



City of Ann Arbor

Formal Minutes

Planning Commission, City

301 E. Huron St.
Ann Arbor, MI 48104
[http://a2gov.legistar.com/
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Tuesday, September 29, 2015

7:00 PM

Larcom City Hall, 301 E Huron St,
Second floor, City Council Chambers

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1 CALL TO ORDER

Vice Chair Clein called the meeting to order at 7:12 p.m.

2 ROLL CALL

Senior Associate Planner Ben Carlisle called the roll.

Present 6 - Clein, Peters, Franciscus, Mills, Bona, and Gibb-Randall

Absent 3 - Woods, Briere, and Milshteyn

3 APPROVAL OF AGENDA

Moved by Peters, seconded by Franciscus, that the Agenda be Approved as presented. On a voice vote, the Vice Chair declared the motion carried.

4 INTRODUCTIONS

Clein introduced new City Planning Commission member, Shannan Gibb-Randall, and welcomed her to the Commission. He asked her to tell a bit about herself.

Gibb-Randall said she is a landscape architect in Ann Arbor, and the

principle of In-Site Design Studio Works. She said she received her Master's in Landscape Architecture from the University of Michigan.

5 MINUTES OF PREVIOUS MEETING

15-1201 August 18, 2015 City Planning Commission Meeting Minutes

Moved by Bona, seconded by Peters, that the Minutes be Approved by the Commission and forwarded to the City Council. On a voice vote, the Chair declared the motion carried.

6 REPORTS FROM CITY ADMINISTRATION, CITY COUNCIL, PLANNING MANAGER, PLANNING COMMISSION OFFICERS AND COMMITTEES, WRITTEN COMMUNICATIONS AND PETITIONS

6-a City Council

6-b Planning Manager (Senior Planning Representative)

Ben Carlisle reported that the October 6th Planning Commission meeting is cancelled, due to no new projects and the October 13th working session would likely be with Kevin McDonald, City Attorney. He said in looking ahead, at the November 10th working session there would be a Capital Improvements workshop to review the CIP process.

6-c Planning Commission Officers and Committees

Mills reported that the Ordinance Revisions Committee met last week where they had an update from ENP Consultants on the premiums discussion and they hope to have a recommendation before the Commission soon.

6-d Written Communications and Petitions

15-1206 Various Correspondences to the City Planning Commission

Received and Filed

7 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

8 PUBLIC HEARINGS SCHEDULED FOR NEXT BUSINESS MEETING

9 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.)

- 9-a 15-1202 412 North First Street Right-of-Way Vacation for City Council Approval - A request to vacate a City-owned right-of-way on a portion of the lot at 412 N. First Street, as part of the 410 First Site Plan proposal. Ward 1. Staff Recommendation: Approval**

Alexis DiLeo presented the staff report.

PUBLIC HEARING:

Noting no speakers, the Vice Chair declared the public hearing closed, unless the item is postponed.

Moved by Peters, seconded by Franciscus, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Right-of-Way vacation at 412 North First Street.

COMMISSION DISCUSSION:

Peters stated that it makes total sense to vacate this right-of way as there is no need for the City to hold onto it.

Clein agreed, and reiterated that he is glad the 1960's proposed Main

Street bypass never got built as it would have changed the way downtown looks today.

On a voice vote, the vote was as follows with the Vice Chair declaring the motion carried. Vote: 6-0

Approved

Yeas: 6 - Kenneth Clein, Jeremy Peters, Sofia Franciscus, Sarah Mills, Bonnie Bona, and Shannan Gibb-Randall

Nays: 0

Absent: 3 - Wendy Woods, Sabra Briere, and Alex Milshteyn

9-b [15-1203](#)

3355 Geddes Road Annexation and Zoning for City Council Approval - A request to annex this 1.03 acre single-family parcel from Ann Arbor Township and zone it R1A (Single-Family Dwelling District). Ward 2. Staff Recommendation: Approval

Alexis DiLeo presented the staff report.

PUBLIC HEARING:

Matt Daniels, 3642 Frederick Drive, Attorney for Capital Investments, the petitioner was present to respond to the Commission's enquiries. He noted that there was an amended petition that had been filed, noting that the parcel is 1.09 acres and there was a small change to the original legal description which is accurately shown in the City's Trakit files.

Noting no further public speakers the Vice Chair declared the public hearing closed unless the agenda item is postponed.

Moved by Franciscus, seconded by Mills, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Capital Investment Company Annexation (3355 Geddes Road) and R1A (Single-Family Dwelling District) Zoning.

COMMISSION DISCUSSION:

Bona asked if there were any proposed changes to what is currently on the site.

