

MEMORANDUM

TO: Mayor and Council

FROM: Jayne Miller, Community Services Administrator

DATE: September 24, 2007

SUBJECT: Resolution to Approve Packard Marketplace Planned Project Site Plan and Development Agreement, 0.68 Acre, 3111 Packard Road (CPC Recommendation: Motion to Approve Failed – 1 Yea and 6 Nays).

Attached is a resolution requesting approval to construct an 8,265-square foot retail center. A planned project modification has been requested to allow a reduced front setback from the required 25-foot minimum setback to 10 feet on the south side and 16 feet on the east side. This modification will allow parking in the front setback along Packard, thereby increasing the open space and width of the conflicting land use buffer to the north along the existing residential neighborhood. The existing structures on the site will be removed. The County Drain Commissioner has reviewed and approved the storm water management system.

The City Planning Commission first reviewed this proposal at its April 17, 2007 meeting. The original layout proposed a 30-foot rear setback (from the north property line), a 25-foot setback from Maplewood Avenue, and a 25-foot setback from Packard Road. The building itself was proposed 88 feet back from Packard Road and the edge of the parking lot was 25 feet back from the property line. A 15-foot wide conflicting land use buffer was included within the 30-foot rear setback space.

Planning Commission members were not unanimous in their comments. Some Commissioners expressed a desire for no curb cuts along Packard Road and access via Maplewood Avenue only. Others expressed a desire for no curb cuts along Maplewood Avenue, and access taken from Packard Road only. All Commissioners, however, encouraged the petitioner to meet again with the neighborhood residents to try and address their concerns about cut-through traffic, parking on local streets and business noise. All Commissioners also encouraged the petitioner to consider using planned project modifications if it would help achieve a better design.

The petitioner took the Commission comments into consideration, met again with neighborhood residents, and submitted a request for planned project modifications to reduce the Packard Road front setback. In essence, the entire proposed site plan was shifted south, toward Packard Road, by 15 feet. The revised layout has a 45-foot rear setback, a 20-foot setback from Maplewood Avenue and a 10-foot setback from Packard Road. The building itself is proposed 73 feet from the property line and the edge of the parking lot is 10 feet from the property line.

The revised petition was considered at the June 5, 2007 Planning Commission meeting. The Commission's comments generally expressed disappointment that the layout was not as creatively revised as they had hoped. The Commission had been hoping the site plan would include less, or perhaps no, parking between the building and Packard Road. The proposed site plan also had one curb cut on each adjacent road, Maplewood Avenue and Packard Road (as originally proposed).

The petitioner pressed the Commission to recommend action for the proposed site plan at the June 5 meeting and, consequently, the Commission recommended denial. It is staff's belief that the Commission may have tabled the petition if not pressed for action by the petitioner. It appeared the Commission wholeheartedly supported the notion of commercial development on this site and would have preferred to work out a solution to fit a small neighborhood commercial development along a prominent transportation corridor while minimizing impacts to the existing neighborhood to the north.

A development agreement has been prepared that addresses utilities, on-site storm water management, future special assessment for Packard Road and/or Maplewood Avenue improvements, existing street trees, street tree planting escrow, a future vehicular connection with adjacent property, business hours, footing drain disconnections, use of lawn care chemicals and fertilizers, and elevations. The City Attorney's Office has reviewed the agreement and the petitioner has acknowledged concurrence with its provisions.

Prepared By: Laurie Foondle, Management Assistant
Reviewed By: Mark Lloyd, Planning and Development Services Manager
Jayne Miller, Community Services Administrator
Approved By: Roger W. Fraser, City Administrator

Attachments: Proposed Resolution
Draft Development Agreement
4/17/07 and 7/5/07 Planning Commission Minutes
Planning Staff Report

R-07-467

**RESOLUTION TO APPROVE
PACKARD MARKETPLACE PLANNED PROJECT SITE PLAN
AND DEVELOPMENT AGREEMENT, 0.68 ACRE, 3111 PACKARD ROAD
(CPC RECOMMENDATION: MOTION TO APPROVE FAILED - 1 YEA AND 6 NAYS)**

Whereas, B & K Investment Group, Inc. has requested site plan approval in order to construct an 8,265-square foot retail center at 3111 Packard Road;

Whereas, B & K Investment Group, Inc. has also requested planned project modifications from the setback requirements of Chapter 55 (Zoning);

Whereas, A development agreement has been prepared to address utilities, on-site storm water management, future special assessment for Packard Road and/or Maplewood Avenue improvements, existing street trees, street tree planting escrow, a future vehicular connection with adjacent property, business hours, footing drain disconnections, use of lawn care chemicals and fertilizers, and elevations;

Whereas, The Ann Arbor City Planning Commission, on July 5, 2007, reviewed said requests;

Whereas, The contemplated development will comply with all applicable state, local and federal law, ordinances, standards and regulations;

Whereas, The development would limit the disturbance of natural features to the minimum necessary to allow a reasonable use of the land, applying criteria for reviewing a natural features statement of impact set forth in Chapter 57; and

Whereas, The development would not cause a public or private nuisance and would not have a detrimental effect on the public health, safety or welfare;

RESOLVED, That City Council approve the Development Agreement, substantially in the form of that attached, dated July 30, 2007;

RESOLVED, That the Mayor and City Clerk are authorized and directed to sign the Development Agreement after approval as to substance by the City Administrator and approval as to form by the City Attorney; and

RESOLVED, That City Council approve the Packard Marketplace Site Plan and planned project modifications from the setback requirements of Chapter 55, upon the conditions that (1) the Development Agreement is signed by all necessary parties, and (2) all terms of the Development Agreement are satisfied.

RESOLVED, that the City Administrator shall direct City staff to install appropriate signage restricting truck useage of Norwood, Elmwood, and Maplewood streets, pursuant to City ordinance, and that such signs shall be placed at the following

locations: (1) Norwood street eastbound, near Platt Rd.; (2) Elmwood street northbound, near Packard Rd., and (3) Maplewood street northbound, near Packard Rd.

Submitted by: Planning and Development Services

Date: September 24, 2007

Approved by: City Attorney

As Amended By City Council on October 1, 2007

APPROVED
BY ANN ARBOR CITY COUNCIL

October 1, 2007

CITY CLERK
ANN ARBOR, MI

**DRAFT
7/30/07**

PACKARD MARKETPLACE DEVELOPMENT AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2007, by and between the City of Ann Arbor, a Michigan Municipal Corporation, with principal address at 100 North Fifth Avenue, Ann Arbor, Michigan 48107, hereinafter called the CITY; and B & K Investment Group, Inc., with principal address at 2931 River Valley, Troy, Michigan 48098, hereinafter called the PROPRIETOR, witnesses that:

WHEREAS, the PROPRIETOR owns certain land in the City of Ann Arbor, described below and site planned as Packard Marketplace, and

WHEREAS, the PROPRIETOR has caused certain land in the City of Ann Arbor, described below to be surveyed, mapped and site planned as Packard Marketplace, and desires rezoning, site plan and development agreement approval thereof, and

WHEREAS, the PROPRIETOR desires to build or use certain improvements with and without the necessity of special assessments by the CITY, and

WHEREAS, the CITY desires to insure that all of the improvements required by pertinent CITY ordinances and regulations be properly made, and that the PROPRIETORS will install these improvements prior to any permits being issued.

