



City of Ann Arbor

301 E. Huron St.
Ann Arbor, MI 48104
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Meeting Minutes Planning Commission, City

Tuesday, November 19, 2013

7:00 PM

City Hall, 301 E. Huron Street, 2nd Flr.

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1 CALL TO ORDER

Chair Westphal called the meeting to order at 7:10 p.m.

2 ROLL CALL

Rampson called the roll.

Present 9 - Bona, Woods, Westphal, Giannola, Adenekan, Clein, Briere, Parekh, and Peters

3 INTRODUCTIONS

4 APPROVAL OF AGENDA

5 MINUTES OF PREVIOUS MEETING

5-a [13-1454](#) City Planning Commission Meeting Minutes of October 1, 2013

Moved by Bona, seconded by Clein, that the minutes be approved as presented. 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

Briere reported that at the previous night's City Council meeting there were no Planning Commission items discussed. Council did decide to sell the old Y lot, and many of the recommendations that the Planning Commission made were incorporated into the final agreement. She said that the developer has agreed to abide by the Design Review Board recommendations in design, and he is going to incorporate a large public plaza. She said he will not build to the maximum FAR and will incorporate mixed uses. She noted that If the developer doesn't abide with the Council's agreement, then the City has the right to buy the lot back. She said the developer will also complete the project within 18 months.

6-b Planning Manager

Rampson reported that City Council approved the Redevelopment Ready Program memorandum of understanding with the Michigan Economic Development Corporation; the 3320 Packard rezoning request was denied by Council, upholding the recommendations of the Planning Commission; and the Non-motorized Plan Update was approved by Council as an element of the City Master Plan.

6-c Planning Commission Officers and Committees

Clein reported that at the DDA Partnership Committee meeting on November 13th, they looked at placemaking in successful neighborhoods throughout the country.

6-d Written Communications and Petitions

[13-1460](#) 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.)

8 PUBLIC HEARINGS SCHEDULED FOR NEXT BUSINESS MEETING

[13-1465](#) Public Hearings Scheduled for the December 3, 2013 City Planning Commission Meeting
Chair Westphal read the public hearing notice as published.
Received and Filed

9 UNFINISHED BUSINESS

9-a [13-1455](#) Briarwood Restaurants Site Plan for City Council Approval - A petition proposing construction of two new free standing restaurants on the east side of the Macy's building at Briarwood Mall located at 700 Briarwood Circle. One restaurant would be 6,470 square feet, the

other 7,068 square feet. The parking lot north and east of the new restaurants will be reconfigured. (Ward 4) Staff Recommendation: Approval

Angeline Lawrence presented the staff report.

PUBLIC HEARING:

Scott Richardson, representing the owners of Briarwood Mall, was present to respond to the Commission's enquiries.

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

Moved by Woods, seconded by Bona, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Briarwood Restaurants Site Plan and Development Agreement, subject to approval by the Washtenaw County Water Resources Commissioner prior to City Council action on the site plan.

COMMISSION DISCUSSION:

Bona asked for clarification on the changes that were made to the site plan.

Lawrence explained that staff had the petitioner separate the sites and show all improvements done to each site.

Bona asked if the additional improvements such as landscaping were required by the City because of the new buildings.

Lawrence said yes, and pointed out that the petitioner has reconfigured a lot of the parking lot islands and made them bio-swales and added numerous trees.

Bona asked how the parcel configuration of the mall came to be.

Rampson explained that the mall lots never went through a formal land division, resulting in individual parcels with parking for the main anchor stores in the mall.

Bona asked the petitioner to explain how the proposed plan would not preclude them from having a progressive development in the future.

Richardson said that in any shopping center in America they look at the big picture, and where there is a win-win outcome there is always a deal that can be structured to allow grand development. He said even though you may see some parcel lines changing today, there is nothing that is being done today that will limit what they can do in the future. He added that they have at least quarterly portfolio meetings with all the key department companies to discuss the on-going retail situation and possible tenant changes that impact the future.

Bona thanked Richardson for his optimism. She asked staff about the bio-swales and how the other sites impact the proposed development.

Lawrence explained that staff calculated that they needed 169 trees, and staff allowed the developer to include some of the existing smaller trees to be counted towards the total 169, which will require them to add 133 trees total.

Bona asked about how the regional detention works and if it is for all the parcels.

Lawrence said the detention pond number 5 is just north of the site, with another pond on the other side of Briarwood Circle. She explained that they will redesign the pond and dredge it, given the sediment, and they will add another pipe, and will be able to restrict the outflow.

Bona said with the retrofitting of the existing pond, they will be able to make it work better than what it was designed for originally, which she liked better than adding a new pond.

Woods said the aerial view provided with the staff report showed all the detention ponds and was helpful in understanding the layout.

Peters asked the petitioner if they see any problems with possible new anchor tenants who might move in or have to leave, due to bankruptcy, in regards to the proposed property lines.

Richardson said the property lines don't have anything to do with that type of a situation, adding that they have legally binding documents between holding stores and themselves, and they would do what they could to enforce their rights in such a situation or even purchase the outgoing holding store's property because they have a larger investment stake in such situations.

Peters commented that he was glad to hear that the petitioner had been able to work out an agreement with the Solid Waste Department on being able to get the trucks in and out of the site.

Richardson said they got creative and work proactively in approaching situations.

Adenekan enquired about the availability of handicapped parking and van accessibility at the site.

Richardson said that he could assure that all of the spaces that they are touching, on both the Macy's parcel as well as the site adjacent to the restaurants, will be designed to ADA code and he was 99% sure that the balance of spaces at the mall had been upgraded to be compliant with the current code.

