

City of Ann Arbor

100 N. Fifth Avenue
Ann Arbor, MI 48104
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Action Minutes

Tuesday, September 15, 2009

7:00 PM

G. C. Larcom, Jr. Municipal Bldg. 2nd Flr.

City Planning Commission

Commission public meetings are held the first and third Tuesday of each month. Both of these meetings provide opportunities for the public to address the Commission. Persons with disabilities are encouraged to participate. Accommodations, including sign language interpreters, may be arranged by contacting the City Clerk's Office at 794-794-6140 (V/TDD) at least 24 hours in advance. Planning Commission meeting agendas and packets are available on the Planning page of the City's website (www.a2gov.org) or on the 6th floor of City Hall on the Friday before the meeting. Agendas and packets are also sent to subscribers of the City's email notification service, GovDelivery. You can subscribe to this free service by accessing the City's website and clicking on the red envelope at the top of the home page.

These meetings are typically broadcast on Ann Arbor Community Television Network Channel 16 live at 7:00 p.m. on the first and third Tuesdays of the month and replayed the following Wednesdays at 10:00 AM and Sundays at 2:00 PM. Recent meetings can also be streamed online from the CTN Video On Demand page of the City's website (www.a2gov.org).

CALL TO ORDER

Chair Bona called the meeting to order at 7:02 p.m. in the Guy C. Larcom Jr., Municipal Building, 2nd Floor Council Chambers, 100 N. Fifth Avenue.

1 ROLL CALL

Present 6 - Bona, Carlberg, Woods, Derezinski, Westphal, and Giannola

Absent 3 - Pratt, Mahler, and Briggs

Members Arriving: None

Staff Present: DiLeo, King, Pulcifer, Rampson

2 INTRODUCTIONS

None

3 MINUTES OF PREVIOUS MEETING

3-1 09-0906 Planning Commission Minutes of July 21, 2009

A motion was made by Carlberg, seconded by Derezinski, that the Minutes be Approved by the Commission and forwarded to the City Council, due back on 11/05/2009. Motion carried.

Yeas: 6 - Bonnie Bona, Jean Carlberg, Wendy Woods, Tony Derezinski, Kirk Westphal, and Diane Giannola

Nays: 0

Absent: 3 - Evan Pratt, Eric A. Mahler, and Erica Briggs

3-2 **09-0967** Minutes of August 18, 2009

A motion was made by Woods, seconded by Giannola, that the Minutes be Approved by the Commission with changes and forwarded to the City Council, due back on 11/5/2009. Motion carried.

Yeas: 6 - Bonnie Bona, Jean Carlberg, Wendy Woods, Tony Derezinski, Kirk Westphal, and Diane Giannola

Nays: 0

Absent: 3 - Evan Pratt, Eric A. Mahler, and Erica Briggs

4 **APPROVAL OF AGENDA**

A motion was made by Woods, seconded by Westphal, that the agenda be Approved as presented. Motion carried.

Yeas: 6 - Bonnie Bona, Jean Carlberg, Wendy Woods, Tony Derezinski, Kirk Westphal, and Diane Giannola

Nays: 0

Absent: 3 - Evan Pratt, Eric A. Mahler, and Erica Briggs

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

Derezinski reported on the joint meeting between the City Planning Commission, Downtown Development Authority and City Council regarding the Downtown Design Guidelines held on September 14, 2009.

Pulcipher provided an update on the Area, Height and Placement project. There will be two additional meetings, she said, one meeting being held on Tuesday, September 29, 2009 as a round table consisting of several small groups and one will be a large group discussion that will be held on Wednesday, October 7, 2009. Both meetings will take place at Cobblestone Farm.

Bona, as a liaison of the Downtown Development Authority Partnership Committee, asked the Commissioners to let her know of any questions or thoughts they have regarding how the Partnership Committee functions.

e-1 [09-0907](#) Letter from Farbman Group regarding Briarwood Lots 12-15 PUD Supplemental Regulations Text Amendment - Distribute.

e-2 [09-0908](#) Letter from Howard Frehsee regarding CVS Pharmacy Proposal - Distribute.

- 6 AUDIENCE PARTICIPATION (Persons may speak for three minutes about an item that is NOT listed as a public hearing on this agenda. Please state your name and address for the record.)**

None

- 7 PUBLIC HEARINGS SCHEDULED FOR NEXT BUSINESS MEETING**

Bona announced the public hearings scheduled for the October 6, 2009 Planning Commission meeting.