THE PROPRIETOR HEREBY AGREES:

(P-1) To prepare and submit to the CITY for approval plans and specifications ("the Plans") prepared by a registered professional engineer for private storm water management system and public sidewalk ("the Improvements") provided that no work on said Improvements shall be commenced until the Plans have been approved by the City Administrator or designee, and until such other relevant information to CITY departments as shall be reasonably required has been provided.

(P-2) To construct all improvements set forth in Paragraph P-1 of this Agreement in accordance with the approved Plans and to repair all defects in the improvements that occur within one year from the date of acceptance of the Improvements by the CITY, commencing on the latest date of the acceptance of any Improvements by the CITY. If the PROPRIETOR fails to construct the improvements, the CITY may send notice via first class mail to the PROPRIETOR at the address listed above requiring it to commence and complete the improvements in the notice within the time set forth in the notice. The CITY may cause the work to be completed at the expense of the PROPRIETOR, if the PROPRIETOR does not complete the work within the time set forth in the notice. Every owner of a portion of the property, including co-owners of condominium units, shall pay a pro-rata share of the cost of the work. That portion of the cost of the work attributable to each condominium unit shall be a lien on that Property and may be collected as a single tax parcel assessment as provided in Chapter 13 of the Ann Arbor City Code.

(P-3) To furnish, within 30 days of completion, an engineer's certificate that the construction of the public improvements set forth in Paragraph P-1 above have been completed in accordance with the specifications of the CITY in accordance with the approved plans. The engineer's certificate will cover only those items the PROPRIETOR'S engineer inspects.

(P-4) To be included in a future special assessment district, along with other benefiting property, for the construction of additional improvements to Packard Road and/or Maplewood Avenue, such as street widening, storm sewers, curb and gutter, sidewalks, bike paths, street lights, and the planting of trees along Packard Road and/or Maplewood Avenue frontage when such improvements are determined by the CITY to be necessary.

(P-5) That existing street trees shown on the site plan as trees to be saved shall be maintained by the PROPRIETOR in good condition for a minimum of three years after acceptance of the public improvements by the CITY or granting of Certificate of Occupancy. Existing street trees that are determined by the CITY to be dead, dying or severely damaged due to construction activity within three years after acceptance of the public improvements or granting of Certificate of Occupancy shall be replaced by the PROPRIETOR as provided by Chapter 57 of the Ann Arbor City Code.

(P-6) To deposit, prior to any building permits being issued, a street tree planting escrow account with the Parks and Recreation Services Unit in the form of a check payable to the City of Ann Arbor. The escrow amount shall be based on the CITY policy in effect at that time and is to include all on-site public streets. The City Administrator may authorize the PROPRIETOR to install the street trees if planted in accordance with CITY standards and specifications. If the street trees are found to be acceptable by the CITY, the escrow amount will be returned to the PROPRIETOR one year after the date of acceptance by the CITY.

(P-7) To construct, repair and/or adequately maintain on-site storm water management system. If the PROPRIETOR fails to construct, repair and/or maintain the private storm water management system, the CITY may send notice via first class mail to the PROPRIETOR at the address listed above, requiring it to commence and complete the items stated in the notice within the time set forth in the notice. The CITY may cause the work to be completed at the expense of the PROPRIETOR if the PROPRIETOR does not complete the work within the time set forth in the notice.

(P-8) After construction of the private on-site storm water management system, to commission an annual inspection of the system by a registered professional engineer evaluating its operation and stating required maintenance or repairs, and to provide a written copy of this evaluation to the CITY Public Services Area.

(P-9) Prior to building permits being issued, to restrict by covenants and restrictions recorded with the Washtenaw County Register of Deeds, the use of lawn care fertilizer to that which contains a low- or no-phosphorous analysis, in order to minimize the impact on Malletts Creek watershed in keeping with the goals of reducing phosphorous pollution in the watershed.

(P-10) To design, construct, repair and maintain this development in accordance with the provisions of Chapter 119 (Noise Control) to ensure that any noise emanating from said development will not impact nearby residents or businesses. In addition, PROPRIETOR shall review existing noise sources surrounding said development and incorporate necessary design and construction techniques to ensure that future tenants will not be exposed to noise sources in violation of Chapter 119.

(P-11) To include the elevation drawings, as submitted to City Council, as part of the approved site plan and to construct all buildings consistent with said elevation drawings. All windows shown on the elevations shall have clear and transparent glazing within the entire window frames. If the PROPRIETOR proposes any changes to the approved building elevations, setbacks, aesthetics, or materials, that those changes be brought back to the City Council for consideration. The PROPRIETOR is required to submit

signed and sealed drawings to staff reflecting the elevations, setbacks, aesthetics, materials and site plan approved by City Council.

(P-12) To remove all discarded building materials and rubbish from the development at least once each month during construction of the development improvements, and within one month after completion or abandonment of construction.

(P-13) To agree to a future vehicular connection with the adjacent site to the west so that the PROPRIETOR'S parking lot and any adjacent parking lot may be connected to facilitate off-street traffic flow. This shall not be interpreted to require or agree to share off-street parking spaces in the future.

(P-14) To take all reasonable measures to prevent, minimize and mitigate any nuisance generated by the development as it relates to the immediate neighborhood to the north so that the impacts of the development are reduced in terms of noise, view, vehicular congestion, litter, light and sound.

(P-15) Prior to application for and issuance of certificates of occupancy, to disconnect one footing drain from the same sanitary sewer sub basin as the project. CITY agrees to provide PROPRIETOR with a "certificate of completion" upon PROPRIETOR'S submittal of "Approved and Final Closed Out Permits" to the City of Ann Arbor Water Utilities Department.

(P-16) To indemnify and hold the CITY harmless from any claims, losses, liabilities, damages or expenses (including reasonable attorney fees) suffered or incurred by the CITY based upon or resulting from any acts or omissions of the PROPRIETOR, its employees, agents, subcontractors, invitees, or licensees in the design, construction, maintenance or repair of any of the Improvements required under this Agreement and the approved site plan.

(P-17) To cause to be maintained General Liability Insurance and Property Damage Insurance in the minimum amount of \$1,000,000 per occurrence and naming the CITY as named insured to protect and indemnify the CITY against any claims for damage due to public use of the public improvement(s) in the development prior to final written acceptance of the public improvement(s) by the CITY. Evidence of such insurance shall be produced prior to any construction of improvement and a copy filed with the City Clerk's Office and shall remain in full force and effect during construction of the public improvement(s) and until notice of acceptance by the CITY of the Improvements.