DiLeo said to her knowledge the parcel is being annexed only for utility reasons, but suggested confirmation from the petitioner's representative.

Daniels said the property is currently listed for sale, and when it had been purchased back in 2012, in order to comply with the County's time of

transfer, the local ordinance relevant to septic fields, a corrective plan was put into place and the house has to remain vacant until the septic field is excavated and the sewer and water is hooked up to the City. He said there appears to be a purchaser of the home and they might do some renovations but it will remain a single-family residence as far as he knows.

Bona asked if staff had looked at the possibility of the lot being subdivided into two conforming R1A parcels.

DiLeo said she hadn't looked at that possibility, since the project was managed by Planner Jeff Kahan. She said in looking at the layout of the existing house and structures on the lot, it might not be possible to divide the lot and meet the required setbacks.

Bona asked about the possibility of a second access off Windy Crest.

DiLeo said she saw the same possibility.

Bona said the only possibility would be to request a variance or to remove the existing house in order to meet the requirements.

Mills asked if this parcel is included in the list of long-standing parcels agreed upon with the Township to be annexed into the City.

DiLeo said yes, noting that this annexation is homeowner initiated, and the Township will release it and the City will accept it.

Carlisle clarified that this parcel is part of the annexation agreement and what typically triggers annexations such as this, is a need for utilities, as is the situation, and the Township will not fight the request as it is consistent with the annexation policy.

Peters asked if they would be creating a nonconformance for impervious surface with the existing tennis court.

DiLeo said, no, a tennis court, similar to accessory structures, may be located 3 feet from a rear or side property line. She explained that a tennis court is basically a fence and a surface and one could pave to your property line on a driveway or patio.

Clein asked if staff had looked to see if the existing home conforms to setbacks on the parcel.

DiLeo responded that she assumes Jeff Kahan would have done that.

Clein asked if the Commission were to approve the request the parcel would be considered legal.

DiLeo said, yes, it would be considered a legal nonconforming structure.

Bona asked about the other Township lots shown on the Zoning Map and if the City has any sewer and water in those streets. She said since this parcel is facing Geddes, she would assume that they would be getting their utilities from Geddes Avenue.

Carlisle said staff doesn't have that answer, but pointed out that City Planner Jeff Kahan is currently working on an annexation plan which includes a review of utilities for proposed parcels.

Bona asked how a homeowner would get utilities if they didn't exist in an existing street.

Carlisle said they would typically have to pay for improvement charges or extension fees to have the utilities brought to their property.

On a voice vote, the vote was as follows, with the Vice Chair declaring the motion carried. Vote: 6-0

Approved

Yeas: 6 - Kenneth Clein, Jeremy Peters, Sofia Franciscus, Sarah Mills, Bonnie Bona, and Shannan Gibb-Randall

Nays: 0

Absent: 3 - Wendy Woods, Sabra Briere, and Alex Milshteyn

9-c **15-1205**

816 S. Forest/815 Church Rezoning for City Council Approval - A request to rezone these two 0.18 acre parcels, zoned R2B (Two-Family and Student Housing District) to R4C (Multiple-Family Dwelling District). 816 South Forest, which currently contains two residential units, each containing four bedrooms, would be remodeled to provide six bedrooms in each unit. 815 Church, which currently contains a legal non-conforming dentist office on the first floor and a residential unit containing three bedrooms on the second floor, would remain unchanged. Ward 3. Staff Recommendation: Denial

Alexis DiLeo presented the staff report.

PUBLIC HEARING:

Scott Munzel, Attorney for owner and petitioner, Mr. Kim, was present, and requested for the deliberation of their request to be postponed. He said he believed there was justification for this amendment to the zoning, because he felt these particular two R2B lots were zoned in error over 50 years ago along with changes to the area since the zoning. He noted the coop that had once occupied the site, housed 20 people, until it burned in 2004 and remained a vacant parcel. He said they felt in their interpretation that it should have been rezoned to R4C at that time. He said the changes that have occurred in the area and to this parcel is the significant growth in enrollment in the University of Michigan since 1963, and since this parcel is one lot away from the central campus this particular issue plays an important role in the change in conditions. He said the R4C makes total sense and is consistent with the future land use map. He references their consultant Rodney Nanny and his report as well as a supplement provided to the Commission (and included in the packet attachments).

