

MINUTES

**ANN ARBOR CITY PLANNING COMMISSION**

REGULAR MEETING

7:00 p.m. – July 21, 2009

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.

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ROLL CALL

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

Members Absent: Woods

Members Arriving: Mahler

Staff Present: DiLeo, King, Pulcipher, Rampson

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INTRODUCTIONS

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Bona introduced Diane Giannola, new member of the City Planning Commission. Giannola, a biologist with the University of Michigan, stated that she currently served on the Historic District Commission and has always been interested in the planning and development of the City.

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APPROVAL OF MINUTES

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a. Minutes of June 16, 2009.

**Moved by Pratt, seconded by Westphal, to approve the minutes as presented.**

Commissioner Westphal asked that the word "auspicious" be changed to "specious" on page 12, first paragraph, five lines from the bottom. Also on the same line, he asked that the words "currently in the zoning and plans" be added.

A vote on the motion showed:

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

**Motion carried.**

b. Minutes of July 7, 2009.

**Moved by Carlberg, seconded by Pratt, to approve the minutes as presented.**

A vote on the motion showed:

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

**Motion carried.**

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APPROVAL OF AGENDA

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**Moved by Derezinski, seconded by Pratt, to approve the agenda.**

A vote on the motion showed:

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

**Motion carried.**

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

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Derezinski provided a report on the Council actions of July 20, 2009.

Pratt reported that a joint meeting between the City Council, DDA and Planning Commission would be held on September 14, 2009 at the CTN offices on South Industrial Highway to discuss proposed design guidelines as part of the A2D2 effort. He also stated that the A2D2 Steering Committee would be meeting in the near future and encouraged the public to visit the City's website for additional information on meeting dates and times ([www.a2gov.org](http://www.a2gov.org)).

Bona stated that Commissioners Briggs and Westphal would be attending the International Downtown Association Conference with members of the City Council and the DDA in September.

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AUDIENCE PARTICIPATION

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Zach Robin, 333 East Elm Street, stated that he was representing a group of graduate students from the University of Michigan School of Architecture, Graphic Architecture, School of Natural Resources, and Business School. He stated that this group formed an LLC this summer to look into opportunities for public/private joint ventures to develop under-utilized assets, owned by the City. One particular site, he said, was the Fuller Road lot in front of the University Hospital being used as a railway station. He stated that the group performed an initial feasibility analysis, met with the University Regents and other various stakeholders, surveyed hospital visitors and employees, and spoke to different users of the site. He presented the group's initial findings to the Planning Commission, noting that they believed this was an excellent site for a true gateway into Ann Arbor and the relocation of the existing Amtrak station.

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PUBLIC HEARINGS SCHEDULED FOR NEXT MEETING

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None.

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REGULAR BUSINESS

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a. Public Hearing and Action on Vasconi Annexation and Zoning, vacant parcel north of 750 Arlington Boulevard. A request to annex this parcel into the City and zone it for single-family residential use - Staff Recommendation: Approval

DiLeo explained the proposal.

Noting no speakers, Bona declared the public hearing closed.

**Moved by Derezinski, seconded by Pratt, the City of Ann Arbor Planning Commission hereby recommends that the Mayor and City Council Approve the Vasconi Annexation and R1A (Single-Family Dwelling District) Zoning.**

Derezinski stated that this property was within his Ward and he recommended approval of the annexation, noting that it made sense to consider these parcels together.

A vote on the motion showed:

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

**Motion carried.**

b. Public Hearing and Action on Casa Dominick's PUD Zoning District and Conceptual Plan, 0.6 acre, 808, 812, 814 Monroe Street; 700 and 706 Tappan Street; and 705 Oakland Street. A request to expand the existing PUD district and to allow restaurant, retail, office, residential and bed-and-breakfast uses in the expanded PUD district (no new development proposed) – Staff Recommendation: Approval

DiLeo explained the proposal.

John Barrie, 1050 Pinetree Drive, architect representing the petitioner, provided background information on the Dominick's property and further described the PUD proposal.