(P-18) That PROPRIETOR is the sole title holder in fee simple of the land described below except for any mortgage, easements and deed restrictions of record and that the person(s) signing below on behalf of PROPRIETOR has (have) legal authority and capacity to enter into this agreement for PROPRIETOR.

(P-19) That Failure to construct, repair and/or maintain the site pursuant to the approved site plan and/or failure to comply with any of this approved development agreement's terms and conditions shall constitute a material breach of the Agreement and the CITY shall have all remedies in law and/or in equity necessary to ensure that the PROPRIETOR complies with the approved site plan and/or the terms and conditions of the approved development agreement. The PROPRIETOR shall be responsible for all costs and expenses including reasonable attorney fees incurred by the CITY in enforcing the terms and conditions of the approved site plan and/or development agreement.

(P-20) In addition to any other remedy set forth in this Agreement or in law or equity, if PROPRIETOR fails to make a timely or full payments to the CITY as set forth elsewhere in the Agreement to the CITY in the agreed upon manner, any unpaid amount(s) shall become a lien, as provided under Ann Arbor City Code and recorded with the Washtenaw County Register of Deeds, against the land described below and may be placed on the CITY tax roll as a single lot assessment, or if the development is converted to condominium ownership, every owner of a portion of the property shall pay a pro-rata share of the amount of the payments attributable to each condominium unit. If the unpaid

amount(s), in whole or in part, has been recorded as a lien on the CITY'S tax roll and with the Washtenaw County Register of Deeds, upon payment of the amount in full along with any penalties and interest, the CITY, upon request, will execute an instrument in recordable form acknowledging full satisfaction of this condition.

(P-21) To pay for the cost of recording this Agreement with the Washtenaw County Register of Deeds, and to pay for the cost of recording all documents granting easements to the CITY.

(P 22) All exterior lighting fixtures shall have only lenses and or reflectors that point down.

As Amended by City Council on October 1, 2007

THE CITY HEREBY AGREES:

(C-1) In consideration of the above undertakings, to approve the Packard Marketplace Rezoning and Site Plan.

(C-2) To provide timely and reasonable CITY inspections as may be required during construction.

(C-3) To record this agreement with the Washtenaw County Register of Deeds.

GENERAL TERMS

Both the PROPRIETOR and the CITY agree as follows:

(T-1) This agreement is not intended to create a contractual right for third parties.

(T-2) This Agreement and any of its terms, conditions, or provisions cannot be modified, amended, or waived unless in writing and unless executed by both parties to this Agreement. Any representations or statements, whether oral or in writing, not contained in this Agreement shall not be binding on either party.

(T-3) This Agreement and any of its terms or conditions shall not be assigned or transferred to any other individual or entity unless prior approval of the CITY is received. Such approval shall not be withheld unreasonably.

(T-4) The obligations and conditions on the PROPRIETOR, as set forth above in this Agreement and in the approved site plan, shall be binding on any successors and assigns in ownership of the following described parcel:

Lot 113, the east 30 feet of Lot 53, and all of Lot 112 of "Darling," a subdivision of part of the southwest quarter of Section 2, T3N, R6E (City of Ann Arbor), Washtenaw County, Michigan, Liber 5, Page 3, Washtenaw County Records.

(T-5) In addition to any other remedy in law or in equity failure to comply with all of the above paragraphs on the part of the PROPRIETOR, or any part of the approved site plan, in part or in whole, shall give the CITY adequate basis and cause to issue a stop work order for any previously-issued building permits and shall be an adequate basis and cause for the CITY to deny the issuance of any building permits, certificates of occupancy, or any other permits unless and until the CITY has notified the PROPRIETOR in writing that the PROPRIETOR has satisfactorily corrected the item(s) the PROPRIETOR has failed to perform.

(T-6) This agreement shall be interpreted, enforced and governed under the laws of the State of Michigan and Ann Arbor City Code.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day first above written.

Witnesses:

CITY OF ANN ARBOR, MICHIGAN
100 North Fifth Avenue
Ann Arbor, Michigan 48107

By: _____
John Hieftje, Mayor

By: _____
Jacqueline Beaudry, City Clerk

Approved as to Substance:

Roger W. Fraser, City Administrator

Approved as to Form:

Stephen K. Postema, City Attorney

Witness:

B & K Investment Group, Inc.
2931 River Valley
Troy, Michigan 48098

By: _____
Hyun B. Bang, President

STATE OF MICHIGAN)
) ss:
County of Washtenaw)

On this _____ day of _____, 2007, before me personally appeared John Hieftje, Mayor, and Jacqueline Beaudry, Clerk of the City of Ann Arbor, a Michigan Municipal Corporation, to me known to be the persons who executed this foregoing instrument, and to me known to be such Mayor and Clerk of said Corporation, and acknowledged that they executed the foregoing instrument as such officers as the free act and deed of said Corporation by its authority.

NOTARY PUBLIC
County of Washtenaw, State of Michigan
My Commission Expires: _____
Acting in the County of Washtenaw

STATE OF MICHIGAN)
) ss:
County of)

On this _____ day of _____, 2007, before me personally appeared Hyun B. Bang, President, B & K Investment Group, Inc., to me known to be the person who executed the foregoing instrument, and acknowledged that he executed the foregoing instrument as his free act and deed.

NOTARY PUBLIC
County of Washtenaw, State of Michigan
My Commission Expires: _____
Acting in the County of Washtenaw

DRAFTED BY AND AFTER RECORDING RETURN TO:
Mark Lloyd, Manager
Ann Arbor Planning & Development Services
Post Office Box 8647
Ann Arbor, Michigan 48107
(734) 994-2800

APRIL 17, 2007 PLANNING COMMISSION MINUTES

d. Public Hearing and Action on Packard Marketplace Rezoning and Site Plan, 0.68 acre, 3111 Packard Road. A request to rezone a 0.2-acre portion of the site from P (Parking District) to C1 (Local Business District) and a proposal to raze the existing structures and construct an 8,246-square foot retail building – Staff Recommendation: Table

Marcarello described the proposal and showed photographs of the property.

Sara Mayman, 2889 Maplewood, expressed concern about the type of businesses that would be on this site, objecting to businesses open 24 hours a day. She said hers was a nice neighborhood without sidewalks and there were many children who played outside. She said the curb cut on Maplewood was located across from her home and she was concerned that it would encourage an increase in the speeding that neighbors already experienced. She also expressed concern about the appearance of the proposed berm as far as neighbors having to look at it. She thought a tall, thick berm would help with the noise and dirt pollution from Packard. She expressed concern about overflow parking in the neighborhood increasing from this development and about the proposed dumpster location. She did not want to hear the dumpster being emptied in the middle of the night. She provided a letter signed by three neighbors that identified their concerns (on file).