- 8 REGULAR BUSINESS - Staff Report, Public Hearing and Commission Discussion of Each Item (If an agenda item is tabled, it will most likely be rescheduled to a future date. If you would like to be notified when a tabled agenda item will appear on a future agenda, please provide your email address on the form provided on the front table at the meeting. You may also call Planning and Development Services at 734-794-6265 during office hours to obtain additional information about the review schedule or visit the Planning page on the City's website (www.a2gov.org).)**

(Public Hearings: Individuals may speak for three minutes. The first person who is the official representative of an organized group or who is representing the petitioner may speak for five minutes; additional representatives may speak for three minutes. Please state your name and address for the record.)

(Comments about a proposed project are most constructive when they relate to: (1) City Code requirements and land use regulations, (2) consistency with the City Master Plan, or (3) additional information about the area around the petitioner's property and the extent to which a proposed project may positively or negatively affect the area.)

- 8-1 09-0909** a. Public Hearing and Action on Briarwood Lots 12, 13, 14 and 15 PUD Supplemental Regulations Text Amendment, 1201 Briarwood Circle. A staff-initiated revision to the approved PUD Supplemental Regulations to create two distinct PUD Zoning Districts and PUD Supplemental Regulations - Staff Recommendation: Approval

DiLeo explained the proposed amendment.

Dennis Cowan, 38505 Woodward in Bloomfield Hills, of the law firm of Plunkett Cooney representing CW Capital, stated that CW Capital is known in the commercial mortgage industry as a special servicer and they manage pools of properties for commercial mortgages. He said this particular property is in a pool that is headed by Wells Fargo Bank. He said Wells Fargo is also the trustee for this pool. He said as a special servicer, CW Capital, working with Plunkett Cooney, petitioned the Circuit Court for a Receiver and there has been one appointed for this property with the power to sell the property under the guidelines and the order of the court. He stated that Plunkett Cooney and the Receiver NAI Farbman Group are working on some strategies for revitalization and the reoccupation of the property by an appropriate end user. He said he and the Receiver's representative met with City staff in July and they discussed the proposed petition. He stated that CW Capital supports the staff's technical amendments; however, they had a wide ranging discussion and they

believed it was appropriate to revisit the motel and restaurant use provision. He said there has been hotel and motel development in the area and he was unsure if there was room for more competitors. He suggested that it might be appropriate to discuss a trade off of the motel provision for some flexibility in the restaurant provision before returning before the Commission. He finished by saying that CW Capital and the Receiver would like to show their cooperation and interest in the property.

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

Moved by Carlberg, seconded by Derezinski, the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the amendments to the Briarwood Lots 12, 13, 14 and 15 Planned Unit Development Supplemental Regulations to rename the development, remove references to Lot 12 and 13 and reduce the minimum size of the district.

Derezinski asked how long the property had been in receivership.

Cowan replied that the order of the court was issued on June 3 of this year.

Bona asked if the small piece of land on the other side of the expressway was part of the PUD.

Dileo stated the zoning map indicated that the land was in the PUD, but the legal description contained in the supplemental regulations only says Briarwood Lots 12, 13, 14 and 15 of the Briarwood Subdivision. She said she would need to go back to see if that small parcel was attached to one of the lots. She said it could be an error of the map.

Bona thought it might be a result of the expressway cutting through a parcel.

DiLeo stated that may be correct, but she believed that the expressway was older than the mall.

Bona said it is probably not older than the farm that was there before the mall. She said this should be cleaned up by staff at some point. She believed that it was most appropriate that the PUD described Lots 14 and 15 as the PUD.

A vote on the motion showed:

Yeas: 6 - Bonnie Bona, Jean Carlberg, Wendy Woods, Tony Derezinski, Kirk Westphal, and Diane Giannola

Nays: 0

Absent: 3 - Evan Pratt, Eric A. Mahler, and Erica Briggs

Motion carried.

8-2 09-0910

b. Public Hearing and Action on CVS Pharmacy Site Plan, 0.15 acre, 209-211 South State Street. A proposal to demolish the majority of the existing building and construct a 13,040-square foot, two-story building behind the original front façade - Staff Recommendation: Approval

DiLeo explained the proposal.

Noting no speakers, Bona declared the public hearing closed.

Moved by Westphal, seconded by Derezenski, the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve CVS Pharmacy Site Plan, dated August 19, 2009, subject to recording an ingress/egress easement prior to issuance of building permits, providing a storm water management system maintenance plan on the plan and demonstrating protection of the street tree fronting the site on the plan.

