Pratt, seconded by Giannola, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the text amendment to Chapter 55 (Zoning Ordinance) pertaining to principal uses in the PL (Public Land) zoning district, Section 5:10.13(2)(h).

Bona asked staff to provide clarification about the appropriate procedure for an ordinance amendment.

Rampson explained that a zoning ordinance amendment could go to Council in many ways, such as a Council request that Planning Commission study a particular area. Rezonings and zoning text amendments could be initiated by a private citizen, she said, with the process beginning with Planning Commission review and recommendation. She stated that staff could also work with the Planning Commission to initiate an amendment, which would also then come before the Planning Commission for a recommendation to City Council.

Bona asked about the 30-day requirement.

Rampson stated that 30 days was typically the amount of time between the City Council first and second readings.

Bona stated that generally speaking, the zoning had nothing to do with whether a park was dedicated as parkland. Zoning did not affect that, she said, but there were questions about what it took to change parkland usage. She asked staff to explain how this would be done.

Rampson referenced a recently approved ballot initiative that any sale of parkland would require a vote of the citizenry. She stated that other changes to parkland happened through the millage process or putting forward improvement programs. In this case, she said, the proposal that was raised by the public speakers this evening is the Fuller Road station. The existing parking lot, where the station was proposed to be located, was installed 15 years ago as a joint project between the City and the University for the mutual use of parking. She said the Zoning Ordinance contained a section for amendment procedures, which states that an amendment could be initiated by City Council, the Planning Commission, or by petition.

Woods asked if the issue of dealing with parkland has been discussed by the Park Advisory Commission (PAC). She got the sense from those speaking tonight that this text amendment was being proposed because of the Fuller Road station. They seemed to be intertwined, she said.

Rampson stated that the origin of the text amendment was from staff learning that transportation facilities were not specifically outlined in the PL zoning district. With regard to the Fuller Road station, she said, it has been before the Park Advisory Commission to present the concept, obtain comments, and discuss issues. She said there have been public meetings regarding the station; in fact, there was one scheduled this week. She stated

that the comments made tonight were from those who believed the station was an inappropriate use in a park; however, in this case, she said, it was viewed as a continuation of the already established parking use on the site.

Woods asked if PAC would be making a recommendation on the station to the City Council.

Rampson did not know, as this project was being managed by Systems Planning, but said staff could check. She stated that the project would be coming before the Planning Commission in July for review of a public project.

Woods asked if staff believed this text amendment needed to happen prior to the public project review.

Rampson replied no. She stated that the Zoning Ordinance specifically exempts the City from following zoning regulations. She said the proposed amendment was an effort to provide consistency, noting that there were many other transportation facilities in the City, such as the parking structures downtown, and that staff believed this was an appropriate time to make the amendment.

Derezinski stated that the Zoning Ordinance explicitly exempted the City from following the zoning regulations, noting that this text amendment would provide the public with a list of expectations on what could be placed in the PL zoning district. He referenced a decision by the Michigan Supreme Court which established that certain institutions were exempt from municipal zoning. In actuality, he said, this text amendment was not necessary, but it was important so the public was aware of what could be done in a PL zone. He stated that the Fuller Park parking lot is the intended location for the Fuller Road station, although he said the parameters of the project were unknown at this time and there would be a number of public process stages to go through, in addition to those that had already occurred. The basic legal issue here, he said, was that this station could be placed here without the proposed text amendment.

Pratt expressed caution when making any policy change, such as the text amendment this evening, as doing so could be precedent setting. He believed the City has established a process of going above and beyond what has legally been established for review of public projects, despite the City's exempt status, noting that there would be an opportunity for the Planning Commission to review the Fuller Road station. With regard to ramifications from approving this text amendment, he noted that the proposed amendment did not convey an automatic right to build a transportation facility, art gallery, civic center, etc. on any piece of publicly zoned land. This made it comfortable recommending the text amendment, he said. Airports may not be such a great thing to include, he said, because the City and University could have then put a helipad on the parking lot. The conclusion he drew was that the decision to put a parking lot here in the past was done so for a reason. It was a principal use, he said. He said the issue here was not to make a determination on parkland, although he thought it was valid to think about precedence and ramifications. He did not see the proposed language opening up the system any more so than what is already listed as permitted principal uses in the public land district.

Briggs believed legitimate concerns had been raised, but she was not sure if they would necessarily be solved at the meeting this evening. She thought what people were saying was that there was an expectation by what the code said about public land and an expectation that parking structures would not be built on public parkland, and that the proposed ordinance amendment would allow that. Whether related to the Fuller Road station or issues that may come before us in the future, she thought this was a legitimate concern and wondered if action should be tabled for further discussion. She stated that this was an issue where there was something in the Park and Recreation Open Space Plan (Fuller Park) that was being used as park, yet this change would allow it to be used as a parking structure. She said this might be that City Council needed to address but, regardless, she thought it needed to be addressed openly. She understood the desire for ambiguousness when talking about transportation facilities, but stated that streets were also transportation facilities and she questioned if they were appropriate in the public land district.