Paul Holtz, 2865 Maplewood, echoed the concerns of the previous speaker. He expressed concern about the setback of the building, size of the buffer along the north, business parking overflow, service traffic from the Maplewood curb cut, and retail traffic from possible south curb cut. He strongly opposed those curb cuts, he said. He asked that the building be made to conform to height and setback requirements.

James D'Amour, 2771 Maplewood, agreed with the recommendation to table action. He pointed out that this site was cleared of all vegetation, including all trees with a sizable diameter, and asked that the Planning Commission look into this. He stated that part of the purpose of the parking zoning district was to provide a buffer to neighborhoods. He believed the buffer along the north property line should be greater than 15 feet and suggested that suggested that a reduced front setback be allowed so the building could be placed at the front of the site and the parking and storm water retention at the rear. This would be less intrusive to the neighborhood, he said. He stated that moving the building to the front of the site would also make Packard Road more walkable and it would help meet the City's long-term goal for walkability. He thought this development could become an asset to the community if properly planned.

Noting no further speakers, Pratt declared the public hearing continued.

Moved by Carlberg, seconded by Emaus, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Packard Marketplace Rezoning from P (Parking District) to C1 (Local Business District), Site Plan and Development Agreement.

Potts thought one of the reasons this proposal appeared to be a high impact use was because it would change the use that has existed on this site, while the existing neighborhood remained. She stated that whatever design would provide the most effective buffering for the adjacent neighborhood should be considered. In addition to a conflicting land use buffer between residential and commercial uses, she said, there also was a vehicular use buffer requirement, which may or may not be greater. She agreed with the neighbors' concern about delivery and refuse trucks at the rear of this site. It placed this type of function more deeply into the neighborhood, she said. She thought it would be more appropriate off of Packard. She supported the recommendation to table action, as she thought there was more work to be done.

Carlberg stated that as she looked at the property to the east, which also was a commercial use, it made more sense to her to place the building at the front of the site and the parking at the rear. She stated that the two houses on this site have been an eyesore for many years and removing them was not hardship to the neighborhood. The proposed building would be an improvement in appearance, she said. The challenging question, she said, was whether to place the parking at the rear of the site. Cars entering and exiting a site were not normally loud, she said. She wondered whether this site would use large trash dumpsters or smaller carts. There would be noise from the site at certain times of the day, she said, just like there was from the previous use. She was interested in seeing this come back to Commission with a different configuration of the building at the front and the parking in the rear.

Emaus agreed, stating that many of the businesses along Packard in this area were situated near the front of the street. He believed locating the proposed building more to the rear of the site with parking in the front would be out of character with the street appearance. He supported staff in recommending a walkway between this site and the commercial establishment to the east.

Lipson concurred with the comments made by Commission members. He noted that the development agreement contained a provision for noise control, which would help in enforcing this. It was important that the neighbors knew about this provision, he said. He agreed that, if possible, the curb cut into this site should be facing the towing service, rather than the residential neighborhood. He was concerned about putting parking at the rear of this site because of the noise associated with vehicles, such as radios and slamming doors, unless a wall were constructed to reduce the sound impact. He stated that this area was becoming a vibrant commercial area and he thought this was an appropriate location for this development. He strongly supported as much pedestrian access as possible. He said there were no longer any natural features on the site and said it was not certain whether this was in compliance with ordinance requirements.

Marcarello showed the photograph of the site to indicate where trees had been removed. She said the ash trees and shrubs that were removed were not protected.

Bona generally agreed that it was good to put the building at front and the parking at the rear of the site. She said the petitioner of this project has not spoken with the neighbors, noting that the Planning Commission preferred there be communication between the two. When this proposal came back for consideration by Commission, she said, she would like to know that this communication occurred. She supported connecting this site with the property to the west and asked that it be included in the development agreement. She asked if there were any restrictions that could be placed as far as the hours of operation.

Marcarello said there were no restrictions in the zoning district with regard to hours of operation, but said something could be added to the development agreement.

Bona hoped this would be resolved between the petitioner and the neighbors. She supported tabling action this evening.

Woods echoed that it would be helpful for the petitioner to meet with the neighbors and listen to their concerns. She said it would go a long way in terms of understanding how this project would fit into the existing residential area. She asked about the type of berm that was proposed along the rear property line.

Michael Van Goor, of Van Goor Architects, representing the petitioner, stated that the berm, which would contain plantings, would conform to conflicting land use buffer requirements. He said the berm would help screen the neighborhood from the noise and headlights from both the parking lot and Packard Road.

Woods asked if the berm were going to be elevated, stating that an elevated berm might reduce more of the noise.

Van Goor replied that they had not explored anything further than the berm and plantings required by City Code. He said the proposed building would also act as a buffer.

Woods asked about the timing for delivery truck loading and unloading.

Van Goor stated that they had not yet determined a schedule for deliveries, as they did not yet have tenants secured for the building. He said they would inquire with the City's Solid Waste office to find out about the trash pick-up schedule.

Woods said staff encouraged that the Packard Road curb cut be eliminated. She asked the petitioner to provide the rationale for keeping the curb cut on Packard.

Van Goor said the petitioner would like to maintain the curb cut on Packard Road, given that the majority of users would come from Packard. He said they were also trying to minimize traffic from patrons entering the adjacent neighborhood. He stated that they met with the property owner to the west, who indicated that he was not interested in site planning his site at this time.

Woods asked if traffic coming out of this site would be able to turn left.

Van Goor replied yes.

Woods stated that this development having a curb cut on Packard and the adjacent site to the west having a curb cut on Packard could result in vehicles coming out of both sites to turn different ways at the same time. She expressed concern about this creating problems.

Van Goor stated that there would be no visual obstructions between the curb cuts and that drivers would be able to see each other.

Borum agreed with most of the comments made by Planning Commission this evening, particularly regarding placing the building at the front of the site. He said he would support decreasing the front setback to allow the building to be moved closer to the street, which would allow more of a buffer area between the parking and the neighborhood. He thought there was an opportunity here to set a precedent for how properties along this street should be redeveloped. He reinforced the comments made about the value of moving the building closer to Packard.

Emaus stated that this property was zoned C1 (Local Business District), noting that the neighborhood immediately north of this site was the local business district in this area. Instead of catering to automobiles on Packard, he said, it was the neighborhood that would likely use this development. He stated that there were 10,000 people within this small area and a lot of traffic was not needed to support an 8,000-square foot business. He said the City has gone to great lengths to reduce the number of curb cuts on Packard and Platt, adding that he would be against a commercial establishment having a curb cut on Packard in this location. He said the curb cut proposed for this would mean four curb cuts within 50 feet of each other. He stated that not setting a precedent for more curb cuts on Packard was important.

Potts stated that reducing the impact on the neighborhood was important. She said this was a commercial strip right now and she was not sure it would ever get cleaned up with fewer curb cuts, etc., so wanted to make sure that traffic stayed on Packard, particularly for trash pickup and deliveries. She did not think a curb cut on Maplewood would be a good idea and it was her preference that this development use Packard for its access, even if it meant one more curb cut.

