

The Moravian

DiLeo explained the revised proposal.

Beverly Strassman, representing the Germantown Neighborhood Association, referenced petitions opposing this project, which had been signed by residents and landlords of both Fourth and Fifth Avenues. She expressed concern about the notice the residents received about this public hearing; the homes proposed to be removed dating back to the mid 18<sup>th</sup> century; the intrusion of the proposed building into this neighborhood and its massiveness being out of scale with the neighborhood; the proposed building towering over the Fingerle lumber yard; this PUD being a complete rewriting of the existing zoning; the illusory benefits of this proposal; no real gain in affordable housing, noise; and safety issues because of the proposed terraces.

Tom Luczak, 438 South Fifth Avenue, expressed his opposition to this proposal, stating that there already was a great deal of affordable housing in this neighborhood, referencing Baker Commons at the corner of Main and Packard, and calling attention to the size of this project and how it compared to the existing houses in the neighborhood. He believed there would be an actual loss of affordable housing due to this project because it would displace the existing affordable housing on this site.

Kim Kachadoorian, 204 East Davis, also expressed opposition to this proposal, agreeing that its scale was inconsistent with the existing neighborhood. She noted that Germantown was the last intact near downtown neighborhood and dismembering it for student housing was disheartening. She also expressed concern about this proposal generating a potential 300 more cars in this area.

Tom Whittaker, 444 South Fifth Avenue, said the zoning ordinance stated that the PUD district shall not be used to avoid the standards of other zoning districts, adding that the City was supposed to receive a benefit in exchange for granting PUD approval. He believed this PUD would harm the surrounding area, not benefit it, noting that the benefits must outweigh the impacts. He also believed that the Planning Commission need only determine that this project could be built elsewhere in the City, not determine if other parcels are available. He stated that the Planning Commission had one option here, which was to recommend denial of this project to the City Council.

Walt Spiller, 548 South Fifth Avenue, adjacent homeowner to the north, asked that appropriate buffering be provided between his property and this project. He believed the petitioner's representation of his comments were a misinterpretation, adding that he told the petitioner he would not bring this up in a public forum if the petitioner would redact the entire statement under his name. It was not done, he said. His main opposition to this proposal was that it was out of scale and character with the existing neighborhood.

Ethel Potts, 1014 Elder Boulevard, expressed concern about the proposed height being twice what was permitted in the R4C zoning district and about the block-long mass of the building not fitting in with the neighborhood or the R4C zoning. She also expressed

concern about the loss of existing affordable housing, inadequate setbacks, lack of proper open space, access from South Fifth Avenue causing dangerous conditions, flooding, and departure from the recommendations of the Central Area Plan.

Claude Vincense, 545 South Fifth Avenue, did not believe the revised plan contained anything new and expressed surprise that the assessment in the staff report had changed, noting that it did not evaluate the arguments made by the neighbors. As a result, he believed the staff report continued to mischaracterize the neighborhood as partly an industrial wasteland inhabited by temporary residents, which was not true. He was opposed to this project and stated that the petitioner owed \$50,000 in back taxes.

Jim Mogenson, 3780 Greenbrier, asked that the Planning Commission consider density and public transportation in relation to the 90 underground parking spaces being provided, as well as the issue of water seepage problems that could occur underground. He expressed concern about this project not really providing affordable housing because many of the features being proposed might make the housing more expensive.

Shirley Simple, 434 South Fourth Avenue, thought this could be a nice project in the appropriate location, but not here. She believed it would overwhelm everything around it and would cause traffic problems on these already fast-moving streets.

Ellen Ramsburgh, 1503 Cambridge, expressed her support of all the previous speakers' comments. She hoped the Planning Commission would remember that there were two study committees working on the R4C zoning classification and on a potential historic district designation for the homes along Fourth and Fifth Avenues, which likely would have an impact on this property. Even though this was not a protected area, she said, it certainly was an historic area and the loss of historic properties in this neighborhood would be just as regretful as anywhere else.

Richard Jacobson, 538 South Fifth Avenue, stated that the homes in this area were charming, historic structures and said he did not agree with the portrayal of this neighborhood as an industrial wasteland. He expressed concern about this project turning into a huge dormitory for students.

Amy Mitchell, a resident of the Old West Side, stated that this project would appear to be on steroids compared to the apartments that were built in her neighborhood. She believed the scale of this project was so disjointed with its surroundings and that it did not provide sufficient benefits to override the concerns.

