



**APPROVED MINUTES OF THE SPECIAL SESSION OF THE  
HISTORIC DISTRICT COMMISSION OF THE CITY OF ANN ARBOR  
Thursday, August 9, 2007- 6:30 P.M.**

**Commissioners Present:** Michael Bruner, Robert White, Jim Henrichs, Kristina Glusac, Sarah Shotwell and Susan Wineberg (6)

**Commissioners Absent: Vacancy** (1)

**Staff Present:** Jill Thacher, City Planner; Kevin McDonald, Sr. Asst. City Attorney and Brenda Acquaviva, Administrative Support Specialist V, Planning & Development Services (3)

**CALL TO ORDER:**

Commissioner White called the meeting to order at 6:30 p.m.

**ROLL CALL:**

Quorum satisfied.

**APPROVAL OF THE AGENDA:**

Moved by Commissioner Shotwell, Seconded by Commissioner Bruner, **“to accept the Agenda as presented.”**

***On a Voice Vote*** – MOTION PASSED - **UNANIMOUS**

Moved by Commissioner Glusac, Seconded by Commissioner Shotwell, **“to go into closed session to discuss attorney-client privileged communication and pending litigation.”**

***On a Roll Call Vote*** – MOTION PASSED – **UNANIMOUS.**

**SS-1**      *CLOSED SESSION TO DISCUSS ATTORNEY CLIENT PRIVILEGED INFORMATION*

HDC went into Closed Session at 6:32 p.m., then returned from Closed Session to Special Session at 7:04 p.m.

**SS-2**      *GLEN ANN PLACE*

Kevin McDonald, Asst. City Attorney gave a brief overview of the Glenn Ann litigation. He stated that on June 25, 2007, the HDC approved settlement of this litigation, and indicated that at a subsequent meeting, they would decided between two different options proposed by the developer. In accordance with that, Jill Thacher of the Planning and Development Services Unit will provide a short review of the two options provided by the developer in this case. It is then my understanding that, although not required, will give time for public commentary regarding those two choices, followed by discussion by the HDC regarding whether they would like to have either option put into the settlement of this matter. The Commission will then take a vote and make a decision.

J. Thacher – Gave a power point presentation showing the two contractor options for the proposed building. She stated that the materials would be the same as proposed previously.

## **AUDIENCE PARTICIPATION/PUBLIC COMMENTARY**

1. Ethel Potts – 1014 Elder Blvd., Ann Arbor, MI 48103 – She stated that:
  - a. City Council may have wishes for this Historic District and new buildings therein, but only the HDC, not the City Council, not the City Attorney have legal authority to make decisions regarding Historic Districts.
  - b. The Glen Ann project was decided by a previous HDC. The project has now been changed so that it is eligible for a rehearing by you, but as the previous Commission did, you will need to read out the Secretary of the Interior's Standards and apply them to this project. (New Construction).
  - c. The revised proposals seem to assume demolition of the two buildings on the site. I haven't heard anything regarding demolition. That cannot be 'rolled' into new construction, as the definitions and standards are different for both.
  - d. A building could have been proposed that did not require demolition of these buildings. There are many alternatives that are possible. This current project is a mere tweaking of the original project.
  
2. James Mogensen – 3780 Greenbriar, Apt. 345 A, Ann Arbor, MI – He stated that the HDC is faced with a huge policy issue. You may remember the building at 320 E. Liberty Street. This building was demolished and new construction was created in the Historic District. There are several issues: 1. The Historic Building itself and 2. The Historic District. One of the reasons there are standards for building is that the remaining people there can't feel 'overwhelmed,' as they are restricted as to what they can do and they have to have some belief that some things won't happen. If the Wells-Babcock house fire had been worse and demolished – would you have approved 322 Lofts to replace that building? It doesn't fit into that Historic District. It's not so much this thing you're ruling on, but future projects, all throughout the whole Fourth Ward.
  
3. Ray Detter – 120 N. Division Street, Ann Arbor, MI 48104 - (Vice Chair, OFWHD) – Stated that he was not in support of either proposed building – that he is against the development – period. He stated that he owns two properties in the Old Fourth Ward and was also part of a study committee in 1977 that drew the boundaries. It took five years to write that plan and gain the approval of the Old Fourth Ward Ordinance in 1982. When Joseph Freed first assembled the property on the edge of the Old Fourth Ward and proposed a five story building, there were some of us who were willing to support the project, if, following the Secretary of Interior's Standards, it was designed appropriately and the two historic houses were preserved either on Glen or moved to another site. We found the location for those houses. When we spoke to the developer in 2004/2005 that five stories was not profitable enough, he needed ten - all commitments were off.