Lipson did not see how noise from trucks at the rear of this site could be avoided without a masonry wall. He did not have a solid opinion regarding curb cuts, but said he would like to minimize the impact on the neighborhood. If there were to be a curb cut on Maplewood, he said, it should be located as far away from the neighborhood as possible. He stated that a masonry wall along the north property line would go a long way toward alleviating his concerns.

Pratt echoed the concerns made about the number of conflicting turns occurring on Packard. He did not think it was a question of sight distance, but the decisions drivers would have to make. It was a safety issue, he said. He generally did not like to suggest something the residents did not support; however, in this case, he believed a primary access from Maplewood, closer to Packard, would be a preferred option.

Mayman wondered what type of businesses could locate here and if there were any opportunities for the neighbors to provide input.

Pratt stated that a provision in the development agreement limiting delivery hours would be helpful to the Planning Commission in determining that the rezoning was a positive impact to the public welfare and property rights of the residents in the area, per the Zoning Ordinance. He said it would also be helpful if a provision could be added to the development agreement regulating the hours of operation. With regard to moving the building closer to Packard, he would like to hear feedback as far as whether residents would like to have the building as a screen, or screening from a parking lot if parking were located at the rear. He agreed from a planning standpoint that the building should be moved closer to Packard. He echoed the comments made this evening in support of staff's comments.

Bona believed the restaurant to the west had access onto Elmwood and the office to the east had access onto Maplewood. The business on the other side of Elmwood also had access onto Elmwood, she said. She thought it would be consistent to allow that for this development as well. One of the goals of the South Area Plan was to reduce the number of curb cuts on Packard, she noted. With regard to the location of the parking, she said, she would like to hear feedback from the neighbors. She asked if street trees were required on Maplewood or Packard.

Van Goor replied yes and said they were shown on the site plan.

Bona stated that sidewalks were always more comfortable for pedestrians when there were trees between the street and sidewalk. She asked if the petitioner had considered this.

Van Goor said there was very minimal space for trees between the street and sidewalk and said they would leave this to the City's Natural Features and Environmental Coordinator to make a determination.

Bona asked that staff look into whether trees could be provided between the sidewalk and street, stating that this would be good for pedestrians and to reduce the speed of traffic. She said she would like to see reinforcement in the development agreement that the petitioner was willing to connect this property if and when the property to the west was redeveloped. If the neighborhood were interested in moving parking to the rear of the site or the Maplewood side, she said, that would be an option. She said she also supported moving the building closer to Packard.

Moved by Potts, seconded by Lipson, to table action.

A vote on the motion to table showed:

YEAS: Bona, Borum, Carlberg, Emaus, Lipson, Potts, Pratt, Woods
NAYS: None
ABSENT: Westphal

Motion carried.

JULY 5, 2007 PLANNING COMMISSION MINUTES

b. Public Hearing and Action on Packard Marketplace Rezoning and Planned Project Site Plan, 0.68 acre, 3111 Packard Road. A request to rezone a 0.20-acre portion of the site from P (Parking District) to C1 (Local Business District) and a proposal to raze the existing structures and to construct an 8,265-square foot retail building (tabled at 4/17/07 meeting) – Staff Recommendation: Approval

Kowalski explained the proposal and showed photographs of the site.

Michael Van Goor, of Van Goor Architects, representing the petitioner, stated that they met with the neighbors on April 24, at which time three different options were presented. He said the first option was the site plan reviewed at the April 17 Commission meeting, the second option was the building facing Packard with parking in the rear, and the third option was the building along the eastern edge of the property with parking along the western edge. Option 3 would still allow a large degree of noise from Packard to permeate into the neighborhood, he said. He said one person out of the 16 residents at the meeting voted in favor of Option 3. He stated that access to the site from Maplewood to the parking lot at the rear of the building was the main topic of discussion and four people were in favor of that option. He said the remaining 11 people voted for shifting the entire development forward to allow for a larger buffer between the development and the homes to the north. At the follow-up meeting on May 14 with the neighbors, he said, the current design was presented. He said the wall along the north property line was modified somewhat to provide more of a front setback appearance. He said two recesses were also created with plantings on the other side of the wall to help soften the appearance of the wall facing the homes. He stated that they tried to accommodate the concerns raised by the neighbors. Further revisions were made based on Planning Commission comments, he said, such as street trees between the sidewalk and street along both Packard and Maplewood, minor modifications to the storm system based on County Drain Commissioner comments, and moving the storm system from the parking lot to Packard further away to avoid the oak tree on the site. He was available to answer questions.

Sara Mayman, 2889 Maplewood, stated that the neighbors received notification of this meeting, but she did not believe it provided enough time to meet with other neighbors, noting that many were on vacation. She said the staff report indicated that the neighbors strongly agreed with this proposal, yet none of the neighbors she spoke with agreed with that statement. She said they were pleased with the revisions that had been made, but they still had concerns about parking on Maplewood, which was already happening, and about increased traffic and speed of traffic on Maplewood, noting that there were many children in the area. She said the neighbors also did not want to have delivery trucks using their street. She showed a drawing of the existing curb cuts and said she proposed combining the entrance to this new development with the existing Achilles restaurant to the west, as well as using some of the existing parking to the west. She said another suggestion was to use the existing curb cut on Elmwood for access to the rear of the businesses, which would alleviate concerns of residents along Maplewood.

Paul Holtz, 2865 Maplewood, reiterated that although there was a clear preference for one of the site plans, it in no way was an endorsement by the neighborhood. He said they were not very pleased about such a large building sitting on this site. He said neighbors were concerned about the shortage of parking and they did not want to see overflow parking on Maplewood. Another concern was the type of businesses going in here, he said, noting that there already were vacant retail spaces across Packard. He wanted to make sure limitations were placed on the development with regard to nuisance to the neighbors. It would be good if a variance could be granted to take advantage of the Achilles restaurant site to the west, he said, stating that there would be many win-win scenarios if that could be achieved.

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

Moved by Carlberg, seconded by Potts, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Packard Marketplace Rezoning from P (Parking District) to C1 (Local Business District), Planned Project Site Plan

**and Development Agreement, subject to approval by the
Washtenaw County Drain Commissioner.**

Carlberg stated that one of the real dilemmas was what was happening on the Achilles restaurant site. She asked if there were any conversations between staff and the owner of the restaurant.

Kowalski replied no. He stated that adding a connection to the Achilles site would require the Achilles property to be site planned, which the owner wanted to avoid.

Carlberg assumed that the placement of the driveways along Packard for the Achilles restaurant did not meet City Code.

Kowalski replied that this was correct, but said it was an existing nonconforming use. If the property were site planned, he said, everything would have to be brought up to code.

Van Goor stated that there was no approved site plan on file for the Achilles site. He said the petitioner met with the owner of the Achilles restaurant to see if some of the Achilles parking could be used for this development, but the owner of the restaurant declined. He said they had no desire to use Maplewood for parking, adding that Planning staff believed the amount of proposed on-site parking was sufficient. He said they have gone to great lengths to discourage parking on Maplewood and noted that Planning staff intended to inform the residents of the City's residential parking program.