Jeff Helminski, petitioner, said he was unaware of owing the City \$50,000 for taxes. He stated that many changes had been made to the plan since the last time it was before Commission, adding that after 24 months of review, staff has confirmed that this proposal is consistent with the Central Area Plan, meets the standards of the PUD ordinance, and is compatible with this very diverse neighborhood. He hoped the Planning Commission, in its deliberations, would evaluate this project based on the PUD standards and would recognize the balance achieved between the level of variances being requested and the level of benefits being provided. He said they exceeded the standard for affordability by nearly 30 percent and noted that this was the greenest project of its type to ever be constructed here. He also noted that the storm water management plan being provided would be a tremendous enhancement to the floodplain in this area. He said it was important to consider the fact that this project would

generate over \$200,000 in tax revenue for the City. This was a much better project now than when it was first submitted, he said.

Alice Ralph, 1607 East Stadium Boulevard, expressed the following concerns about this proposal: 1) making approval subject to adoption of new flood zone maps, 2) allowing rooftop terraces as active open space, and 3) provision of the little pocket park on what basically is private lawn.

Brad Micas, resident, expressed concern about the net loss of affordable housing, this project being out of scale with the neighborhood, traffic, and flex rooms. He stated that this project should be postponed or denied.

Ann Eisen, a resident at Fourth Avenue and Packard, agreed with the points raised by her neighbors. She commented on the massive size of this project, noting that this neighborhood consisted of front porches and front yards, thereby prohibiting the interaction between existing residents and the residents of this building.

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

**Moved by Briggs, seconded by Derezinski, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve The Moravian Planned Unit Development PUD Zoning District and Supplemental Regulations, PUD Site Plan dated December 11, 2009, and Development Agreement**

Carlberg stated that approval of this PUD site plan was subject to the adoption of modernized flood insurance maps, which were not due to be completed for several months. She asked if this meant this project would be on hiatus until the maps were completed.

DiLeo replied that this was correct, stating that building permits could not be issued until the floodplain maps were adopted. She said the petitioner was aware of and in support of this, as having site plan approval would allow the petitioner to proceed with the financing element of the project. She said the petitioner was aware that it could be approximately six months before all conditions were met.

Carlberg asked if the new flood maps would change the floodplain boundary lines.

DiLeo replied no, only boundary changes to the floodway would occur.

Carlberg asked the petitioner to speak to how this project would improve floodplain function.

Helminski stated that capacity of the floodplain was defined by the volume that could be accommodated on the site today. When they remove the buildings and continue excavating for the underground parking, he said, they would increase the volume of flood storage capacity on the site. Currently, he said, all rain that fell on this site during a major storm event immediately ran into the general system. He stated that the new

system would capture all storm water on the site, as well as additional storm water from off the site, and store it in their system for 24 hours before it was released.

Carlberg asked if the underground parking area would be flooded during a major storm event.

Helminski replied that if a storm were to reach that level, there would be standing water, but no flooding of the cars.

Carlberg wondered about the impact a couple of feet of standing water would have on the parked cars.

Scott Betzoldt, of Midwestern Consulting, representing the petitioner, stated that over half of the area in the lower level parking would experience one foot or less of standing water during a major storm event. From east to west, he said, it would taper from zero up to one foot, then it would drop off quite rapidly. He stated that the site currently provided for 17,500 cubic feet of floodplain storage and, with the addition of the parking and floodplain storage they were proposing, the storage would be increased by 45 percent.

Carlberg asked if water would be taken from the sites uphill.

Betzoldt replied yes, stating that this was required through the County Drain Commissioner standards.

Derezinski stated that some speakers questioned the safety of the parking situation in terms of the entrance being located on Fifth Avenue. He asked staff to respond to this concern.

DiLeo stated that the City traffic engineers evaluated the petitioner's traffic impact statement and agreed with its conclusion that there would be no decrease in the existing levels of service and that the location of the driveways were appropriate and met sight distance and spacing requirements.

Betzoldt added that this proposal would not generate the requisite number of peak hour trips that would require additional study for traffic impact.

Bona stated that the open space section of the supplemental regulations indicated 20 percent open space; however, the PUD site plan indicated 28 percent open space. She asked the petitioner if there were a reason for the discrepancy.

Helminski stated that this could have been an error and that he did not have a problem with the supplemental regulations showing the open space as 28 percent.

Bona asked that this change be made to the supplemental regulations. In response to public comments this evening about the scale of the building, she asked the petitioner to address why this proposed five-story building did not look too much taller than the University's three-story building to the west.

Scott Bonney, of Neuman Smith Architects, representing the petitioner, stated that they matched the rendering as best they could, noting that this was not an exact science. He

stated that the three-story building to the west was taller floor to floor than their building, which would reduce the scale somewhat. He stated that the most accurate drawings would be the street elevation drawings.