Ellen Ramsburgh, 1503 Cambridge Road, Ann Arbor, said she came tonight to thank staff for what she thought was a very thorough review of the petition and she didn't believe there had been an error in the zoning or change in conditions that supports the petition, and that if the rezoning were enacted the sites would remain non-conforming and the rezoning is contrary to many policies stated in the land use element of the Master plan. She said she lives in that neighborhood and knows that the neighborhood gets very wary when there are efforts to rezone, to increase the density in a neighborhood that is already very, very dense. She agreed with staff that when you rezone it is important to think about the potential future development of the property, even while there is a public alley between these lots, that does not keep the two lots from joining either to the north or south and future tear down and redevelopment would be contrary and inconsistent with adjacent properties, namely through lot combinations. She reminded the Commission that when this property was petitioned for a duplex staff explicitly explained to the property owner at the time that the maximum occupancy level in the R2B zoning district was four unrelated persons and a variance was permitted at that time to allow for the duplex; so surely the present owner was aware that the requirements of the zoning district that allowed only four unrelated persons when he purchased this property. She said several years ago a petition was brought to this Commission for rezoning 1310 Hill Street, which is also zoned R2B, and located just around the corner, to rezone it to R4C in order to increase the occupancy level and at that time that

petition was denied for the same reason that just to increase the occupancy level does not warrant changing the current zoning.

Noting no further public speakers the Vice Chair declared the public hearing closed unless the agenda item is postponed.

Moved by Franciscus, seconded by Mills, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the 816 South Forest Avenue and 815 Church Street Rezoning from R2B (Two-Family Dwelling and Student Housing District) to R4C (Multiple-Family Dwelling District).

COMMISSION DISCUSSION:

Bona asked if duplex is considered multi-family in the master plan because it is more than one.

DiLeo said, no, that the future land use plan has a category for one and two-family recommendation and then multi-family, meaning three or more units; anything in the R4 zoning.

Bona said having served on the Ordinance Revisions Committee for many years over multiple concerns over the R4C District, she was inclined to think that our error and change in conditions is the change in interest by the community in what we expect out of the near neighborhoods; there is more interest in maintaining existing structures than there was when the R4C zoning was created which is clear in the staff report regarding the original intent. She said her concern is about continuing exacerbating something that isn't well defined based on what the community would like to see.

Mills said she wasn't concerned about lot combinations across the alley so much as the possibilities of lot combinations next door within these districts. She asked if they were historic in their existence.

DiLeo said they were not historic as in a Historic District; she reviewed the existing conditions of the neighborhood with the Commission.

Mills noted that the lots were non-conforming in that they didn't meet the minimal lot size and that would remain the same even with the change in zoning.

DiLeo said yes.

Mills said she was curious if the structures were also non-conforming.

DiLeo said whatever they are they would remain even with a rezoning, and that generally they don't deny rezoning based on nonconforming structures.

Mills said it would be concerning to her if they were located too close to side setbacks because they try to give buffers between multi-family zoning and other zones.

Peters asked if theoretically, if a site plan came in to add onto that structure, they would be allowed to build it even if it didn't meet the setback.

Carlisle said if the rezoning is approved the setbacks would be grandfathered in and considered a legal non-conforming structure and any additional change to that structure might have to go through the Zoning Board of Appeals depending what the proposed changes are, He said if these buildings were rezoned and they were removed the new structure would have to comply with all the new appropriate setbacks of the new zoning.

Peters asked about the Area Plan Waiver that was approved by the Planning Manager, and when they are required.

DiLeo said we require either an Area Plan or a site plan along with a rezoning request, with the one exception being an individual single-family property that is requesting R1 zoning, such as with the recent annexation. She said we also require Area Plan waivers when there is no new development proposed and it is at the discretion of the Planning Manager. She said the purpose of an area plan if the petitioner is not doing a site plan, is to demonstrate that there is a conceivable development scenario where all the required elements will fit on the subject lot under the proposed zoning.

DiLeo said on this site, where the lots are small it's easy to envision the development scenarios here and there is no development proposed so there would be nothing to show but the existing survey conditions.

Peters asked what the maximum occupancy would be for each of the properties if the rezoning were granted for this petition.

DiLeo said the Forest property was built with the maximum occupancy,

which is now four unrelated persons in each unit, regardless of the number of bedrooms, and if the rezoning were approved, the maximum occupancy would go to six unrelated persons in each unit. She said the current structure has two units with each unit having four bedrooms and two studies. She said the structure on Church Street has a very successful dental office on the first floor and there is no plans to change this use, and then there is a two bedroom apartment upstairs, which is certified by Rental Housing, for four people, and with the rezoning and with internal remodeling, perhaps they could reconfigure to get more bedrooms in the upstairs apartments to have up to six unrelated persons. She noted that there is currently 8 persons in the Forest property and that would increase to 12 persons with the rezoning.