Clein asked about the site plan and the detention pond that was submitted at the first Planning Commission meeting.

Lawrence described the originally submitted plans and the revised plans.

Clein asked if there were changes to the site lighting and if they had been reviewed and approved for photometrics and energy efficiency.

Lawrence referred the question to the petitioner's team.

Gary Tressel, petitioner's engineer, explained that the existing Briarwood parking lot lighting would be retrofitted with LED fixtures, and the new parking lot lighting will have all new poles and fixtures that are LEDs.

Woods asked the developer if there would be a new skating area at Briarwood, since she had read something about it recently.

Richardson said that there was a skating rink with artificial ice inside the mall, located close to the JC Penney entrance.

On a roll call, the vote was as follows, with the Chair declaring the motion

carried.

Yeas: 9 - Bonnie Bona, Wendy Woods, Kirk Westphal, Diane Giannola, Eleanore Adenekan, Kenneth Clein, Sabra Briere, Paras Parekh, and Jeremy Peters

Nays: 0

10 **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.)

10-a [13-1457](#) Montgomery Building Site Plan for City Council Approval - A proposal to construct a 21,100 square foot, four-story addition on top of a 17,270 square foot, two-story commercial building located on this 0.22 acre site at 210-216 South Fourth Avenue. A total of 32 dwelling units are proposed on floors 3-5. The building is located in the Main Street Historic District, and the Historic District Commission approved a Certificate of Appropriateness on September 12, 2013. (Ward 1) Staff Recommendation: Approval

Matt Kowalski presented the staff report.

PUBLIC HEARING:

Luke Norman, South Fourth Avenue, asked if there was going to be any affordable housing made for this new development site plan.

Brad Moore, architect for the project, was present and described the project. He noted that he was available to answer the Commission's questions.

Ray Detter, Downtown Citizens Advisory Committee, stated that the Committee took a look at this project, and the work that will be added to this building will be a marvelous addition and goes a long way in restoring a part of the City's past that will become a part of the future. He said the committee strongly supports the mixed income housing in the downtown.

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

Moved by Adenekan, seconded by Briere, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the

Montgomery Building Site Plan.*COMMISSION DISCUSSION:*

Bona asked if there were any affordable housing units incorporated in this project.

Moore responded that none would be dedicated per the City's zoning ordinance, but that there would be some smaller units, 4 studio apartments, with approximately 500 square feet each, which given the small square footage the rent would be less. He said the 1-bedroom units will average 750-800 square feet each, and the 2-bedroom units would average 950 square feet.

Bona said it will be interesting to see if the City can get market rate affordable units versus subsidized affordable units. She suggested that Moore try to provide relative going rates for those units, based on income, when the project moves on before City Council.

Bona asked about the north and south elevations in relation to the buildings next door, noting that the building looks like there are windows on the property line. She asked if any part of the building is on the property line.

Moore said yes, the depicted beige colored part of the building shown on the site plan was on the property line and the grey colored area was recessed light wells.

Bona asked how they could get windows on a building elevation that is built right up to a property line, knowing that the neighboring site could one day also build right up to that same property line.

Moore explained that they would be applying to the Building Board of Appeals to obtain a variance for the windows that aren't set back in the light wells. He said the Building Official had explained that the pattern has been that they grant variances for limited quantities of windows on common property lines with a caveat that there be a special sprinkler head placed in front of those windows that would put a sheet of water in front of those windows in case of a fire, so the risk of fire being transferred from one building to the other is minimized. He explained that, should the property owner next door wish to build up in front of those windows, the windows would be blocked in. He added that apparently there are sizable windows in Ann Arbor that have such variances, specifically on One North Main and Sloan Plaza. If the variances aren't granted, there is enough light from other sources.

Bona asked if the same applies on the northern elevation, or if the alley provides some relief.

Moore said there is an 8 foot easement across the neighbor's property for access to their building, so it would be difficult for the neighbors to build right up to their property line.

Bona said the Building Board of Appeals would interpret it the same way, even with an easement currently there.

Moore agreed.

Woods asked about the back alleyway. She asked about the view from the balconies on the western elevation.

Moore said with the adjacent buildings being 3 stories, you wouldn't be able to see beyond them until you got to the fourth and fifth floors. He said the ones on the second

and third floors would be looking across the alley into adjacent apartments.

Woods asked if the alley is where refuse would be collected and if those balconies will at times be looking over those activities.

Moore explained that the balconies are less protrusive and higher up than the existing DTE transformers which the current trash pickup has to negotiate.

Woods asked where the proposed studios would be located.

Moore said in the southwest corner of the building where the two alleys meet and daylight is coming in.

Woods asked about daylight in the units.

Moore said currently there is plenty of light on the second floor martial arts studio, since there is light coming from both sides.

Clein asked if the intent is to keep the arcade walk-through the building that goes to the back alley.

Moore responded that the arcade walk-through ceased to exist about 10 years ago when the hair salon was extended across the rear portion of the building. He said they haven't established the ground floor tenant layout yet, but could leave the possibility open.

Clein asked if the windows on the north-south side elevations are inoperable and if so, is there enough ventilation through the operable windows.

Moore said the units will have both natural and mechanical ventilation.

Clein asked about the balconies facing the alleyway, westward, and their depth and intent.

Moore said 2' 10" deep and the intent would be to catch some fresh air.

Clein asked about the upper cornices on the building and their colors, noting that one was darker than the other, and if that was intentional.