Helminski added that they spent a great deal of time trying to make sure the renderings and elevations were as exact as possible. While the building to the west was just three stories in floors, he said, if it were projected across the street, it came up to almost the top of the fourth floor of their proposed building.

Briggs asked if the terraces would be open to all residents and if the colorful umbrellas in the picture would actually be provided.

Helminski replied that, yes, they were open to all residents and that they anticipated providing some type of outdoor furniture.

Briggs asked what the breakdown of units was in terms of the number of bedrooms.

Bonney stated that there were 6 three-bedroom units with the flex room, 36 two-bedroom units with the flex room, 8 two-bedroom units, 9 one-bedroom units, and 3 efficiency units. He said they believed the Planning Commission suggested that if there were going to be a building like this, there should be some flexibility provided to allow different purposes, which was why they came up with the flex rooms to allow for dens, libraries, home theaters, etc.

Briggs appreciated that change. She asked if the material used for the garage door would be transparent.

Helminski stated that the door would be see-through in some way, such as wrought iron, to allow for ventilation and a sense of security.

Briggs cautioned making it too see-through, as it was not a particularly pleasant experience to see parked cars while walking by. She would like to see the parking shielded as much as possible. She asked if there would be secure storage for bicycles.

Helminski replied yes, stating that there would be a bicycle storage room.

Briggs commented on the tone of the supplemental regulations, stating that at times it seemed to read like a marketing brochure, as if the petitioner had written it. She believed it would be appropriate to remove some of that. She was curious about what the penalties would be for non-compliance with the PUD standards.

DiLeo stated that there were minimum credits a petitioner needed to earn for LEED certification and that a penalty was measured by how much a petitioner fell short of meeting a premium.

Rampson added that the penalties contained in the A2D2 zoning revisions were based on the penalty system used in Seattle, which were adopted by City Council.

Briggs stated that when she first saw the previous version of this, she was impressed with the changes that had been made, as it seemed to work with the community, it was scaled down to try and make it blend in with the neighborhood, make it more green, and

provide more affordable housing. In terms of the affordable housing, she was glad to see the existing dilapidated housing being removed and replaced with new, more flexible construction. She noted the City's desire for more dense projects in the downtown and getting people closer to public transit. However, it was disturbing to her when she saw an entire neighborhood come out and say they did not want this next to their homes, and when she heard one neighbor express concern about his statements being mischaracterized by the petitioner. In looking again at the composition of the bedrooms, she did not necessarily agree that this was really for young professionals. She stated that when you were young, you did not normally have enough money to afford these larger units. Considering the neighborhood opposition and the lack of buffering between this and the adjacent homes, she did not believe this project was in scale with the existing neighborhood.

Westphal did not see an actual breakdown of the bedrooms in the supplemental regulations.

DiLeo stated that the configuration of the units was not a requirement; however, there was a maximum number of units and a maximum number of bedrooms contained in the supplemental regulations. She said 160 maximum bedrooms would be allowed and that the petitioner was proposing 150 at this time, so there was a small amount of flexibility. She stated that the previous three-bedroom units are now two-bedroom units with a flex room.

Westphal stated that specifying demographics of occupants was outside of the Planning Commission's purview and asked that any reference as to who would be living in these units be removed from the supplemental regulations.

Carlberg stated that she saw a reference to the size of rooms in the supplemental regulations, but no limitation on the number of units or bedrooms.

DiLeo explained that within the maximum floor area allowance, a minimum lot area of 440 square feet shall be required for each dwelling unit and 230 square feet of lot area shall be required for each bedroom shown on plan. She said a total of 92 units could be achieved by dividing the lot area by 440 square feet and a total of 160 bedrooms could be achieved by dividing the lot area by 230 square feet.

Westphal asked for clarification on the staff report's statement that the benefit to storm water would be greater with this development than if this site were redeveloped separately.

DiLeo stated that there were two thresholds for the storm water code: one was that single-family and two-family units were currently exempt from providing storm water management, so if these properties were to be developed separately as single or two-family units, no storm water detention would be required. The second threshold was that storm water management was required if there were a minimum of 5,000 square feet of impervious surface on the lot and she said it was unlikely that these lots would fall under the storm water management requirements. She stated that the larger the site and development, the greater amount of storm water needed to be provided for. The size of this development required first flush, bankfull and 100-year storm water management, she said.

Westphal asked if incorporating the R4C-zoned parcels within this development was an upgrade in storm water treatment for all of the parcels.

DiLeo replied yes.