Richard DeVarti, 2205 Brockman Boulevard, petitioner, asked the Planning Commission to recommend approval of this PUD proposal, stating that it would enhance the neighborhood and provide new opportunities.

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

**Moved by Derezinski, seconded by Carlberg, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Casa Dominick's Planned Unit Development PUD zoning district and supplemental regulations and PUD conceptual plan.**

Derezinski stated that Casa Dominick's was a tradition in Ann Arbor. He commented on the creative conceptual plan and the applicability of the planned unit development for this project. He believed the proposed petition fit well with the intent and standards of a planned unit development district and strongly recommended approval.

Carlberg expressed concerns with the supplemental regulations. She suggested that at least one covered bicycle station per bedroom be created because the interior of the building could be severely damaged by pulling bikes up the stairs to make sure they were safe. She hoped students living here would use their bikes as their main transportation. She preferred space within the building or garage be provided for covered bike parking, not just a shed. She asked if the pervious pavement was based on an actual assessment of the kind of soil in the area and if it would infiltrate water.

DiLeo stated that the hope was that the pervious pavement would infiltrate water; however, if the pervious pavement would not allow for direct ground water infiltration, it could be designed as a form of a storm water collection system. She said the pervious pavement would then help to collect water and direct it to an appropriate type of receiving device rather than just having it sheet drain and shed off.

Carlberg stated that while she applauded the intent here, it seemed that the language of the supplemental regulations was not flexible enough to allow a different design in order to achieve a benefit with the pervious pavement. She thought the supplemental regulations should allow flexibility, especially if the soil was solid clay, because clay would not allow infiltration and would require excavation. With regard to the third story that was proposed, she questioned the reasoning behind staff 's position that it was appropriate, noting that this issue has come up in other PUDs where there was concern about height. It appeared that different reasoning was being used with this PUD, she said, and she would like the Planning Commission to develop a consistent manner to be used in applying PUD standards.

DiLeo stated that with regard to the building height proposed by the petitioner, staff concluded that it was appropriate considering the height of surrounding properties, particularly those on the UM campus, which were much higher than 35 feet. Staff believed it would be more appropriate for this development to build up rather than out, she said, noting that it would promote a more efficient use of the land. She stated that this site had an existing PUD and it already was being used for the proposed uses, adding that this level of non-conformity generally was not found. She stated that these uses have existed for quite a long time and they seemed to lend themselves well to being formalized into permitted uses.

Enter Mahler.

Carlberg appreciated this approach; however, while she did not object to the increased height, she believed language should be added to explain why there was an allowance for the increased height limit. She stated that she was very supportive of creating a clear district with a variety of uses that would benefit from the high density of uses nearby.

Bona clarified that Class B bicycle parking spaces were covered and Class A bicycle parking spaces were enclosed.

DiLeo replied that this was correct.

Bona stated that the requirement was ten bicycle parking spaces for the restaurant and one bicycle parking space per bedroom. She asked if Commissioner Carlberg wanted the spaces required for each bedroom to be enclosed.

Carlberg replied yes, stating that she did not think the people using the restaurant would be too particular about where they parked their bicycles. She believed ten Class C spaces for the restaurant would be appropriate.

Bona asked if the petitioner agreed with this change.

Barrie replied yes.

Westphal asked if a bicycle parked on a porch qualified as a Class B space.

DiLeo replied that a formal bicycle rack on a porch could qualify as Class B spaces; however, a bicycle just parked on a porch would not qualify as a formal space.

Westphal agreed with the comments about bicycle parking, adding that in addition to damaging hallways, he thought bicycles parked on the porch would not be the best use. With regard to storm water, he asked if it were correct that no improvement to storm water collection has been proposed.

DiLeo replied that this was correct. She stated that there was no storm water management plan at this time because no development and, as a result, no site plan was proposed. This site consisted of multiple properties and multiple buildings, she said, and was under the jurisdiction of the County Water Resources Commissioner. She stated that the petitioner has spoken preliminarily to the Water Resources Commissioner's office and it has been determined that storm water management will be required when a site plan is submitted.