Carlberg confirmed that the use of the Achilles restaurant site was not an option for accommodating any of this site's needs.

Van Goor replied that this was correct, but said there was a provision in the development agreement that if a situation arose in the future, the owner of this site would cooperate with the adjacent site.

Carlberg asked if the curb cut on Maplewood would be for deliveries and trash pick-up only.

Van Goor replied yes.

Carlberg expressed her disappointment that this site plan returned to Commission with the parking in the front of the site. She preferred to see the building at the front and parking in the rear, even if it meant using Packard for access to the rear parking. She thought the site could have been designed that way. She liked the way the buildings on the other side of Maplewood faced the street and presented a business-like atmosphere on Packard. They also screened the residents to the north from noise, she said. She added that the parking at the rear of those buildings did not seem to pose a noise problem for the neighbors. She realized that the petitioner was trying to accommodate the neighbors' wishes, but she thought putting parking in the front was poor planning and she was not happy to see that.

Potts said it would be nice to have a more desirable appearance along Packard with parking behind the buildings, but said this was not the way most of the buildings were designed. The highest priority for her was neighborhood impact and she did not think parking behind this building was a good solution, even with a buffer, because of the impacts. She thought the driveway off of Packard was appropriate and said she wished the building were not located so close to the lot line. Since the curb cut on Maplewood would be used for delivery and trash collection only, she thought the proposed buffering would provide adequate screening for the neighbors from any potential impacts. She was glad there was no access to the parking lot from Maplewood to encourage parking on the residential street. With regard to the residential parking program, she questioned whether it would work here, as the program was used to protect residents from people who wanted to park all day on the residential streets. While this project would not necessarily help Packard, she did not think it would hurt Packard. She also thought it would protect the neighbors in as many ways as possible.

Emaus stated that the City has gone to great expense to decrease the number of curb cuts on Packard by putting in service parking drives. He said it was not totally true that most of the businesses along

Packard had parking in the front. Of the businesses along this side of the street on these two blocks of Packard, he said, one was the proposed redevelopment site, one was Achilles restaurant, one was Sakstrup's, and one was the gas station at the corner. These and the offices immediately to the east were located at the front of the road with parking in the rear, he said. He stated that this was the model he wished to be used for development of the rest of this street. As time went on, he said, the other sites along Packard would be redeveloped and he did not want to see the Achilles restaurant model replicated. He thought the density and traffic in this area were too high to allow this kind of access on Packard. He did not support the parking that was proposed in the front of this site.

Borum believed the City had an opportunity on this side of Packard to set the model for future projects as properties were redeveloped. He agreed that the model the City should be using was one that placed the building in the foreground and parking in the rear. He pointed out that the rezoning proposal Commission just reviewed, where the property was being rezoned from parking to commercial, originally used the parking district for parking in the rear as a means to buffer the shopping center from the residents, using walls and landscaping for screening. He stated that a six-foot high wall, if provided on the subject site, would be more than adequate in screening the parking from the neighbors if the parking were located in the rear. He expressed sympathy for the architect who was trying to negotiate the desires of the Planning Commission and the neighbors to come up with an approved project for his client. He agreed that the model the current design proposed would continue to produce a 600-foot wide swatch of asphalt along Packard, without a service drive. He found it difficult to support this plan and said he was surprised that it came back to Commission in just about the same form.

Bona was glad to see that the street trees were placed between the sidewalk and the street, as this would help the atmosphere along Packard. She said it was her desire the last time Commission reviewed this to not only see the parking located at the rear of the site, but to also provide access to the development from Maplewood. She stated that Maplewood was a public street and was as usable by this property as it was by the residents of the neighborhood. As far as the impacts on the neighborhood, she found it difficult to believe that many trucks would use the neighborhood as a shortcut. She said signage discouraging this would be helpful, but noted that Packard would be the street trucks would want to use. She did not see any reasons why employees should not park on Maplewood adjacent to this site, but thought it would be good for the neighbors to pursue the residential parking program. She had hoped that the petitioner would have considered putting the building at the front of the site along Packard and some of the parking on the Maplewood side of the site, so all of the parking would not be located in the rear. She did not support an access from Packard when Maplewood was available and ready to be used. While she empathized with the petitioner, she said it was not just the neighbors who needed to be considered, but also those who would use Packard and the businesses in this development. She did not want to see a precedent set for putting parking in the front of the buildings along Packard.

Woods asked what kind of building materials would be used and if the windows would be transparent.

Van Goor stated that the building would have a split-faced brick façade with limestone accent details, canopy and aluminum glass storefronts. He said the same material would be used to wrap around each side of the building. Windows would also be located on the Maplewood side of the building, he said, and the north façade would be a masonry block that would match the color of the brick at the front of the building. He said the windows would be transparent.

Woods asked if the petitioner had a sense of the tenants for these spaces.

Van Goor stated that the types of stores discussed were something like a Subway or Quizno's, a coffee shop, general retail stores, perhaps a family grocery store/market. He said no bars would be allowed to locate here and the hours of operation of the retail center would be 8:00 a.m. to 10:00 p.m.

Carlberg asked for a definition of the brick.

Van Goor said it would be a standard modular brick 2 ¼ inches high, 3 and 5/8 inches thick, and 7 and 5/8 inches long. He said it would be real brick.

Pratt stated that he would not support this as a planned project, primarily because although it met some of the standards, the main concern for him was with the third criteria, which required that the site be designed so traffic to and from the site was not hazardous. He stated that there were a lot of curb cuts on Packard, close to the Platt Road intersection, and that the nature of those curb cuts would encourage more ingress and egress trips. He could not imagine that it would be safer for the public to use the curb cut on Packard, stating that it was a busy street and the many curb cuts across the street introduced too many different things going on. He supported the comments of other Planning Commission members that the goal here was to see the buildings moved closer to the street, which would be consistent with adjacent properties. What he could support as a planned project, he said, was to see the building situated more evenly with neighboring setbacks. If this meant moving the parking to the side and rear, he thought it would be acceptable with the very nice buffer proposed by the petitioner. He preferred that there be no access to Packard unless it was shared with the adjacent Achilles restaurant. He was not opposed to an access from this site onto Maplewood. He also did not think having an access onto Maplewood would introduce more traffic into the neighborhood. If someone were to cut through the neighborhood using Maplewood, he said, they would be doing so regardless of there being a curb cut from this property. He noted that the adjacent business to the east had access onto Maplewood. He agreed that adequate signage would be helpful and that the residential parking program was an alternative that could help with employee parking on the street. He was hopeful that this retail center would not need street parking, but he did not think it was reasonable to say someone could not park along the frontage of their property. He stated that moving the building forward and taking care of the Packard and Maplewood access issues would address his concerns. He asked that the trash collection schedule be addressed internally, as the hours of operation in the development agreement might not coordinate with trash collection times. He stated that with regard to deliveries, he normally did not see deliveries occurring that late and suggested that the hours be changed to 8:00 a.m. to 8:00 p.m. He asked that this be addressed in the development agreement.