Westphal asked staff to elaborate on the statement in the staff report that innovation of land use was one of the benefits of this PUD.

DiLeo said it was staff's opinion that the parking underneath the building was an innovation of land use because it was efficient and more of a modern design that was not generally done. She stated that LEED certification was also innovative because this was not seen historically.

Westphal stated that one of the PUD standards was encouraging alternative transportation and he wondered if there had been any discussion about parking.

DiLeo stated that there was a maximum established for the underground parking, which would help insure that it did not become a parking structure. She recalled on previous versions of the proposal that staff was hesitant to support a project that had no maximum amount of parking, but was also hesitant to have a minimum amount of parking that was too low such that it was unrealistic. She said staff believed the proposed parking provided a good balance.

Bona believed the intent of the permitted uses in the supplemental regulations was that the 1,200 square feet of space for the live-work units should be the maximum size so they could not be used as one space. This would require at least three live-work units, she said. With regard to the floodplain, she asked what could be developed on the first floor if there were no parking. She asked staff to explain some of the restrictions in a floodplain, which might assist her in understanding why the parking was a benefit. She asked if the flood capacity would be different if there were no underground parking and there were another floor of residential units.

DiLeo stated that the building could be elevated, leaving space below, in which case it might as well be used for parking. Otherwise, she said, the floodplain could be filled in upon approval from the State and the maps then changed. However, she said, people could not live within the floodplain so the only other use could be commercial as long as it was properly flood-proofed.

Bona stated that she was trying to understand the benefit of underground parking. This project has been a struggle for her since the beginning, she said, as she has wanted to be open to creative and innovative ideas, but at the same time feeling very strongly that there was a neighborhood here to protect. She also struggled with the hard line between zoning districts, noting that the Fingerle property across the street was zoned D2. She questioned if the line was drawn down the middle of the street, or if it was drawn behind the first row of houses. This was something that has been considered in just about every serious rezoning that has been before the Planning Commission, she said. She noted two issues relative to the D2 zoning: one was that the D2 zoning allowed 400 percent FAR (floor area ratio) with premiums, which was twice as much as this proposal, and it allowed 60 feet in height, which was what this project proposed. Also relative to the D2 zoning across the street, she said, was that most of the Fingerle site was in the floodway and she suspected that a good deal of that space would be

open space. Therefore, she said, from a scale perspective of the area, she was more comfortable with this proposal than she has been in the past, stating that the building height and the number of bedrooms have been reduced, and more open space has been provided. With regard to open space, she noted that it was supposed to be provided on the ground so people would have places to put a lawn chair, have picnics, etc. In the past, she said, balconies and terraces have been allowed as open space and, while the rooftop terraces were not technically open space, they would allow active space for the residents. She believed the additional four percent of affordable housing was a real benefit because it was difficult getting affordable housing anywhere in town, and she also believed the LEED certification was a benefit. She added that the penalties for not achieving LEED certification would be significant enough that the petitioners would not want to miss that. They were not buyouts, she said. She believed the requirement for renewable energy was a significant benefit, as was the underground parking and the efficient use of floor area. She said the project was not perfect, but she believed it could be a good addition to the neighborhood.

Dereszinski agreed with Commissioner Bona. He noted that this proposal has earned the approval of staff, which he believed was a substantial accomplishment because the petitioner has been working on this project for a long time and has made significant changes. He took staff recommendations seriously, he said, especially on something as controversial as this. It was not without effort that this recommendation was gained, he said, adding that he believed staff worked very hard to make sure the supplemental regulations contained the requirement for affordable housing to make sure it would be accomplished. He expressed appreciation to the residents of the neighborhood who spoke at the meeting tonight; however, he noted that there were also people in this neighborhood who have voiced their support of the project which could not be discounted. He stated that a number of people who spoke in opposition this evening did not live in this neighborhood and he invited attention to the fact there were a number of residents living elsewhere in the City who have indicated their support. Both sides had to be considered, he said. He believed this proposal went a long way toward creating lower cost housing and better spaces near the downtown. It was much different now than when first proposed, he said, adding that it has been accommodated to the point where it warranted moving on to City Council with a recommendation of approval by the Planning Commission.

Pratt expressed his appreciation to everyone who came to the meeting tonight to provide their input, whether in support or opposition. He said there was no doubt that they wouldn't have this project today without the continuous discussion that has occurred, which has kept this process as rigorous as possible. He sincerely apologized for the notification issue, stating that they have been trying to reach out and provide more notification than what was required by law and, if there were any fault on the part of the City, they would strive to improve on that.