Westphal asked if it was safe to say that storm water management would be improved when a site plan was required to be submitted

DiLeo replied yes.

Westphal asked if the sign-in sheet from the citizen participation ordinance triggered the required participation and if there was a report of the findings from the meeting.

Barrie said a report was prepared; however, following the year-long process, it seemed to now be missing. He said the report did exist, adding that it was summarized quite well in the Michigan Daily article.

Westphal assumed that it raised no alarms with staff. He asked if the aesthetics of any additions would be reviewed by the Historic District Commission.

Pulcipher replied no, stating that this property was not located within an historic district and, therefore, an opinion from the Historic District Commission would not be sought.

DiLeo stated that staff could possibly obtain an opinion from the historic district coordinator, who is a member of the Planning and Development Services Unit, when a development proposal was submitted.

Westphal said he would recommend that this be done. He asked how the PUD would be affected if the ownership of the property were to change.

DiLeo replied that the PUD would not be affected, as zoning was applied to land, not ownership.

Westphal asked if a fast food establishment could potentially be put on this property if the ownership were to change.

DiLeo stated that there may be a possibility, as restaurants would be a permitted principle use, but she believed building maintenance and preservation issues would provide some amount of protection from a fast food chain locating here. She also noted that no drive-thru service was a component of the PUD

Westphal stated that he agreed with the staff report, particularly with the beneficial effect of reusing this site, maintaining the neighborhood and protecting what he thought many people might interpret as historically significant features. He believed this was a real valuable resource and he was in favor of the proposal.

Briggs concurred with the comments made about covered bicycle parking and about this property being a landmark in Ann Arbor. She stated that this proposal seemed to meet the needs of the neighborhood and it seemed to be within the scale, character and intent of the neighborhood. She asked if the petitioner could speak more about the 50-year plan.

DeVarti stated that along with the process of expanding the PUD and bringing the property into conformance, they decided to come up with a concept of everything that might be done in the future. The intention, he said, was to not rush into development, but take their time in making gradual improvement changes.

Carlberg stated that these would now become legitimate retail businesses and she wondered what the restrictions were for signs and how signs might interfere with the appearance of this area.

DiLeo stated that signs could not be modified through the PUD process. The current sign regulations allow for any commercial property to have a certain amount of signage based on the building frontage, she said, adding that she did not believe the maximum amount of signage was currently being used.

Carlberg noted that perhaps signage for a fast food restaurant might then be allowed. She spoke to the issue of historic preservation and energy conservation in that it did not seem unreasonable to her to allow more energy efficient windows while maintaining the historic appearance.

Barrie stated that he has been an architect in Ann Arbor for many years and has worked on several historic structures. He knew that good quality windows could be purchased at a reasonable price and installed so they were historically accurate.

Carlberg was glad to know that this was possible, but said the supplemental regulations did not seem to contain language that would allow existing windows to be replaced with historically compatible windows. She said the language referred to “preserved and maintained or reconstructed.”

DiLeo stated that the regulations also contained the language, “unless an alteration, modification or in case of fire reconstruction is approved by the Planning Commission.” She said it was staff’s intention to focus on the number of windows and their size and shape more than materials, adding that this could be determined by the Planning Commission.

Bona asked if Commissioner Carlberg would take a few moments to see if there were a more simplified way to state the intent about window replacement in the supplemental regulations.

Derezinski raised the issue of pedestrian traffic and the concerns mentioned by residents as to whether the expansion of the restaurant would increase vehicular traffic. He recalled the petitioner stating, as contained in the Michigan Daily article, that most people would travel by foot in this largely student-populated neighborhood. He also brought up the issue of the possible vacation of Monroe Street and how it likely would enhance the type of traffic that was encouraged in this area.

Devarti stated that he was somewhat concerned about the vacation of Monroe Street in that he thought it may cause more traffic congestion. Deliveries would become more difficult, he said, and providing directions to Dominick’s would be challenging because they would be cut off from the main artery. He also noted that 16 metered parking spaces would be eliminated if Monroe Street were vacated.