Moore responded that it was a suggestion of the Historic District Commission to have the lighter color on the rear portion of the building as not to draw attention to the building when walking down the north side of Washington.

Clein suggested that PVC material, as noted on the plans, is not a highly sustainable material, while aluminum has a higher recyclable content potential, so if more sustainable material could be incorporated that would be preferable. He asked about the decorative masonry units and if they will be split face block.

Moore responded that it is a brown faced or burnished faced block giving it a nicer face and not so rough looking, no bigger than 8 x 24 units.

Giannola asked if there would be any coordination between this project and the Running Fit addition.

Moore said it is possible, but each building is owned by a separate owner and have relationships with different contractors. He said they have agreed with the DDA to not

close the sidewalks during construction but rather to tunnel over them, to keep the sidewalks open to the neighboring merchants.

Giannola asked about the neighboring PUD zoned building and when the zoning occurred.

Kowalski responded that it is the First National Bank site.

Rampson explained that it was zoned in the 1970's when First Martin requested to build a second tower, consistent with historical plans.

Peters commented that he was glad to see this project coming to the street to revitalize this area. He liked the historic face on Fourth Avenue and is happy to see more residential units in the downtown.

Bona asked about the penthouse unit and how the mechanical equipment was proposed to be screened from view.

Moore showed the mechanical equipment screening on the northern elevation plan. He said they will be using a heat pump system to move heat around in the building, and only a boiler would be mounted on top of the building to make up supplementary heating, and chiller will also be mounted up there. He said the equipment would be located behind the penthouse unit which would be common use by all the tenants.

Bona asked how the screening would be different from what was shown on the penthouse and if it required ventilation.

Moore explained that the mechanical screen is setback considerably from the perimeter of the building, and there is a parapet on the perimeter of the building that is about 2 feet tall so the mechanical screen will start about 2 feet above the roof so air can circulate upward to the open top area.

Bona asked about the top of the building and usable space.

Moore said they currently don't have a program for the rooftop around the mechanical area since they wanted to reserve that for potential solar panel locations. He said the roof on the front of the building between the common space and the parapet would be green roof; the building would have a green roof on 3 sides, wrapping around the patios.

Clein agreed with Peters and echoed the positive attitude towards having the proposed building in the downtown. He commended Moore and the owners for their proposal.

Briere asked if they have any idea how much noise the mechanical equipment will produce, adding that she hears from a large number of constituents about noise caused by heating and cooling elements in the downtown.

Moore responded that they hope the screening will move the sound upward, rather than lateral, but they don't have any sound levels for the equipment at the property line.

Briere asked the petitioner to please consider the residents that live above the stores on Main Street when they select the mechanical equipment, noting that increased noise could send some over the edge from acceptance to hostility.

Moore said they will certainly take that into consideration.

Clein added that most boilers and chillers can be made quiet these days with the screens muffling the noise and making it rise. He asked if there would be an emergency generator on the roof.

Moore said the generator would most likely be in the basement in the electrical room.

Woods asked about the history of building and if the fire that burned the Montgomery Ward building was the same one that burned the Running Fit building.

Moore said no, the fire that burned the Running Fit building in the mid 1950s pre-dated the Montgomery Ward fire in the mid 1960s.

Westphal echoed the positive comments on the building and plans, noting the great tile work added to the building. He asked about ground floor uses, noting that the Master Plan called for active uses on the ground floor. He asked if the petitioner was willing to abide by the Master Plan desires when the time comes for them to select ground floor tenants.

Moore said absolutely.

Westphal asked about storm water detention requirements and if there currently is a first flush detention.

Kowalski said the project would only require first flush, given the building is less than 10,000 square feet of impervious surface.

Westphal asked if there currently is a system in place.

Kowalski said he didn't believe so, noting that the proposed system would be an infiltration system with an open bottom.

Moore said the soils are perfect in this area for infiltration systems, as the City well knows, since they recently installed a large infiltration system under Fourth Avenue.

Westphal asked if they currently have a contractor in mind and if they use local labor.

Moore said he believed so, adding they are in Ypsilanti.

Westphal stressed how great it was to see a building that had a real cornice on it.

On a roll call, the vote was as follows with the Chair declaring the motion carried.

Yeas: 9 - Bonnie Bona, Wendy Woods, Kirk Westphal, Diane Giannola, Eleanore Adenekan, Kenneth Clein, Sabra Briere, Paras Parekh, and Jeremy Peters

Nays: 0

10-b [13-1458](#)

Germain Motors Site Plan for City Council Approval - A proposal to construct single-story additions totaling 11,306 square feet, to two of the three auto dealership buildings on this 9.78 acres site located at 2575 South State Street. The existing parking lot is proposed to be expanded to provide 248 additional vehicle inventory parking spaces.

A modification of the landscape requirements (Chapter 62) is proposed, in addition to variances from the Off-Street Parking Ordinance (Chapter 59). (Ward 4) Staff Recommendation: Postponement

Matt Kowalski presented the staff report.

PUBLIC HEARING:

John Oney, architect for the project, 587 Morning Street, Columbus, Ohio, presented the project team and explained their project. He said the team was available to respond to the Commission's enquiries.

Steven Germain, owner, presented details on their acquisition of the dealership and their proposed plans.

Jessica Germain, daughter of owner, explained the dealership's financial growth over the previous year.

Bob Wanty, engineer for the project, presented the engineering aspects of the project.