Carlberg asked if there was a representative of the petitioner in attendance. She stated that there use to be a Marshall's drugstore on State Street and that it had gone out of business. She asked if the representative studied its history to know why the CVS would be more successful than Marshall's drugstore.

John Baumann the representative of Velmeir Companies said he was sure that CVS has done its own analyses.

Carlberg said she hoped he was right. She said she could see why people in the area would need a drugstore, but there was a drugstore in that location not too long ago that had gone out of business. She asked what type of groceries CVS planned to sell.

Baumann replied that it would not be a grocery store, but CVS would have convenient store items.

Carlberg asked if the roof was flat.

Baumann replied yes.

Carlberg asked if the petitioner had considered having a vegetated roof, which would be even better for the storm water system.

Baumann said they thought about a vegetated roof, but nothing had been finalized. He stated that he was aware that CVS corporate was studying all of the green features they would like to incorporate in the stores currently in the process of being built. He said CVS builds approximately 400 new stores per year. He said CVS was as interested in all of the green aspects as anybody should be, but nothing had been finalized as of yet. He said by the time they are under construction they may have something in place.

Carlberg said she was just in Grand Rapids where there was an old building with a green roof, rain garden and they were LEED certified. She said the building was all rehabbing so it looked like it was easy to accomplish and there are other examples in Ann Arbor of green roofs. She urged him to make changes before they finished the planning.

Baumann said the petitioner had the challenge right now of maintaining the façade and trying to build a new building behind the facade with no access from the rear. He said the rebuilding would be surgical and very expensive but they are committed to the Historic District and to the City.

Carlberg said a green roof would reduce company costs in the future.

Baumann agreed.

Derezenski asked if it would be a two-story drugstore.

Baumann replied yes.

Derezinski asked if the second story would also have shopping space and/or residential space.

Baumann said it would be all shopping space.

Derezinski spoke about there being a restaurant in this location many years ago that had a side entrance.

Baumann said the access in the back would only be used as an emergency exit. He said all deliveries and all trash would exit through the front.

Derezinski asked if the back of the building was very close to the parking structure.

Baumann said they have 6 feet available. He said he met with the University two weeks ago and they are looking into the issue.

Derezinski asked about the hours of operation.

Baumann said there would not be extended hours. He did not believe the hours had been determined. He said it would not be open 24 hours, but that it would likely close at 11 p.m. or midnight.

Derezinski asked if they would be seeking a package liquor license.

Baumann replied not to his knowledge.

Derezinski said the nearest grocery store would be around the corner on William Street. He said the drugstore would be located in an interesting area. He said downtown drugstores and grocery stores are very necessary.

Woods asked about the timeline considering the difficult process of demolishing the building behind the front façade and then rebuilding. She added her concern with construction since the location is highly trafficked.

Baumann said the disruption to the street would be a different issue than the total construction time. He said it would likely take 30 to 45 days to build a protective walkway similar to the one currently outside of the City Hall Building; the shoring would come over, be fastened to the façade, then they would cut a structural overhang, lifting it with cranes overhead or possibly through the doors. He said it would be a challenge but they have competent people with experience constructing similar projects in various locations.

Woods asked if they would provide anything to shore up the two buildings next to the site to limit ticking or vibration during construction.

Baumann stated that shoring the building would be a number one priority. He said the main focus would be to ensure that the façade does not fall and the secondary focus would be to shore up the sides.

Woods asked if the developer had taken into consideration the noise level and times of construction, with classrooms and other businesses located in the surrounding area.

Baumann said he was unsure of what the City would require. He said the City usually

restricts the hours of construction.

Westphal asked if they ever construct mixed use buildings in downtown areas.

Baumann replied no.

Westphal asked if that would be too much of a challenge with the layout.

Baumann said, along with the layout issue there, was the liability issue and other issues that go along with those kinds of buildings. He said, as another point of interest, they represent CVS in the District of Columbia and they have over 26 stores inside D.C., which is the largest amount of drugstores. He stated that of all of those facilities, none are mixed use buildings.

Westphal said he had seen copies of the postcards that had gone out to the residents and asked if anyone had attended the meetings.

Baumann replied no. He said he never received any communication in support or opposition.

DiLeo clarified that no meeting was held, but just notification of the project by postcard. She said it was considered to be a smaller project because there was no rezoning or planned project involved, so a meeting was not required.

Westphal asked about the mechanical equipment and what kind of impact the construction would have on the adjacent properties.