Pratt expressed his appreciation for the work staff has done on this PUD. He also expressed some hesitation with the concept of a PUD without a site plan, but he believed this approach was appropriate for the petitioner’s intent to go at a measured pace. He noted that there were no citizens speaking against this proposal, adding that this was likely one of the few places where this idea would work. He thought this would be a good fit in this area of fair-sized rental houses. He liked the idea of reusing the existing buildings and that it was built into the PUD, stating that this was an energy savings in that a lot of heavy equipment would not have to be brought to the site and no trees would be cut down. He stated that he would be in favor of alternative language regarding the windows and he agreed with the comments regarding pedestrian traffic. With regard to bicycle parking, he said it has been his experience from riding his bike that it was relatively simple to attach his bike to a bike rack out front; however, he understood that it made more sense for residents to have covered bicycle parking.

Bona stated that in regard to #4 of the PUD standards, which states that “uses shall be consistent with the Master Plan or adequate justification” provided, she was very comfortable with the mixed uses in spite of the fact that the Central Area Plan called for residential use based on U of M properties located on three sides of the property. She thought this proposal would provide a good balance, adding that she also supported the 35-foot height.

**Moved by Carlberg, seconded by Derezinski, that Section I of the supplemental regulations be revised with regard to window replacement so that the first sentence reads as follows: “The exterior facades, including windows and all architectural trim materials, of the existing principal buildings within the district at the time of approval shall be preserved and maintained in their current configurations (but not necessarily materials) or restored to their original historic appearances unless an alteration, modification or,**

**in the case of fire, accident or natural disaster, reconstruction is approved by the City Planning Commission.”**

A vote on the amendment showed:

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

**Motion carried.**

Giannola agreed that reusing the house was much more preferable than demolishing it; however, she expressed concern about the small parcel between B and C.

DiLeo stated that the small parcel contained a rental house not owned by the petitioner.

Giannola asked if the owner of the adjacent property raised any concerns about this proposal.

DiLeo replied no, stating that staff has received no concerns.

Westphal stated that he was trying to picture what the fence or wall along the side property line would look like and how far it would extend to the sidewalk

DiLeo stated that, as written, the requirement was for a fence along the side property line; however, she suggested that the language in the supplemental regulations be revised to make sure the fence did not come all the way to the front property line. She suggested that it be set back from the front property line, so there was no fence in the front setback area.

Pratt suggested removing the word “perimeter,” because it technically meant that a fence would be located right behind the sidewalk.

Bona believed the front setback was 25 feet.

DiLeo stated that the setback was closer to the 10 to 15-foot existing average setback.

Bona stated that the 25-foot setback would reflect more the additions than existing buildings.

DiLeo stated that this was correct. She believed the front setback requirement was about 19 feet. She stated that she would prepare revised language, with the intent that six-foot high fences not be placed in the front yard.

Bona stated that on Monroe Street where the porches were built to the sidewalk, it might make more sense to allow a fence up to the sidewalk.

Westphal assumed the goal here was to prevent negative impacts from activities taking place at the rear of these homes. He said he would be comfortable if the fence were started halfway to the back of the structure or at a location that could not be seen from the street.



**Moved by Pratt, seconded by Carlberg, to amend Section H, #2, of the supplemental regulations to read as follows: “A solid fence or wall of at least 6 feet in height shall be required to enclose the permitted outdoor uses and screen the parking.”**

Pratt stated that Commissioner’s Westphal’s concern about not extending the fence into the front setback was a valid concern, but he inquired about the standard code requirement, as he did not think fencing typically was allowed in the front setback.

DiLeo responded that fences were allowed in the front setback; however, they were limited to four feet in height and they had to be a picket style in a residential district. In a commercial district, she said, fences could be located in the front yard and can be tall, solid structures.

Westphal confirmed that it would not be necessary to state that other screening normally applicable to commercial districts would not apply here.