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

Moved by Giannola, seconded by Peters, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Germain Motors Site Plan, subject to variances for parking lot and landscape modifications being granted by the Zoning Board of Appeals,

and

that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the proposed landscape modifications in order to use existing vegetation to count toward the interior parking lot landscaping requirements and eliminate the requirement for depressed landscape islands, according to Chapter 62 (Landscape and Screening Ordinance), Section 5:608(2)(c).

COMMISSION DISCUSSION:

Bona asked about the landscape modifications and if there are alternatives available to provide trees elsewhere, possibly offsite.

Kowalski said there is a limited possibility; the mitigation requirements for landmark trees would allow them to be planted off-site on public land if the petitioner could prove that they could not fit them on their site anywhere. He said that the City's Natural Features coordinator didn't believe that this site fit those requirements at the time of discussion.

Kowalski further explained that to reduce the required landscape island trees, there were no alternative options available to the petitioner, except for a variance.

Bona asked about the expansion of the parking lot towards State Street.

Wanty showed the area on the site plan and explained that it would not be parking but vehicle display area.

Bona asked if the photo that was showing the parked cars on the grass would become paved area.

Wanty said yes, the area in front of the Honda building would become display area.

Bona asked if the cars would be moved off the grass because it wasn't okay to park the cars on the grass.

Wanty said they would be gone tomorrow.

Bona said this project includes is a huge amount of added parking, 8 required trees are proposed not to be planted on the site and the depressed islands need to be there. She said she understands that the site has a slope to it and cars cannot be parked in that section, but it's really important to realize that these spaces are not providing parking for other businesses or for the greater good of the public, but for storing cars. She said the petitioner has a greater responsibility to help Tree City, an urban city, to plant trees in areas that are now impervious, noting that she didn't see anything that should permit them to not plant the trees or not have depressed islands. She said she would not be voting in favor of the modification, adding that the petitioner just has to be doing their fair share.

Briere echoed Bona's comments, explaining that even though it is paving for display area, it is still impervious surface that impacts the Malletts Creek system and encouraged the petitioner to look at trees and the depressed islands as a way to enhance the site. She said a concern to her was that there would be a lot of polluted water running off the site.

Clein asked if other car dealers in the City had requested similar requests, and if they did, would they be required to do the same upgrades to the site.

Kowalski explained that there was the FIAT dealer petition and others that have requested and received variances for stacked parking, and that when the dealership was built the depressed islands and the maximum 15 spaces between islands were not a part of the code.

Clein asked staff for clarification of natural features on the site plan and if there were site lighting changes proposed as well.

Kowalski reviewed the site plan and said he had reviewed the photometric plan submitted and it complied; he didn't believe they were adding any new fixtures.

Clein agreed with the other Commissioners and believed the depressed islands should be installed, and given that they are proposing to remove 3 landmark trees and then not adding the required ones, he feels like we would be giving them a free pass for taking out landmark trees. He said if they are taking out trees, they should find space around the detention area to plant them, since every tree planted helps mitigate climate change a little bit, and while those 8 trees might not save the world, they will make a difference.

Adenekan asked staff to show where the existing landmark trees were located.

Parekh asked the petitioner why they didn't see in their site plan design how they could accommodate so few trees.

Wanty responded that with there is a big large center island that is like a jungle and very overgrown, and they felt they could squeeze them in there, but then noting how

overgrown it was, they didn't want to disturb it and risk any erosion issues. He said they could probably plant the 8 trees in there.

Parekh asked if there was any option of planting them on the perimeter of the site.

Wanty said these trees have to be planted on the interior of the site and may not be on the perimeter as part of the ordinance.

Westphal asked if the petitioner was required to submit an alternative plan, and what it shows.

Kowalski said yes, the plan included a parking structure in the lower eastern part of the car storage area, and no landmark trees would need to be removed with the alternative plan.

Westphal asked if staff saw any acceptable middle-ground between the two plans with the possibility of saving the landmark trees.

Kowalski said there might possibly be other available options to minimize the impervious surface, such as adding more stacked parking or using porous pavers, which could save the landmark trees.

Westphal enquired about the soils and if it was known to be clay soil.

Kowalski said he didn't know.

Westphal asked if anyone had done calculations on the option of avoiding the critical root zone of the landmark trees and how many parking spots would be affected.

Ricker Meader, landscape architect with Washtenaw Engineering, said the trees that are proposed to be removed are Box Elder trees and aren't very big in diameter, nor very nice trees, and the mitigation trees that are Oak and Tulip trees would be of better quality and more attractive species.

Rampson commented that she had done a rough count and there were roughly 63 parking spaces added in that area if the area is paved.

Westphal asked the petitioner if quadruple stacking could be done.

Wanty said they did not look at quadruple stacking and would have to look at realigning aisles in order to do the calculations and it could show that they would not be gaining anything in the recalculation.

Westphal asked if soil sample test results had been provided and if it negated any type of infiltration system.

Kowalski responded yes, they had provided a sheet showing soil layers, but he didn't look into it with great detail, but the City's Natural Features coordinator expressed that the depressed islands would be useful on this site if they were installed. He added that if the item is postponed tonight, they can look further into the test results.

Westphal asked about the storm water capacity on the site, given the wetland.

Kowalski answered that the Washtenaw County Water Resources Commissioner felt that the existing pond capacity, with some added modifications, could handle the additional run-off from this site.

Woods asked about the comments received from the Mallett's Creek Coordinating Committee and their suggestions of the use of green roofs, sand filters or low impact development techniques. She asked if the petitioner had taken any of these items into consideration or would reconsider to include them if their project was postponed tonight.