Carlberg stated that at first this seemed like a clarification and a cleaning up of language that was insufficient for how public land was used and that the Fuller Road station was not entirely related to this issue. She understood that the issue was going before PAC and the City Council, but said it was not coming before the Planning Commission for a decision as to whether it was an appropriate use of land. In that sense, she said, the term "transportation facility" seemed much more appropriate to describe what could be used on public land. She noted that the proposed ordinance amendment would not change the course of the Fuller Road station, adding that the City Council and University would be making the decision on that. The proposed language to the ordinance would not make it any more or less difficult, she said, adding that she believed the proposed language was clear and comprehensive and was an improvement. She did not see that refusing to make this ordinance change would in any way hamper the discussion on the Fuller Road station.

Giannola agreed with Commissioner Carlberg. To her, this amendment would allow transportation facilities on all public land, but she pointed out that not all public land was parkland. She viewed this amendment as a cleaning up of the ordinance and did not believe it was related to the Fuller Road station. She thought the term "transportation facility" was much more appropriate than "airport," wondering why that word was even used here.

Woods stated that the staff report mentioned the Fuller Road station, so it was difficult to talk about one and not the other. She asked if the definition of transportation facility would be provided somewhere in the ordinance. She wondered what staff was thinking when using this term.

Kahan said it was within the City Council's purview to include language as they see fit that would more explicitly describe what they would like to include under the permitted principal uses. He said the staff report included possibilities such as public rail stations, bus stations, and parking structures, but it did not mention streets. Whether to leave it broad or make it very specific was Council's decision, he said.

Rampson stated that the challenge with using a "such as" list was the possibility of unintentionally missing something, which could then raise the question as to whether it was omitted on purpose. With regard to streets, she said, they were considered infrastructure, while a transportation facility was considered a structure.

Giannola thought of a facility as a place.

Woods confirmed that Council could make changes, such as providing more specificity, if desired.

Rampson replied yes.

Bona agreed with the interpretation that zoning was not a mechanism to deal with the restrictions on parkland. She believed the ordinance was written to use zoning to identify public land and that the restrictions of use or the sale of the land was handled by the Park Advisory Commission. She did not think this was part of the Planning Commission's purview. She liked the use of the term "transportation facility," especially as the City moved into a time when there would be more and more transportation alternatives. She also had no problem with including roads, as she viewed them as part of transportation. She said she would like to keep the definition of transportation facilities as open as possible and not create restrictions. She believed public land should be used for uses such as bus stations, train stations and parking structures.

A vote on the motion showed:

YEAS: Bona, Briggs, Carlberg, Derezinski, Giannola, Mahler, Pratt,

Westphal, Woods

NAYS: None

Motion carried unanimously.

b. Public Hearing and Action on Ann Arbor Guest House Zoning and Area Plan Waiver Request, 4.77 <a href="https://acres.py.ncb.nlm.ncb.

Kahan explained the proposal and showed photographs of the property.

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

Moved by Derezinski, seconded by Woods, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Ann Arbor Guest House R4A (Multiple-Family Dwelling District) Zoning.

Moved by Derezinski, seconded by Woods, that the Ann Arbor City Planning Commission hereby waives the requirement for an Area Plan as allowed by Chapter 57 (Subdivision and Land Use Control).

Woods asked how postponing would affect the petitioner's timeframe.

Kahan stated that the petitioner was agreeable to postponing this action, noting that because the annexation process likely would take a few months, the timeframe of the project would not be affected.

Carlberg confirmed that this would provide housing for people with a hospitalized family member.

Kahan replied that this was correct. He said it would provide temporary housing for people who have relatives in an extended stay situation at the hospital. He said the church would own the facility and provide free housing for short periods of time.

Carlberg said it seemed this was getting close to bed and breakfast designation, which the City's ordinance did not address. She asked if this was on staff's list of things to work on.

Rampson stated that this proposed use has puzzled staff in terms of ordinance provisions, noting that a bed and breakfast accepted payment for use of its rooms. This use did not, she said, stating that it was more similar to a Ronald McDonald House or a Safe House. She stated that if this use were added to the R4A zoning district, the use would need to be appropriate in any R4A zoning district, which was why the ordinance revisions committee would be discussing this. She added that the review of bed and breakfast uses would be moving forward at some point in the future, most likely as part of a package of changes in the residential use categories.