Carlberg stated that this was definitely a better project than when it was first proposed. She believed its appearance was reminiscent of row housing, as it was broken up with different materials and height configurations. In trying to determine how she would see this building, she said, she saw it from Madison Avenue as having the main impact and it seemed very clear that it was not out of scale with the University's building to the west, nor was it out of scale with the Perry building to the east. The building had a relatively small exposure on both Fourth and Fifth Avenues, she said, stating that on Fourth Avenue it mainly was across from the University building and on Fifth Avenue it primarily



was across from rental properties. She looked into how much of this neighborhood consisted of homeowners and found that out of the 37 properties on Fourth and Fifth Avenue, six of them were homeowners, so she believed it was correct to characterize this area as primarily a rental housing neighborhood. If there were a desire to see this go from rental housing to something else, she said, appropriate housing for what was being removed had to be provided. She viewed this as a green project, not only because of the LEED certification, but also because of the fact that the energy costs for these new units will be reduced significantly by the buildings being attached. She could see this development attracting people across a wide scale and one of the benefits for them would be the ability to walk to everything in the downtown. This would be good for downtown businesses, she said, as well as for the South Main Market to the south. She believed this proposal would fit in with the other tall and industrial looking buildings in the area. She saw it as being compatible with the scale of what was to come along the Main Street corridor and being beneficial to the area commercially. She stated that the affordable housing in the private houses had no requirements, so there were no assurances that the housing would remain affordable. Having the units in this development guaranteed to remain affordable this close to the downtown was a major benefit to the community, she said. She stated that she supported this proposal earlier in the process, as she believed it fit in with the neighborhood, and now she believed it fit in even better. She wished it were possible to provide a greater screening between this development and the adjacent house to the north along Fifth Avenue, suggesting that the planting of more trees be investigated. There did not seem to be room for additional trees adjacent to the house to the north along Fourth Avenue, she said. She believed the advantages of this development outweighed the change it would bring to the neighborhood and expressed her support.

Giannola stated that she agreed with most of the previous Commissioners' comments. She noted that the term "student" was being used like it was a bad word. She stated that the multi-bedroom units should be looked at for residents who have roommates. She said the resident could be a 23-year-old person who has roommates, regardless of whether they were students. Most people in their early 20s had roommates, she said, and to say a student could not live here, but someone of the same age could, was discriminatory. With regard to the scale of the building, she thought it actually improved the block, adding that it especially fit with the scope of the hill. She thought this was a great project and she agreed with all of its benefits. She did not think this would infringe on the neighborhood; in fact, she thought it would be a benefit to the neighborhood. She supported this project.

Briggs agreed with almost everything that had been said tonight, adding that this has been a difficult decision for her. She believed the project fit well with the neighborhood, but she was reminded tonight that a lot of people were looking at this from another angle and they were saying it was out of character with the neighborhood, which she did not think could be dismissed. She did not think it mattered if this was an owner-occupied or renter-occupied neighborhood; rather, there were people here who were interested in preserving the character and scale of the existing homes.

Woods agreed that the neighborhood should not be classified between owner occupied and renter occupied in terms of people expressing what their neighborhoods meant to them. She also appreciated everyone coming out this evening to express their opinions, stating that all of the comments have helped this become a better project. She hoped the elevations that were presented were what would actually be built. She agreed that it

would be good to find a way to install more landscaping for the adjacent property owner to the north along Fifth Avenue, pointing out that it would be important for the petitioner to be a good neighbor. She also agreed with the affordable housing benefit, stating that the number of units that will remain affordable will be beneficial to many people. Many times in projects like this, she said, there was a lot of give and take on both sides. She stated that in the long run, everyone was trying to make Ann Arbor a place to live, work and raise their families.

Westphal expressed his appreciation for the changes in the architecture that were made since the last time Commission reviewed the proposal, stating that it softened the way it fit in the area. He had reservations, as always, with how this complied with the master plan, noting that a PUD contradicted the plan in some way, so the question was at what cost. This was not a clear-cut proposal for him, stating that he has probably been most on the fence with this than on any other project. He was disappointed in the amount of affordable housing being provided, which was 12 out of 160 bedrooms. He knew this amount was based on a percentage of the units, but this gave him pause. He stated that live-work units were not permanent and were a little vague in justifying this. He knew that staff was the expert in this area, as they have worked with this zoning longer than anyone on the Planning Commission. To him, as a neighbor of commercially zoned properties himself, this was a cautionary tale. He stated that the efficiencies of the underground parking would never be achieved if just the M1-zoned parcels were developed. He stated that having the staff recommendation raised the bar much higher for him and helped him reach his position of supporting this project.

A vote on the motion showed:

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

**Motion carried.**