Wanty said they currently drain storm water into a sediment fore-bay and then a wetland and then further into a second wetland before it enters Malletts Creek. He explained that this is a very good system to break down any oils, noting that he has done an inspection as requested by the WCWRC, and there is very little silt and sediment that comes off the site. He said there is nothing that needs to be done to the detention basin or the sediment fore-bay to meet current standards, adding that they really have a clean site, probably because they have new cars that aren't leaking oils that one would find on other sites in Ann Arbor.

Oney said that they had looked at green roofs in some areas but economically it wasn't feasible

Woods asked for clarification on the Mallett's Creek Coordinating Committee's comments in light of what the petitioner has presented.

Kowalski explained that they will meet the storm water requirements for drainage, but there is a separate issue, being the landscape requirement and the interior landscape islands. He said even though the Coordinating Committee recommends mitigation, such as porous pavers or green roofs, the site will meet the storm water requirements, but in light of the other requirements that won't be met they feel mitigation should be made.

Woods said she is in favor of postponing since she feels there is still need for further discussion on working out unresolved issues.

Bona said the landscape requirement is an added benefit and is critical. She further asked the Germains to look into the feasibility of the green roof, and suggested they contact A3C Architects who have been monitoring the temperature of their roof (a white section, a green section and a black section). She said the amount of heat that is retained in their building from the green roof in the winter and the amount of heat that is not absorbed by their roof, which significantly reduced their air conditioning costs, outweigh the costs of a green roof. She said a green roof isn't just for the environment; it also significantly moderated the heat of the roof.

Westphal asked if there was an earlier variance given for this site and the use of pervious pavers.

Kowalski said yes, it was granted to allow for stacking in a certain areas and to allow the parking to go closer to Oakbrook Avenue because the setback requirement at the time was 40 feet (which it isn't now). He said the installed pavers look like they are holding up fine and doing a good job in that specific area of the site.

Westphal said it seems like an appropriate alternative if the soils show the pervious pavers are currently functioning as intended.

Peters echoed the comments regarding the runoff coming from impervious surfaces, especially if the depressed bio islands aren't added into this site. He said, as someone who lives near Malletts Creek, he agrees with the Committee's suggestions and Bona's comments about the green roof. He said if he was forced to pick between the landmark trees and the water quality, he would pick the water quality.

Moved by Bona, seconded by Adenekan, that action on this petition be postponed. On a roll call, the vote was as follows with the Chair declaring the motion carried.

Yeas: 9 - Bonnie Bona, Wendy Woods, Kirk Westphal, Diane Giannola, Eleanore Adenekan, Kenneth Clein, Sabra Briere, Paras Parekh, and Jeremy Peters

Nays: 0

10-c [13-1456](#)

Downtown Zoning Evaluation Recommendations - The Planning Commission has conducted an evaluation of the downtown zoning changes that were adopted in 2009 and will consider a set of recommendations for changes to the zoning ordinance. These recommendations will be forwarded to the City Council for its action. Background information on the evaluation project may be found at www.a2gov.org/downtownzoning <<http://www.a2gov.org/downtownzoning>>.

Rampson briefed the Commission on the drafted resolution that will move on to City Council.

PUBLIC HEARING:

Ray Detter, Downtown Area Citizens Advisory Council read from a prepared statement (attached in packet) saying they based their support on the 2009 zoning goals and guidelines that minimize the extent of downtown developments that create negative impacts on neighbors in regards to height, scale, shading, and historic views. He said the Erin Perdu report has done a generally good job at summarizing the views of this community.

Jeff Crockett, 515 E Kingsley, said he supports Detter's comments and said he has been very pleased in the process and cheered the Commission, noting that they have followed the public's input in the process. He said he was pleased in hearing the prior discussion on the landmark trees and hoped the Commission continues to look closer at the landmark tree ordinance in hopes of toughening it up. He said he hoped they consider the D2 zoning on William Street and he liked the shadow setback idea to allow for more of a transition to the historic neighborhoods as well as the reconsideration of premiums after 2-5 years. He complimented the Commission on listening to the community and reflecting their comments in the recommendations.

Christine Crockett, 515 E Kingsley, thanked the Commission for their process in reviewing the A2D2 in terms of the proximity to the residential areas. She said she felt it very important to look at the property on the corner of William and Main and keep in mind that while it is viewed as a gateway to the downtown, it is also adjacent to a residential area and D2 zoning is as valid as any for something for the downtown area, given the historic residential neighborhoods nearby. She said she was happy to see them re-consider the use of premiums and standing for what is right for their community. She said it is important to make sure they have affordable housing to keep a real urban mix in the community that is as vital as having the urban density to make this city lively and viable.

Eleanore Linn, 1321 Forest Court, read from a prepared statement (attached in packet) regarding the construction and finished project of The Landmark high-rise and how it has affected her neighboring property and the area. She supported the down-zoning to D2 of several of the parcels reviewed by the consultant.

Mark Gerstein, 1321 Forest Court, read from a prepared statement based on discussion at the previous City Planning Commission's working session. He supported the rezoning of the DTE property on William Street and Main to D2 since it abuts the historic residential neighborhood on South Fourth. He supports limiting the maximum height of the parcel between Sloan Plaza and Campus Inn, and also supported setbacks of at least 25 feet from Sloan Plaza. He supported the suggestions of shadow setbacks and stressed that there should always be a buffer interface between D1 zoned parcels and those zoned R. He urged that the parcel on Willard St, be re-examined since there are small houses across the street, and that the parcels on South Thayer be re-zoned to D2 so that the iconic structures never be overshadowed by D1 zoned high-rises.