DiLeo said the max occupancy in the Church Street property they could get would be 12 persons with the rezoning, but with a non-conforming lot there could only be a single-family structure so there might only be six persons.

Fransiscus commented that having a unit with four bedrooms and two studies, could be a way of going under the radar with 6 occupants. She noted that while she did her graduate studies in Boulder Colorado, there were a lot of similar things going on over there. She pointed out that the university was only a block away north and west. She asked if the university could annex this land.

DiLeo said they could certainly purchase it, but not annex it.

Fransiscus said that the structures that exist are not so aesthetically fitting in, so when it came to preserving them she was open to looking at it either way for improving it if the R4C were approved.

Clein asked about parking.

DiLeo said both the R4C and the R2A have the same off street parking requirement of 1.5 parking spaces per unit.

Clein said the Church Street property would only require 3 spaces and the South Forrest property would be 2 spaces with additional spaces for the dental office.

DiLeo said if the dental office were to convert then they would need 3 whole spaces for the whole building.

Clein said they would require 40% open space per dwelling unit so if they were approved they would be non conforming.

Clein commented that the petitioner's representative noted that the changes in the University have made the changes; he didn't believe the university has changed and that it is in the same spot it has always been and while there may be more people there, there is also more people in Ann Arbor and in the United States and with that logic, all of our zoning should be reevaluated because we have more people now.

Clein noted that one of these properties had been a cooperative in the R2 zoning district at one time and it was conceivable that a cooperative could go in there again or a fraternity. He said he had concerns with the rezoning because it allows greater occupancy and the ability to combine these properties with adjacent R4C properties is counter to the trends we've seen in the community in the last ten to fifteen years in trying to preserve the scale and texture in the near neighborhoods.

Bona reiterated the concern with combining lots noting that it had to do with the scale of structures, so while the community generally embraces efficient density, on a conceptual basis, one of the values of these older neighborhoods is the scale of the structures and R4C has often created out of scale structures through lot combinations. She said ironically R2B might be a more appropriate zoning for a large lot.

Bona asked about the occupancy.

DiLeo responded that the zoning ordinance for traditional housing, apartments, it is either 4,250 square feet per dwelling unit in R2B or 2,175 square feet in R4C. She added that a fraternity or sorority is one dwelling unit but the number or people or density is 350 square feet per person. She said that is how you would regulate how many people are in one dwelling unit.

Bona asked if these sites were vacant and were zoned R4C, only one unit could be built.

DiLeo said, correct, because they are nonconforming lots.

Bona commented that in the R4C you either get four or more or you get one, because you have to meet the minimum of 8,500 square feet before you get any additional units. Bona said if this lot were zoned R4C it should have 6 unrelated persons in one unit, and instead we have an

R2B lot with a variance that has two units, with four each, with 8 people. She said she feels like it is already more dense than our zoning ordinance allows, through the variance that allows that second unit. She feels uncomfortable to add four more occupants, than they currently have, to these lots; which is six beyond what our zoning would allow, double basically. She reiterated that she feels the existing condition is denser than our zoning allows, therefore we don't need to do this.

Mills thanked Bona for clarification on the occupancy allowance.

Fransiscus also thanked Bona for the helpful explanation. She said it made her wonder why the petitioner is looking to rezoning and maybe there was a rumor of potential adjacent parcels going on sale or potential lot combinations. She asked the petitioner is this was

Munzel said to the north are two long established sororities, and it is virtually impossible that they will seek to obtain these properties for combinations, given they are as successful as they are and to the south of 816 Church is a new four-plex worth significant amount of money and there has been no discussion of purchasing or sale, and they are not going to rip that building down, nor is my client going to rip his building down. He said it would make zero economic sense for him to rip down the new building. He said with 815 Forest, to the south is a large apartment building that he suspects makes a tremendous return and there has been no discussion of purchase or sale with this owner. He said it is virtually impossible that there would be a combination and teardown of any of these properties, it is just economically nuts.

Clein said the petitioner has stated that the goal is to increase occupancy in these buildings, which we might want to take at face value, but rezoning certainly does offer them more potential for re-developments in the near future whether they can or cannot envision that at this time.

A motion was made by Mills, seconded by Peters, to postpone taking action, as requested by petitioner, to allow more Commissioners to take part in the decision.

**On a voice vote, the Vice Chair declared the motion carried. Vote: 6-0
Postponed**

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

11 COMMISSION PROPOSED BUSINESS

12 ADJOURNMENT

Moved by Franciscus, seconded by Peters, that the meeting be Adjourned at 8:36 p.m. On a voice vote, the Vice Chair declared the motion carried.

Wendy Woods, Chair
mg

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).

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