Pratt recalled both pros and cons to both the R4A and R4B zoning districts. He said there seemed to be a downside of either nonconformance or too much density and he was undecided as to which was the lesser of the two evils. He would be supportive with whatever staff recommended, he said, but asked that a comparison of the pros and cons for both be provided. He suggested seeing if the petitioner would be agreeable to a development agreement to help clean up the loose ends and clarify the specifics about the project to alleviate concerns about ramifications of rezoning to a particular district. He thought there would be a concern with either zoning district because zoning districts had underlying rights.

Bona asked staff to explain the rationale between the R4A and R4B districts.

Kahan stated that the City's master plan land use element recommended a density of up to 10 dwelling units per acre for this area, which was consistent with R4A zoning. He said the R4B zoning district allowed up to 15 dwelling units per acre. He stated that the R4B district allowed boarding houses, but suggested a fee would be charged, which was not the case here. Because of these reasons, he said, the R4B district did not seem to be the best fit.

Moved by Derezinski, seconded by Pratt, that the Ann Arbor City Planning Commission hereby postpones action on the Ann Arbor Guest House R4A (Multiple-Family Dwelling District) Zoning and Site Plan Waiver.

A vote on the motion showed:

YEAS: Bona, Briggs, Carlberg, Derezinski, Giannola, Mahler, Pratt,

Westphal, Woods

NAYS: None

Motion carried unanimously.

c. <u>Public Hearing and Action on Master Plan Review (whether elements should be studied for possible change or new elements added to the Master Plan) – Staff Recommendation: Postpone</u>

Rampson explained the process.

Ethel Potts, 1014 Elder Boulevard, spoke regarding the recently adopted condensation of the City's four geographical land use plans into a single land use element of the master plan. No new material was to be introduced in this effort, she said, but noted that this was not what happened. She stated that the community-oriented design section on page 24, which was taken from the Northeast Area Plan, was portrayed as an overriding set of principles for all of the areas, yet these principles were not originally part of the South, West and Central Area Plans. She also suggested that the language in the third line from the bottom of page 24, where it refers to future development projects, be revised to add the following: "on vacant land." Or, alternatively, she suggested that the community-oriented design section be returned to the Northeast Area Plan where it originated and where it belonged.

Jim Mogenson, 3780 Greenbrier Boulevard, expressed concern that the different land use elements were not merging together properly, as well as the zoning map, historic district map and others not coming together with the geographical land use plans and transportation, natural features and flood mitigation plans. He said there often was debate as to which master plan was in charge, so perhaps there needed to be a complete restructuring of what was thought of as a master plan. He noted that the affordable housing needs assessment was not necessarily a master plan, but it should be consulted when considering affordable housing. There were many studies the City has done that were helpful, he said, and there needed to be a way to list all of them.

Lou Glorie, 827 Brooks, agreed with staff's recommendation to postpone action, which she thought should be done until the process for mending and creating elements was reformed to require the widest possible participation from the community. She believed the Planning Commission had the opportunity to direct staff to reform the flawed process to something more friendly to the democratic process.

Moved by Mahler, seconded by Carlberg, that the Ann Arbor City Planning Commission hereby approves the "City of Ann Arbor Master Plan Resolution" and the "City of Ann Arbor Resource Information In Support Of The City Master Plan Resolution," dated May 4, 2010.

Bona provided clarification regarding the public participation process. She did not believe the Planning Commission had ever added elements to the master plan without a robust public input process. Every one of these documents went through a long and thorough public process, she said. With regard to studying the master plan for possible changes or the addition of new elements, she pointed out that the elements have been identified. She stated that if the Planning Commission decided to study the addition of new elements, a robust public input process would occur. She pointed out that staff has always made great efforts to make sure there were plenty of opportunities for public input. She said the postponement of action tonight would allow for a discussion between Commission members about its work program and about recommending any elements that needed studying.

Briggs asked if there were any clarification regarding the public speaker's concern about language from the Northeast Area Plan being inappropriately applied to multiple area plans.

Rampson said it was accurate to say that the community-oriented design principles from the Northeast Area Plan, which was the City's most recent area plan, were placed in the consolidated land use plan as Citywide principles. She said this was discussed by the master plan committee and that it could be reviewed further at any point to see if changes were necessary.

Briggs asked whether, when this consolidation was done, it was something that was contentious or discussed as substantive or non-substantive.

Carlberg stated that there was no intention to make substantive changes as part of the consolidation process. She stated that each member of the master plan committee went through an entire area plan to see if the general concepts that were proposed also fit with the older plans. She was responsible for reviewing the South Area Plan and was very comfortable in her conclusion that the general recommendations of the consolidation did not contradict anything in the South Area Plan. She had also reviewed a portion of the West Area Plan. She reiterated that it was not the committee's intention to set up a new standard that was not already in the older plan. She stated that she would look into this again and talk to the public speaker about her concerns.