Andy Klein, one of the owners of the DTE-leased building at 425 S. Main, said he respects the comments of others and realizes that no one wants to live next door to a building that is so destructive that it ruins their way of life, and he has never suggested that they should. He said there are currently no plans to do anything with the DTE site, noting that it has been in his family for over 30 years and that is how it is going to stay. He said whatever they do with that site in the future will be done with respect to the residents and also to protect the value, as the location truly is a landmark and gateway to the downtown. He said everything he has read about the proposed zoning change from D1 to D2 is a draconian measure; a 70% reduction in height is a bad reaction to other proposed distasteful buildings. He said an acceptable height reduction could be lowering it by 40%. He felt limiting the development options of a key site in the City doesn't make a lot of sense, adding that they have contributed millions of dollars to the tax base and will continue to do that. He said he wants his voice to be heard for the record that anything other than a flexible alternative for the site doesn't make sense since there are no simple solutions to complex problems.

Doug Kelbaugh, E. Ann Street, spoke in support of continuing the productive discussion and requested that the Commission ask City Council for more funds to continue the study and look further at the wise decisions made on parcels along East Huron, like between Sloan Plaza and Campus Inn, adding that it should at least be extended to Main Street or Ashley Street or even First Street. He said given that Huron is a special street, wider than any others and a State highway, it deserves special attention and the inclusion of a hybrid zoning. He said he liked the recommendations for Division and Ann Street, and for Main and William. He said on the other end where William Street hits State Street, the church site also needs to be looked at, as does Thayer Street.

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

Moved by Briere, seconded by Klein, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council adopt the "Resolution Regarding Recommended Downtown Zoning Amendments" dated November 19, 2013.

COMMISSION DISCUSSION:

The Commission agreed to review the 11 points in the resolution recommendations in a backwards order, starting with number 10.

Briere asked Rampson about the difference between payment-in-lieu and the creation of affordable housing, and if there is any scenario that she knows of that the City attorney supports that the Commission can embrace regarding the cash-in-lieu.

Rampson responded that the PUD [Planned Unit Development] has an option for making a contribution in-lieu of the required affordable housing; with the support for doing this because of PUDs are special cases under State law. She said what they are discussing here is a standard zoning district, which is incentive based, so no one is required to provide affordable housing. They could require affordable housing if a developer opts to take an premium option. She said the question becomes if there is a nexus between that requirement and making a payment towards something that is not necessarily going to result in affordable housing in the downtown. She suggested that a more direct recommendation might be to say that the contribution needed to go into a fund for housing in the downtown only. She noted that anytime you are asking people for money in exchange for approval of zoning, there is some discomfort about that. She said affordable housing requirements have been instituted throughout the country. but would be a bit of a stretch in Michigan, with the contribution in lieu being the most difficult piece to support

Clein said while he wasn't sure they could solve the legal questions, he asked if the requirement was to get a developer to provide the affordable housing somewhere in the city, not necessarily in the downtown, with the option of a contribution in-lieu of them building the affordable housing, if that made it easier.

Rampson said, no, it would probably make it more difficult given the nexus between building affordable housing in the downtown or at the perimeter of the city. She said it's easier to make the argument for the need for mixed housing in the downtown when the affordable housing is in the downtown.

Clein said he is all for affordable housing in the downtown but is aware that it's more affordable to build it outside of the downtown.

Rampson said the issue becomes that one would create an island within the City where people have determined it is not appropriate to have affordable housing.

Briere said that at the previous night's Council meeting, they revised the ordinance requiring, from tax year 2014 forward, that the DDA put \$ 300,000 aside [increasing for every year at the indexed rate] for affordable housing in the downtown area within a ¼ mile of the DDA's boundaries. She said it will be a challenge for the DDA, but the goal is that we are dedicated to creating affordable housing in the downtown. She said it would be lovely if we could figure out a way of putting contributions into that fund to get affordable housing in the city. She asked if the City can require affordable housing as a gateway for a housing premium.

Rampson said she believed that they could, since the premiums are an added option.

Briere said, but then again we might be discouraging housing all together.

Westphal said the DDA approach is interesting in obtaining an even and fair contribution based on how valuable your building is. He said earlier they have looked at the AMI and unit size for affordability.

Bona said she felt that the most effective affordable housing is when it is incorporated in mixed income buildings. She said if we are collecting funds in an affordable housing fund and steering that in a direction to an area where it is more affordable to build housing, we are actually segregating. She said she thought they needed to do some of both, adding she liked the DDA idea mentioned since it is a broader approach. She said they might consider asking for more time to study options for affordable housing in the downtown and work together with the Housing and Human Services Advisory Board.

The Commission members agreed on keeping number 9 as written.

Westphal said he was in favor of adding certain energy efficiency or LEED standards to number 7, to encourage premiums.

Bona suggested adding open space and plazas and landscape requirements.

Peters suggested adding a shading mitigation premium.

Rampson asked if there was a desire that shading mitigation be a premium or a requirement, noting that if it was a premium, you would be moving in the direction of allowing developments to be taller, which defeats the goal.

Briere said it should be a requirement.

Giannola asked if they wanted to add active uses on the first floor as a premium.

Westphal said that this language was already created by the A2D2 Committee.

Rampson explained that certain streets were identified as "active streets" during the A2D2 zoning discussion.

Woods commented that they needed to be careful in adding premiums, as it would bring them circular in their intent, and allow taller buildings.

Westphal said he is taking some comfort in that they will be able to add shading regulations and height caps.

Clein said while it would be helpful to have a matrix worked out for the shading, it would be counterproductive to add it as a premium. He suggested adding LEED silver certification for energy efficiency.