DiLeo stated that this was correct, adding that as part of this PUD, Chapter 62 was basically being remodified by removing the requirements about fences and adding the proposed fencing as a replacement. She stated that this was allowed in a PUD.

Barrie expressed concern about a fence interrupting the potential flow between the buildings on Sub Areas A and B. He also was concerned about the left side of Sub Area A where the fence went across the driveway in that it may interfere with potential plans for the Guild House to use the driveway as an exit. He referred to a sketch of the existing and proposed fencing and wondered if this could be used in determining where fencing was to go. He believed the primary purpose here was to enclose the backyard area of the restaurant.

Pratt added that using fencing to screen parking from neighbors would be a secondary purpose. He said he would be comfortable withdrawing the motion to revise the supplemental regulations and allowing staff to take a look at the petitioner’s fencing sketch to possibly use as an attachment to the regulations. He said he would withdraw his motion if everyone supported using the sketch as the regulation for fencing.

Pratt withdrew the motion to amend the supplemental regulations.

Westphal stated that his intent was to not require any fencing that did not serve a purpose, that did not benefit the neighbor and did not cause an unnecessary disruption of the view from the sidewalk. He did not want to require a fence that extended past the structure.

Bona asked Commissioner Westphal if he would be comfortable with the fence on the perimeter as long as it did not cross the front yard.

Westphal replied that he would be more comfortable just enclosing the outdoor uses in the backyard.

Pratt stated that using perimeter of the building as a boundary for fencing did not seem appropriate. Basically, he said, he was thinking of screening the outdoor uses of Parcel A from the other parcels, adding that he did not know if a fence between Parcels A and D was necessary.

Derezinski asked for staff’s opinion on the best way to handle this issue. He wondered if using more generic language, such as “appropriate fencing shall be provided,” would make more sense, then relying on the administrative process to determine what was appropriate.

DiLeo stated that this could be an acceptable option. A suggestion to consider, in her opinion, might be to require a fence along the south side of the district and a fence surrounding the side and rear yard of this property, which she believed were the two areas that merited a conflicting land use buffer. She said perhaps the requirement could be modified so that in lieu of the 15-foot conflicting land use buffer, a fence or wall could be provided along the south and then surrounding the rear portion.

Bona thought that seemed appropriate.

Derezinski asked if this option was acceptable to the petitioner.

Briggs stated that it seemed difficult to assess where a fence made sense right now because there was no proposal here as to what these properties might look like, so it seemed that it may be more appropriate to address the fencing when there was an actual land development proposal in front of the Commission. Perhaps the outdoor seating area might actually be a benefit to the neighborhood, she said, in which case it shouldn't be restricted from view.

Giannola stated that she would want to make sure the property owners/residents of the small parcel in between Parcels B and C were aware of the fencing situation, as she did not want to create a "cave" atmosphere for them. She thought their input about the fencing should be solicited first.

Pulcifer noted that it made good sense to address the fencing when a site plan was in front of the Planning Commission.

Bona stated that this would also allow for neighbor reaction.

**Moved by Derezinski, seconded by Briggs, to amend Section H, #2, of the supplemental regulations to read as follows: "Appropriate fencing shall be provided as determined by subsequent action before the Planning Commission."**

Pratt suggested that the proposed language in the motion indicate that the fencing would be determined at the time of site plan approval or permit issuance in case something were done administratively that did not come before the Planning Commission.

Derezinski considered this a friendly amendment.

Rampson stated that the reason this provision was in the supplemental regulations at this time was because of a requirement for a conflicting land use buffer when there was a non-residential use next to residential use. If this were removed from the regulations and staff was allowed to determine something at a later time, she said, it might not be fair to an adjoining residential use or to the petitioner in terms of the expectations because there was nothing in the supplemental regulations that indicated what the screening would be. She stated that if Commission truly wanted this to be a requirement, then it should be part of the supplemental regulations.