Bona wanted to make sure that the windows would be transparent and clear and suggested a revision to the development agreement to address this. Her professional experience was that tinted glass was undesirable.

Moved by Bona, seconded by Emaus, to add the following language to P-11 of the development agreement: "All windows shown on the elevations shall have clear and transparent glazing within the entire window frames."

A vote on the motion showed:

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

Motion carried.

Potts did not disagree about the desire for pulling buildings closer to the street and creating more of a pedestrian environment; however, she said, this area of Packard Road was already much like a strip mall. While it could be slowly changed lot by lot, she said there were no guarantees that it would happen. She stated that the neighborhood already existed and it was her inclination to favor the residents' welfare.

Emaus pointed out that the offices to east and the Achilles restaurant and Sakstrups Towing were already located close to the street, so asking the petitioner to move this building closer to Packard would not be asking for anything more than what the neighbors were already doing.

Pratt did not disagree with the issue of walkability. Aesthetically, he would rather have visitors and residents look at attractive buildings and not paved parking. In addition, he said, there was appropriate buffering for the neighbors to the north.

Bona stated that another reason for moving the building forward was the pedestrian character of the street. She said one of the issues with major thoroughfares was the speed of traffic and it took many small components to get people to naturally drive slower. While the width of the lanes could not be controlled, she said, planting street trees between the curb and sidewalk helped slow traffic, as did locating buildings closer to the street. She thought there was potential for Packard becoming friendlier to pedestrians and encouraging neighborhood residents to walk rather than drive.

Woods agreed with Commissioner Bona, stating that it was difficult to make these large streets feel more pedestrian friendly without starting in small steps. She said moving this building closer to the street and planting the trees between the sidewalk and street would be one of those small steps. She thought the six-foot berm with plantings at the rear of the site would be adequate for shielding parking from the residents.

Carlberg stated that having an access to the retail center from Maplewood did not necessarily mean that people would continue down Maplewood once leaving the site. Like all residential neighborhoods, she said, traffic flow was minimal during off-peak hours. She did not see a detriment to the neighborhood from having a Maplewood access. She did see a detriment to the neighborhood if the residents driving to these businesses would have to drive out onto Packard to access them. She believed the impacts on the neighborhood would be minimal with the building at the front of Packard and the parking in the rear. She said the building would screen noise impacts from Packard and adequate screening at the rear of the site was provided. She believed that maneuvers to get out of the site via a Packard Road curb cut would be dangerous.

A vote on the motion showed:

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

Motion failed.

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of July 5, 2007

**SUBJECT: Packard Marketplace Rezoning and Planned Project Site Plan
3099 and 3111 Packard Road (File Nos. 12023A5.2 and .5)**

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Packard Marketplace Rezoning from P (Parking District) to C1 (Local Business District), Planned Project Site Plan and Development Agreement, subject to approval by the Washtenaw County Drain Commissioner.

STAFF RECOMMENDATION

Staff recommends that the rezoning petition be **approved** because it is consistent with the South Area Plan, would not affect the public welfare and property rights in the vicinity, would be advantageous to the City and conditions have changed in the area.

Staff recommends that the planned project site plan petition be **approved** because it would comply with all applicable local, state and federal laws, ordinances, standards and regulations; the development would limit the disturbance of natural features to the minimum necessary to allow a reasonable use of the land; would not cause a public or private nuisance; and would not have a detrimental effect on public health, safety or welfare. The planned project modifications provide for increased open space, better solar orientation to conserve energy and an arrangement of buildings that encourages pedestrian access.

STAFF REPORT

This petition was tabled on April 17, 2007 to address outstanding staff comments as well as issues raised by the Planning Commission following the public hearing. As a result, a planned project modification request has been added to the site plan.

Site Layout – Staff suggested that the proposed access be switched from Packard Road to Maplewood Avenue, which would eliminate the parking lot's encroachment into the Maplewood Avenue front open space as well as allow room for a pedestrian connection from the Packard Road sidewalk to the building on the west side of the site. Planning Commission asked the petitioner to consider redesigning the site so that parking is provided at the rear, behind the proposed building. However, the Commission also advised the petitioner to meet with neighbors to address their concerns regarding the proposed development.

The petitioner has revised the site layout, shifting the building approximately 15 feet south. The site plan layout is generally the same as previously, but now the proposed building and parking lot is set back 10 feet from Packard Road (previously 25 feet). The proposed plan also now includes a 16-foot setback from the east property line. Since the minimum required setback distance is 25 feet, planned project modifications are requested to reduce the front setbacks. The reduced front setbacks allow for additional area at the rear of the site, providing an increased distance from the residential properties to the north.

Screen Wall – It was suggested that the petitioner consider a screen wall as part of the conflicting land use buffer across the north property line, if that was agreeable and preferable to the neighbors. The petitioner has revised the plan to include a 6-foot solid screen wall on the north property line. The wall

will consist of split-face block at the base, approximately 2 feet in height, and smooth masonry blocks similar in color to the brick building for the upper portion of the wall. The wall has been staggered to provide visual interest and recesses are provided to allow for plantings on the other side of the wall.

Pedestrian Access from Packard Rd – No pedestrian access is provided from Packard Road, as there is insufficient room to locate a sidewalk along the vehicular entry drive.

Meet with Neighbors – According to the petitioner, two meetings were held with neighbors on April 24 and May 14, 2007. Three development options were discussed and apparently the neighbors strongly supported the proposed site plan.

Development Agreement – A paragraph has been added to the draft development agreement addressing future connections with the adjacent site to the west. A paragraph has also been added to limit the hours of operation from 8:00 a.m. to 10:00 p.m.

Trash Pick-Up Schedule – The anticipated trash pick-up will be weekdays between 7:00 a.m. and 1:00 p.m. Future details will only be available after tenants have occupied the building.

Tenants – According to the petitioner, businesses that have been discussed as tenants include a coffee shop, a sandwich shop (Subway, Quizno's, etc.), general retail stores, and a neighborhood grocery market. The actual tenants will depend on market conditions.

Planned Project – The proposed petition has been revised to include planned project modifications for reduced front setbacks. The petitioner's request and staff analysis is provided below.

Access to Site – Some Commissioners suggested that the petitioner eliminate any access from Maplewood Avenue, and some Commissioners recommended that the access to Packard Road should be avoided to reduce the number of curb cuts as recommended by the South Area Plan. Staff has previously stated a preference for access from Maplewood Avenue, which would avoid the need for a reduced front setback on the east, provide more off-street parking spaces and allow room for a pedestrian sidewalk on the west side of the site. Staff notes that most other recent small retail or office developments on corners, such as the Zahn Medical Office Planned Project Site Plan, at 2207 Jackson Road, obtain access from the side street rather than the major thoroughfare. The petitioner has proposed an access drive from Packard Road, which leads to the off-street parking lot, and an access drive from Maplewood Avenue, which leads to a loading area.