Rampson said LEED silver, gold and platinum certification were added by A2D2 in 2009, with the platinum giving an additional 200%. She noted that 2 projects had originally proposed using these premiums but after revisions they removed their LEED silver premiums. She further explained that if they reduced the residential premium down and someone wants to get to maximize their floor area numbers, they would look to the LEED certification.

Westphal asked Clein if he was thinking of LEED as a gatekeeper requirement, or going above and beyond.

Clein said he wasn't opposed to making it a gatekeeper, but he suggested it be added as a premium to number 10.

Rampson explained that going through the certification process is a cost in itself and that is why they created with the gatekeeper requirement for 2 energy and atmosphere points, with an independent report at the time of building permits to show that those points are met.

Westphal asked Bona if the option suggested seemed like various options to measure the efficiency and atmospheric points, so we forgive the cost of doing full certification. He added that was not his purview.

Bona said she would encourage that, adding that it was difficult for them to decide

tonight how many points each certification would be worth, noting that the idea was to identify types of premiums and others they are looking at. She said adding energy efficiency certification as a gatekeeper is something she would vote for.

Briere asked if you build to a certain LEED standard and you don't get certified there is a financial penalty for not getting that certification. She said when we grant premiums and allow a building to have a larger impact on the community, we are expecting to reap a benefit; she suggested they look at the end result to see if they reap that end benefit and add a cash penalty if it fails. She said they aren't going to tear off floors, and historically they have seen many beautiful projects site plan approved, but the finished projects were not so beautiful.

Westphal said the building must be completed before they can measure the energy efficiency for the LEED certification standards to be met.

Westphal commented that if they make design review mandatory, he is taking comfort in that they will decide when and if public spaces would be appropriately located.

Giannola said she was very supportive of number 7, but only if they replace that decrease in residential premiums with something else. She suggested combining numbers 7 and 10.

Westphal said he is cautious to react to limiting residential units because of what they have seen happen lately with the building in the downtown, pointing to the direction of the Master Plan.

Bona agreed on combining numbers 7 and 10, noting that they have included reevaluation to determine the effectiveness of the premium incentives after 2-5 years.

Parekh asked what happens after Council adopts the resolution and the possibility of setting a certain time for the reevaluation, or if the intention was to leave it open-ended. He asked if in the meantime it is status quo.

Rampson explained that Council would adopt the recommendations and then direct the Commission to work on the specifics. She said the Commission is sending their evaluation to Council and once Council says what they want, it becomes the Commission's task to create those ordinance amendments.

Westphal said a more appropriate word instead of status quo would be limbo, since Council has said to the development community that D1 zoning is under review so you are not guaranteed to get what is in the zoning ordinance right now.

Rampson commented that legally what they have in the zoning ordinance right now is what developers would have to abide by.

Peters said that his suggestion on shading mitigation could be a way of getting developers to be more creative in their designs to allow more sunlight.

Clein suggested they accept number 5 and that number 6 is too vague and be deleted, and that in number 7, the formula be somewhere in between 0.75 and 0.25, and leave number 8 to express their intent and leave the final say to Council and the Attorney's Office, and number 9 should be left as is, and number 10 should have the recommended additions of open space, landscape, active use along identified streets, affordable or workforce level housing.

Giannola agreed with Clein, suggesting that in number 7 they encourage the use of other premiums but not give a value or percentages.

Briere suggesting revising the residential premiums to be more specific about the types of units that will be eligible for premiums and reduce the residential use premium and increase other premium options.

Peters supported Briere's direction, adding that number 6 provides an additional backstop for Council to consider.

Briere said it would be helpful to Council to be broader when developing their recommendation.

Clein agreed with Briere that it was important to show the Commission's intent and not specifics necessarily.

Woods agreed.

Rampson noted that the point was to send something to Council that shows a framework and a consensus on intent and direction.

Briere cautioned about being too specific in their recommendation, since the work still needs to be done.

Adenekan agreed with Briere.

Bona said she was very opposed to having number 6 included, because she didn't believe they should be regulating the interior of the buildings. She said they want more flexible buildings that are meant to last. She said they want to encourage developers to listen to their neighbors and show the Commission alternative unit configurations just to prove that they have thought about it.

Clein agreed with Bona on the futility of trying to enforce and police the interiors.

Parekh agreed with Clein and Bona and that they should delve deeper on specifics when and if requested to do so by Council.

Moved by Woods, seconded by Bona, to remove number 6 from the recommendations.

Westphal said since this item was included in Council's request, he would leave it up to Briere to convey the Commission's direction on this item.

Briere said Council's request was to look at the premiums.

On a roll call, the vote was as follows with the Chair declaring the motion carried.

Yeas: 7 - Bonnie Bona, Wendy Woods, Kirk Westphal, Diane Giannola, Kenneth Clein, Sabra Briere, and Paras Parekh

Nays: 2 - Eleanore Adenekan, and Jeremy Peters

Giannola said she wanted Council to know that the reference to 'compensate' meant 'replace'.

Parekh asked if the Commission wants to include a sense of direction where the Commission is headed so Council members are not guessing.

Bona said yes, such things as open space, active use, landscaping and increased energy efficiency, workforce housing, and balconies.

Peters asked for the motion to be repeated.

Moved by Clein, seconded by Giannola, that item 7 should read; Reduce the residential premiums from 0.75 square feet to a number to be determined with the goal of encouraging the use of other existing or proposed premiums to compensate for this reduction.

Parekh offered a friendly amendment to remove reference to 'a number' to be determined. Accepted by Giannola.