Carlberg believed it would be best to require the appropriate fencing along the south property line in lieu of the required landscaping buffer and not worry about the adjacent house at this time. She did not know if the owners of the adjacent house wanted a fence, but she said it would remain a residential usage and a fence would not be required between them.

DiLeo stated that a fence would need to be provided where it abutted a non-residential use.

Carlberg asked if it were correct then that a fence in lieu of the 15-foot required landscape buffer would include the backyard of that house and the southern border.

DiLeo replied yes. She stated that the normal conflicting land use buffer had three components: the 15-foot distance; the hedge, berm or wall, and the tree planting. She said she was essentially proposing to remove the 15-foot distance element and some of the trees, but keep the hedge, berm or wall, although she stated that a berm likely was not appropriate. She believed that fencing currently existed there now and her goal was to keep that as a requirement; however, she said, it was the responsibility of the non-residential use to provide buffering from the existing residential use.

Carlberg stated that the problem with using that language was that on the western boundary of Sub Area A, where there was a house next to a driveway, a conflicting land use buffer would also be required.

DiLeo stated that this was normally required, but she believed the petitioner indicated that the existing driveway encroached onto the adjacent property and that they did not want to reduce the width of the driveway.

Devarti did not think anyone would want a fence along the north side of 705 Oakland Street.

Carlberg believed the priority of the Planning Commission was to not put a fence along the side of the enclosed house; rather, along the rear where the 15-foot landscape buffer would be required and along the south for Parcel D because of the driveway and parking. It made the most sense to her to provide a fence along that south line and along the edge of the enclosed house and not worry about the rest of it.

Derezinski withdrew the motion to amend the supplemental regulations.

Mahler stated that non-residential uses would be allowed on Parcels B and C and he wondered if a conflicting land use buffer would be required for them.

DiLeo noted that Parcel B would allow residential or hotel use, which was quasi-residential.

Rampson stated that if no change was made to the PUD regarding buffering requirements, then staff would apply the existing ordinance requirements. However, if Planning Commission decided, as part of this PUD, to modify the ordinance requirements for buffering, that is what would be applied.

Mahler stated that perhaps Commission could base the buffering requirements on the adjacent property owner's input.

Rampson stated that if desired, Commission could include language in the supplemental regulations for alternate screening, such as making the determination at the site plan stage.

Barrie offered two suggestions: 1) they could install a fence across the south property lines of Parcels A, C and D, and 2) install a fence along the south property line of Parcel B, around the garden of Parcel A and then the north side of Parcel C. He stated that there already was a fence two-thirds the way around the property between Parcels B and C and there did not seem to be a problem with it. He offered to prepare a drawing of this and provide it to staff tomorrow, noting that a visual would be beneficial. He believed staff understood Commission's intent.

Pratt was supportive of a drawing showing the buffering.

Bona agreed.

Westphal also agreed with a drawing being prepared. He wondered if there could be language that reflected the adjacent property owner's preference so something the neighbors did not want was not built. His other priority was that the fence not extend within 35 feet of the right-of-way, as it should not be visible from the street.

Rampson stated that Chapter 62 allowed for flexibility in application of the screening requirements if the revision or modification resulted in screening that achieved the spirit and intent of the ordinance. Basically, she said, the Planning Commission would need to determine this when reviewing the site plan.

DiLeo clarified that a conflicting land use buffer would be required and that flexibility in its application may be allowed if the modification meets the spirit and intent of the conflicting land use buffer. In that case, she questioned whether there was a need to require a 35-foot setback because the entire aspect of the conflicting land use buffer could be modified.

Westphal understood this but said he would still like the provision included that said a fence would not extend within 35 feet of the public right-of-way.

DiLeo stated that she would then suggest adding a statement saying that no fencing or screening shall extend beyond the required front yard.

Giannola asked if something could be added that said a buffer could not be required unless the adjacent neighbor approved it.

Rampson replied that it could not be said in that manner, but said the Planning Commission could determine whether the screening was adequate to protect the property owner.