Street Trees – The proposed plan has been reviewed by the City Forester, and one additional street tree is proposed on Packard Road and four new street trees are proposed along Maplewood Avenue. All street trees are proposed in the "lawn extension" between the sidewalk and road.

PLANNED PROJECT STANDARDS

Planned project approval is requested to allow a reduced front setback for the proposed development, from the normally required 25-foot minimum setback to 10 feet on the south side and 16 feet on the east side. The modifications will help to achieve the objectives of the development program by allowing parking to be placed within the front setback along Packard Road, and increasing the open space and width of the conflicting land use buffer to the north. This conflicting land use buffer borders a residentially zoned district and increasing the maximum extent possible has been indicated to be a favorable layout based on meetings with the neighbors of the residential district along Maplewood Avenue.

Based upon compliance with the following standards, the Planning Commission may recommend approval, and City Council may approve modifications of the area, height and placement regulations of the Zoning Chapter in the form of a planned project site plan: (Petitioner comments are in plain type; *staff comments are in italics.*)

- a. The lot(s) included in the planned project must meet the minimum gross lot size requirement of the zoning district in which they are located.**

The minimum lot size required in the C1 zoning district is 2,000 square feet. The actual lot size is 29,750 square feet and, therefore, meets the minimum gross lot area requirements of the district.

- b. The proposed modifications of zoning requirements must provide one or more of the following:**

- a) Usable open space in excess of the minimum requirement for the zoning district.**

The open space required of the C1 zoning district is 60% of the site. The open space provided in the proposed development is 62.3% of the site, which will be used for an increase in the conflicting land use buffer between the proposed building and the adjacent residentially zoned district to the north.

The percentage of open space generally remained the same between the originally proposed layout and the revised layout. The requested modifications result in an increased amount of conflicting land use buffer but do not appreciably increase the amount of usable open space.

- b) Building or parking setback(s) in excess of the minimum requirement for the zoning district.**

The rear (north) setback required by the C1 zoning district is 30 feet. The rear setback provided is 45 feet, to allow for an increase in the conflicting land use buffer between the proposed building and the adjacent residentially zoned district to the north.

- c) Preservation of natural features that exceeds ordinance requirements, especially for those existing features prioritized in the land development regulations as being of highest and mid-level concern.**

- d) Preservation of historical or architectural features.**

- e) Solar orientation or energy conserving design.**

The building has been oriented in an East to West direction, with the longest building elevation facing the South. This is also the front elevation and will have ample windows to allow for maximum solar heat gain in the wintertime, with awnings provided to block the solar heat gain in the summer time.

The planned project modifications do not contribute any more to solar orientation or energy conserving design than what was previously proposed.

- f) An arrangement of buildings which provides a public benefit, such as transit access, pedestrian orientation, or a reduced need for infrastructure or impervious surface.**

After meeting with the residentially zoned neighborhood to the north, it was determined that shifting the proposed development to the south toward Packard Road and increasing the conflicting land use buffer to the greatest extent possible was a more desirable layout for the site rather than strict adherence to the front setback requirements along Packard Road.

The public benefit to the City as a whole provided through the planned project modifications is far less than the benefit to the few properties immediately adjacent to the site. Staff generally supports proposed modifications that reduce a front setback for a proposed building, as this often promotes a more pedestrian-friendly design and contributes to urban rather than suburban development patterns. In this case, the modification does not measurably improve pedestrian orientation.

g) Affordable housing for lower income households.

h) Permanent open spaces of 20 percent or more in any low-density residential district.

c. The planned project shall be designed in such a manner that traffic to and from the site will not be hazardous to adjacent properties.

While it has been suggested that the parking be located behind a building to the north, with an entrance to the parking lot off Maplewood, meetings with the residentially zoned neighborhood to the north have indicated a preference for locating the parking to the south of the building, with an entrance to the parking lot off Packard Road. This layout not only screens the neighborhood from the noise and traffic of Packard Road, but also brings vehicular traffic into the site from Packard Road rather than causing traffic to come into the neighborhood along Maplewood first to access a parking lot behind the building to the north.

d. The proposed modifications shall be consistent with the proper development and use of adjacent land and buildings.

The proposed modifications are consistent with the development and use regulations of the C1 zoning district, and are also similar to the building placement and parking lot layout in front of the building of the adjacent parcel to the west and the existing retail centers across Packard Road to the south.

Staff note that the developments mentioned by the petitioner, to the west of the site as well as to the south, are all nonconforming sites due to insufficient front setbacks and have parking in the required front setback area. New developments have been established to the east of the subject site which place buildings at the front setback line and have parking in the rear, accessed from the side streets. The proposed modifications are only consistent with existing nonconforming sites and are not consistent with the adjacent lands and buildings to the east.

e. Required off-street parking and landscaping must be provided in accordance with the provisions of Chapters 59 and 62.

The minimum required off-street parking is provided on the site and the landscape requirements are met in accordance with chapters 59 and 62, respectively, of the zoning ordinance.

f. The standards of density, allowable floor area and required usable open space for the zoning district(s) in which the project is located must be met.

The allowable floor area of the C1 zoning district is 40% and the floor area of the proposed development is 27.7% and, therefore, meets the requirements of the zoning district. There is no standard for density, as no residential units are proposed.

g. There shall be no uses within the proposed project which are not permitted uses in the zoning district(s) in which the proposed project is to be located.

The proposed retail center and the anticipated tenants within the center conform to the uses permitted by the C1 zoning district.

Staff note, as previously mentioned in the April 17, 2007 report, that the C1 district limits any one tenant to a maximum of 8,000 square feet. The proposed building must be occupied by at least two separate tenants.

SERVICE UNIT COMMENTS

Systems Planning (Engineering) – The second mix of uses described in the Architect’s response letter, and noted on the cover sheet, for sanitary sewer flows is acceptable to Systems Planning. These uses and flow calculations shall be shown on the utility sheet in the format shown in the example attached to Table A. This minor change must be provided for review before the petition is scheduled for City Council action.

Washtenaw County Drain Commissioner (WCDC) – Review and approval of the storm water management system is pending. The WCDC has jurisdiction over the site, as the proposed storm water management system will be connecting to a county drain. Approval must be received before the petition is scheduled for City Council action.

Prepared by Alexis DiLeo, AICP
Reviewed by Mark Lloyd
jsj/6/28/07

Attachments: Site Plan
Landscape Plan
Elevations
4/17/07 Staff Report

c: Petitioner/Owner: Hyun Bang
2931 River Valley
Troy, MI 48098

Petitioner’s Agent: Van Goor Architects, Inc.
118A North Fourth Avenue
Ann Arbor, MI 48104

City Attorney
Systems Planning
File Nos. 12023A5.2 and .5