Westphal recalled that there was a concerted effort to not lose any language from the geographical subarea plans. When all of the area plans were brought together, he said, there was a great deal of repetitious language among the plans and it was his belief that the consolidation did not negate any site specific land use recommendations. He said they were looking to make it a more user friendly document.

Woods asked staff to make sure the various documents noted in the resolutions were available online, which would be helpful.

Moved by Derezinski, seconded by Woods, to postpone action on the Master Plan Review.

A vote on the motion showed:

YEAS: Bona, Briggs, Carlberg, Derezinski, Giannola, Mahler, Pratt,

Westphal, Woods

NAYS: None

Motion carried unanimously.

AUDIENCE PARTICIPATION

John Satarino attempted to clarify some of the issues the Commission used as motivation for not going deeper into the situation of the Fuller Road station. He stated that the existing parking lot was never intended to be permanent; rather, it was supposed to be temporary but that he believed it changed to a permanent status in conjunction with the City receiving revenue for the parking. He stated that the property was originally used for recreation, which could be the existing principal use, with parking as the secondary use. He did not believe the federal funding would have been granted for a transportation facility on this land if the application had indicated a connection with green space or preserved land. He also expressed concern that the University coerced the City into creating the parking lot.

Lou Glorie, 827 Brooks, stated that with regard to the consolidation of the master plan, the subarea plans were not all identical, the areas they describe were not identical, and the citizens who participated to create them were not identical. She expressed concern about the assertion that the process was fine because it was vetted for agreement with general concepts because the issue was the specifics of the plans. With regard to the transportation facility on Fuller Road, she stated that this property was parkland and then seemed to dissolve into public land. There was something to be said for that designation, she said, which she thought was missing.

Jim Mogenson, 3780 Greenbrier Boulevard, recalled his comments years ago about maintaining the 1973 General Development Plan as part of the master plan and suggested that a process was needed for the form of this plan continuing to be part of the master plan. He spoke to the public process and how it sometimes was perceived and suggested that this all be sorted out so there was a consolidation that everyone thought they were part of.

Rita Mitchell believed the action taken this evening regarding the public land ordinance amendment would set a precedent for the future. She noted that the Fuller Road parking lot was once a park, not a parking lot, and questioned whether something like this could also happen to other parks, such as Allmendinger. Perhaps the University would want to use that for parking for football games, she said, thereby setting that in motion. She thought there were two "PL's" here and that how they would be used in the future needed to be considered.

COMMISSION PROPOSED BUSINESS

Westphal raised the issue of the transmittal of the Planning Commission minutes regarding its discussion on the South Fourth and South Fifth Avenues Historic District Study Committee and the fact that the Commission's official role on that had officially ended. He thought this might warrant forwarding those minutes under separate cover to Council. In reviewing the minutes from that meeting, he said, there was a great deal of discussion that focused on a map used as a working document for the committee and he thought it would be instructive to provide a copy of the map. He thought the larger issue was that Council directed formation of the study committee to investigate the potential formation of an historic district, not a committee to study what could be done to further master plan goals into neighborhoods. To that extent, he said, the Planning Commission's discussion centered on knowledge of the community's vision for the central area. He recalled a comment made about a "conservation district" and questioned whether there may be tools, aside from an historic district, to serve the needs of that neighborhood and the City as a whole.

Bona clarified that the Planning Commission minutes were being forwarded to the study committee to use in its report to City Council, not necessarily to City Council by themselves, and that Commissioner Westphal was recommending that the minutes be forwarded to the City Council separately.

Derezinski stated that as the Council representative on the Planning Commission, the more information provided to Council the better. He agreed with Commissioner Westphal.

Westphal understood that the minutes were typically forwarded to Council, but since this discussion was relative to this specific topic and were forwarded to the study committee, it might be helpful for Council to get them separately.

Rampson was not sure about the protocol for submitting the study committee's report and what documents would be included in the Council transmission. She said staff would speak with the consultant about this, but said it was standard practice to assemble all comments as part of an appendix. She stated that the conservation district research being done was very interesting and mostly appropriate for the R4C discussion coming up in a couple of weeks.

Briggs supported the idea of transmitting the minutes to City Council under separate cover and requested a cover memo that indicated the Planning Commission was not recommending a conservation district, but that it was a topic of discussion.

Bona asked about the timeline for the Park and Recreation Open Space Plan update.

Briggs stated that a survey is just about finalized and will be released for public input. She believed the update would be transmitted to the Planning Commission in the fall.

Rampson stated that the Parks staff has asked that the Planning Commission participate in a focus group, perhaps at the June working session.

ADJOURNMENT Bona declared the meeting adjourned at 9:10 p.m.		
Wendy L. Rampson, Planning Manager Planning and Development Services	Kirk Westphal, Secretary	