Giannola stated that she was not opposed to screening, but she was concerned about the adjacent property owner being boxed in too much, adding that the adjacent property owner might choose to have one side remain open if given the option. She understood that this was part of the ordinance, but she wondered if there were a way to allow the property owner to have a say.

Westphal believed this would be part of the spirit of the Commission's intent.

DiLeo added that the Planning Commission would make the decision on the screening modification and, in doing so, could solicit comments from neighbors.

**Moved by Carlberg, seconded by Derezinski, to amend Section H, #2, of the supplemental regulations to read as follows: "Flexibility in the application of the conflicting land use buffers may be allowed if modifications conform with the spirit and intent of Chapter 62, and that no new fencing shall extend into the required front setback or 35 feet from the right-of-way."**

Matthew Kirkbaum, also representing the petitioner, said it was not totally clear to him what the revised language was going to be. He expressed concern that it would be the petitioner's burden to address the entire setback issue, which he believed they, in large part, resolved with Planning staff. He thought an option for language in the supplemental regulations might be: "A solid fence or wall of at least six feet in height shall be required to the south of the PUD and to the section of Parcel A that did not abut Tappan Street and to the section south of Parcel B and to north of Parcel C."

Bona appreciated the petitioner's concerns but said that based on the way the PUD was written, to save these buildings there was no way a future Planning Commission was going to require part of the buildings to be torn down to build a landscape buffer. She thought the proposed language allowed flexibility and said she was comfortable with it.

Mahler stated that his concern was whether the spirit and intent was met. He asked if there were a way that the spirit and intent language could be used to diminish the south border of Parcel B, the north border of Parcel C, anything along the south borders of Parcels A, C and D, or anything that did not abut Tappan Street. He was concerned about someone in the future getting creative and saying that meeting the spirit and intent could mean taking five feet off of different parts of the buildings, which, he said, would not serve the property well.

Bona stated that the spirit and intent was ultimately interpreted by the Planning Commission, not by the petitioner or neighbors.

Pratt did not think it was a question of trusting future Planning Commissions. He believed that adding specificity to the PUD would be helpful because there are plenty of other areas where there was flexibility. He preferred a specific description, whether it was written or shown on a drawing, or both. He would rather the Planning Commission agree this evening that it was going to be a fence.

Mahler stated that his concern was not so much that he did not trust a future Planning Commission, but that the issue keeps coming up again and again when it did not need to. He was comfortable with a drawing attached to the supplemental regulations.

A vote on the amendment showed:

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

**Motion carried.**

Bona asked if someone wanted to propose an amendment to the supplemental regulations regarding bicycle parking.

**Moved by Carlberg, seconded by Briggs, to amend Section G, #3.1, of the supplemental regulations to read: "A minimum of one Class A (enclosed, locker style) bicycle space shall be required for each bedroom in a residential dwelling within the district."**

A vote on the amendment showed:

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

**Motion carried.**

Carlberg asked if staff would be comfortable adding some language to #3 of Section H of the supplemental regulations to make sure that the soil conditions allow infiltration.

DiLeo replied yes.

A vote on the main motion, with amendments to the supplemental regulations, showed:

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

**Motion carried.**

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AUDIENCE PARTICIPATION

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None.

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COMMISSION PROPOSED BUSINESS

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Derezinski stated that a member of the Planning Commission needed to be appointed as the Commission representative on the advisory committee for the R4C/R2A study.

Moved by Derezinski, seconded by Giannola, to nominate Commissioner Carlberg as the Planning Commission representative on the R4C/R2A advisory committee.

A vote on the motion showed:

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

**Motion carried.**

Bona stated that Commissioner Derezinski would like the Planning Commission to provide a response by September 8 on the changes that were suggested by the DDA, which were distributed at the beginning of this meeting. She stated that this would be added to the Commission Proposed Business portion of the August 18 Commission meeting.

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ADJOURNMENT

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Bona declared the meeting adjourned at 9:09 p.m.

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Wendy L. Rampson, Interim Manager  
Planning and Development Services

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Kirk Westphal, Secretary

Prepared by Carol King  
Management Assistant  
Planning and Development Services