DiLeo believed the mechanical equipment would be located on the roof. She was unsure if any quiet models had been specified in the building plan or if any further noise screening was proposed. She said her site plan review did not encompass the noise issue.

Westphal said he was unsure of the rules about new mechanical equipment in the proximity to a residential dwelling.

DiLeo said there are no code requirements as of yet. She stated that she was aware of discussions the Commission and Council have had concerning this topic but, as of yet, there are no specific guidelines.

Baumann said they are committed to provide that information. He said they certainly did not want the adjacent resident's windows rattling. He said that would drive away customers. He stated that they would do whatever was necessary to ensure that this would not happen.

Westphal asked if there would be increased traffic through the alley, the parking structure, around State Street and to the entrance of the store. He asked with the alley being used as an informal passage, if there was concerns in regards to maintaining the alley during the winter elements.

DiLeo said since it is not a public alley, all of those issues are handled privately. She said the City would not get involved or enforce any maintenance in the alley. Currently, she said, there is an egress only for emergency. She assumed that if the CVS corporation received an access easement, it would take steps to ensure that it is cleared on an as need basis so that it functions properly and limits its liability. She said it is a possibility that they would not get the easement and, if so, they would have

to rearrange the internal workings to provide another means of egress. She said the proposed easement is on University property, not very wide and poorly maintained at this time.

Baumann stated that the maintenance would be part of the easement agreement. He said they have also offered to improve the drainage in the alley, which might mean reconstructing the entire alley. He believed reconstruction of the alley might be an incentive for the University to allow the easement.

Westphal stated that the real concern is the alley that runs east to west. He said the alley creates a bad situation in the winter and he believed CVS would bring more traffic to the area from the parking structure.

DiLeo said Commissioner Westphal was referring to the gap used by the public. She said the petitioner would not be addressing this area as part of this project since it is not a direct route for emergency egress.

Bona asked if this was in regards to the proposed improvements.

DiLeo replied yes.

Westphal suggested that the petitioner be aware that a lot of its customers would gain access to the drugstore via the east/west alley, which he believed was worse than the north/south alley.

He wondered how the façade of this building related to the City's proposed design guidelines in terms of windows and transparency.

DiLeo said she only reviewed the petition for compliance with the zoning amendments, but the zoning amendments did not include any mention of transparency. She said transparency would probably be incorporated into the design guidelines, but she did not review the proposal based on the design guidelines.

Westphal asked if there was any way to be proactive and helpful if site plans ever get to the point of showing what kind of displays are going to be in the windows or if it would be a clear shot to the aisles, or to the back of the registers.

Baumann said he preferred that people have the ability to see into the store. He asked if Commissioner Westphal was referring to window signage.

Westphal replied yes, as opposed to putting up a poster for film development.

Baumann said it was called street graphics. He said that in some locations, cities ask for street graphics and other cities did not. He said they would do what was required. He said he would want the ability to hang a small amount of signage. He said he understood, with the property being in an historic district, that it would limit the signage allowed.

Bona asked if they would be willing to put on the site plan that the petitioner would use clear glass and not tinted.

Baumann replied yes.

Bona asked if the Developer would be willing to agree to no more than 25 percent signage in the windows.

Baumann replied that would not be a problem.

Bona said she would like to see no more than 25 percent signage in the windows written in the site plans.

Derezinski asked when would construction start and how long would it last.

Baumann said construction would start in the winter with the store opening by next summer.

Woods asked if they had considered where people would park their bicycles since bicycle parking would not be required. She said she was sure they would not want bicycles leaning against posts or blocking the entrance or exit.

Baumann said he would speak with the Downtown Development Authority regarding where the bicycle racks should be positioned. He said it is important that bicycle parking be provided.

A vote on the motion showed:

Yeas: 6 - Bonnie Bona, Jean Carlberg, Wendy Woods, Tony Derezinski, Kirk Westphal, and Diane Giannola

Nays: 0

Absent: 3 - Evan Pratt, Eric A. Mahler, and Erica Briggs

Motion carried.

9 AUDIENCE PARTICIPATION (Persons may speak for three minutes on any item.)

None

10 COMMISSION PROPOSED BUSINESS

Derezinski thanked the students in the audience for attending the meeting.

11 ADJOURNMENT

Bona declared the meeting adjourned at 8:05 p.m.

**Wendy L. Rampson, Interim Manager
Planning and Development Services**

Kirk Westphal, Secretary

**Prepared by Carol King
Management Assistant
Planning and Development Services**