When the HDC voted to deny the application to demolish the two houses and build that project, we were pleased that the HDC followed the S.O.I.'s standards and did not give in to political pressure from City Council. In a 75 page decision, the State Historic Preservation Review Board supported the HDC's position and stated they had acted properly. Now the developer has sued the city, and with the help of local opponents of historic preservation and those who seek developer financial benefits for the city. We're deeply suspicious of the whole process that has been undertaken here with the closed meetings – but even more, the long term consequences. Where are you in terms of the nature that we expect of the Historic District Commission.

4. Louisa Pieper – 408 Awixa Road, Ann Arbor, MI 48104 – (Former Historic District Coordinator for the City of Ann Arbor.) She stated that she helped to write the state law and the current ordinance, and that she feels that this is an absolute travesty. Nothing could be more incompatible concerning this development.
5. Eileen Tyler – 126 N. Division Street, Ann Arbor, MI 48104 - Against the proposal. She stated that she is sorry that the Commission must go through this, and am sure that it is humiliating to be subjected to this and to be advised by lawyers to act so against your good conscience. She said that she has previously served on the Commission for six years, and never faced anything so humiliating as this process. We all bear the damage we will incur in the future.

The HDC then heard motions regarding Glen Ann Place:

Moved by Commissioner Glusac, Seconded by Commissioner Shotwell, **“to approve the 9-story option proposed by the developer of the Glen-Ann structure.”**

### **DISCUSSION BY THE COMMISSION:**

Commissioner Bruner – Ethel Potts, who is a member of the Planning Commission, brings up a good point – that we stand here now, voting to approve something, when we have not, in fact, voted in favor of demolition for the properties that still stand there. The process is:

1. The applicant, after gaining approval at Planning and City Council levels, came to the HDC out of the usual process with a proposal for demolition for those two properties. It is one of the criteria for allowing a project like this to go forward.
2. When we addressed the issue of demolition without seeing what their project was, we suggested they bring the project in for our consideration so that we could see what we were getting (with 320 Liberty in mind.) – Action was postponed, and they came in with their proposal and we discussed it to a degree. When it came to the motion, that had been written by staff to approve construction of the project and not demolition of the two properties. We stand here at a point where we may be approving construction of a project, when in fact, we have not approved demolition – The process was ‘leapfrogged’ once again.

I’m raising the question as to whether due process has taken place and if we should vote for demolition for those two properties or proceed on approving either 9 or 10 story options.

K. McDonald – Restated that the motions passed at the Last Special Session/Closed Session, the Commission made two separate motions to settle that case. It resolved all the issues regarding issuance of permits for the demolition of the building as well as creation of the new building. (Mr. McDonald stated he would read the previous motion for the public:)

“The previous motion passed on June 25<sup>th</sup>, and was disclosed in closed session. The HDC consents to proceed with settlement of the case, with one of the two options provided by the developer to be decided later at a meeting of the HDC.”

The second motion that was passed by the HDC that night was: “Resolved, that the City Attorney is authorized to execute all documents which are necessary for the settlement of this case, and to represent to the court the position of the HDC regarding the settlement of this case.”

I just want to make certain that's clear, as this has been presented to the court that the city is settling the case. It's really just a preference between two options, which will close this matter.

Commissioner Bruner – (To K. McDonald) – Are you suggesting that when we voted for the agent to be the city attorney to act on our behalf in legal matters that you've assumed the right to demolition of those properties? (K. McDonald – I don't want to discuss the matter that was discussed in closed session, but I want to be clear that the options that were provided were about resolution of the entire lawsuit. I don't know that there were any questions. The only issue outstanding is the one before you now – 9 stories or 10 stories.)

K. McDonald – The lawsuit was two items – the demolition of the two buildings, and then the subsequent denial by this commission of that building.

Commissioner Wineberg – Stated that she was not able to be present at that closed session in which the Commission made this motion to settle this issue, so she wished to voice her opinion. I am very unhappy that City Council has not supported us in our goal to protect our Historic Districts. I'm very disappointed that the developer was not willing to accommodate us at all. (She quoted language from the Secretary of Interior's Standards.) The land is supposed to be a dividing line between the university and the public, and it won't be serving that purpose. It is undermining us, and I live in this district as well, and am worried that this could happen next door to me and the rules won't be applied.

Commissioner Wineberg – Asked that the motion be restated:

Moved by Commissioner Glusac, Seconded by Commissioner Shotwell, **“to approve the 9-story option proposed by the developer of the Glen-Ann structure.”**

**On a Roll Call Vote – MOTION PASSED – Yes (4), No (2)**

*Yes (4) – Commissioners White, Henrichs, Shotwell and Glusac*

*No (2) – Commissioners Bruner and Wineberg*

*Vacancy – (1)*

Moved by Commissioner Glusac, Seconded by Commissioner Shotwell, **“that the Special Session of the Historic District Commission be adjourned.”**

**On a Voice Vote – MOTION TO APPROVE - PASSED – UNANIMOUS.**

Commissioner White adjourned the meeting at 7:41 pm.

***Minutes Prepared by Brenda Acquaviva, Administrative Support Specialist V, Planning and Development Services.***