Clein read the revised item 7; Reduce the residential premiums with the goal of encouraging the use of other existing or proposed premiums to compensate for this reduction, such as increased energy efficiency certification, open space with landscape, active ground floor use, balconies, and workforce housing.

Woods asked for a possible specific example of how this would work with a project.

Clein offered a scenario that a developer came with a project with the aim of going for LEED certification and balconies, they could receive some of that premium back, which is yet to be determined, that was offered by the residential. He said what they need to be careful with is not allowing these options to be added up and giving them more than what they want to offer them.

Rampson said the more options you provide, the more you dilute in a way. She said if you really want residential, as we have done in the past, then you make that the biggest premium. She said one example might be the former YMCA lot that will be coming forward; if you change the premiums so that open space has a higher value and Mr. Dahlmann has indicated that he is going to provide more open space than that project might use that premium instead of a flat residential premium, or if the residential premium is reduced, and he wants to do more residential than that would allow, then he would have to integrate something else like LEED silver. She said what the Commission is doing is pushing a developer to get more creative in getting to what they want by choosing from those options.

On a roll call, the vote was as follows with the Chair declaring the motion carried.

Yeas: 9 - Bonnie Bona, Wendy Woods, Kirk Westphal, Diane Giannola, Eleanore Adenekan, Kenneth Clein, Sabra Briere, Paras Parekh, and Jeremy Peters

Nays: 0

Moved by Bona, seconded by Peters, that item 8 should read: Review options, with assistance from the Housing and Human Services Board, for providing additional affordable housing within mixed income projects and through a fund.

Parekh asked if they need to specify a certain district such as D1 or D2.

Bona said she felt it was important to leave it open to look at the whole downtown.

Woods felt it should reflect back to the D1 and D2 districts.

Moved by Woods, seconded by Parekh, to revise the amendment to Number 8

to remove specific reference to the Housing and Human Services Board.

Clein said he didn't feel strongly either to remove or include the reference, but felt the Commission had the ability to seek assistance from outside agencies as needed.

Parekh said he couldn't tie the two items together.

Bona said the options are that they either provide affordable housing within their project or they provide money to and through the fund.

Parekh said it would be easier for him to have clear reference to money in-lieu versus fund.

The Commission discussed the reference to the HHSAB in number 8.

On a roll call, the vote was as follows with the Chair declaring the motion defeated

Yeas: 1 - Wendy Woods

Nays: 8 - Bonnie Bona, Kirk Westphal, Diane Giannola, Eleanore Adenekan, Kenneth Clein, Sabra Briere, Paras Parekh, and Jeremy Peters

Moved by Woods, seconded by Clein, to include reference to D1 and D2 districts in number item 8.

Clein suggested adding 'reference in reviewing the affordable housing premiums in the D1 and D2 districts'.

Bona said she intentionally left it broad to include more options.

Westphal said the reference to affordable housing had been removed so he understood why Bona didn't want it in there.

Briere asked for verification that the Commission was headed away from premiums and towards required affordable housing.

Clein said he stands corrected.

On a roll call, the vote was as follows with the Chair declaring the motion carried.

Yeas: 7 - Wendy Woods, Kirk Westphal, Diane Giannola, Eleanore Adenekan, Kenneth Clein, Sabra Briere, and Paras Parekh

Nays: 2 - Bonnie Bona, and Jeremy Peters

Moved by Clein, seconded by Giannola, to change item 8 to read: Review options in the D1 and D2 districts, with assistance from the Housing and Human Services Advisory Board, for providing additional affordable housing within mixed income projects or through other funding mechanisms.

The Commission agreed to accept Numbers 1, 5 and 11 as is.

Moved by Bona, seconded by Peters, to amend number 2 to read: Reduce the maximum height in the East Huron 1 Character District to 120 feet and add a tower diagonal maximum and consider a "shadow setback" requirement to limit shading on adjacent residential properties to the north.

Rampson explained that if Number 2 would be put forward, it would impact everything along the East Huron 1 character district in that everything would be moved down

from 180 feet down to 120 feet in height.

Westphal said that he wouldn't feel comfortable about tackling the parcels that were outside of the specific charge of Council, noting that the property owners were not specifically interviewed on this issue.

Giannola said she was not supportive of the shadow ordinance because of how the smaller items, like trees can impact the neighbor's parcel. She said we don't own the sun and need to consider the ramifications of such ordinances.

Briere said she agrees with Giannola because of the investment people make in solar shingles that might be blocked by neighboring projects, adding that they need to balance individual rights over the community's rights.

Peters said he didn't think it was fair to talk about trees when it was pretty clear that they were talking about structures in the downtown; he was not in support of removing the shadow reference.

Westphal commented that this was a whole new tool and cautioned the Commission in including it.

Parekh said he was concerned that shadows can impact properties throughout the city and not specifically in the downtown.

Rampson clarified that this was intended to be a building setback, whereas Briere was speaking on solar access law, which this reference was not intended to be used as, but rather a dimensional requirement for buildings. She said the Commission might be able to come up with a better term for 'shadow setback'.

Clein said he appreciated the clarification, noting that the subject of neighboring responsibilities is a completely different subject.

Bona said she would be willing to accept the term or suggested using the term 'step-back', and those sites, when developed, mimic the interface, and reduces the severity of D1. She said if the shadow setback isn't included then she felt that the north side of East Huron needs to be D2.

She said she had concerns that they might be creating something that is impossible for development of parcels, similar to what happened in the R4C district.

Westphal asked how the Commission felt about approaching the new tool.

Rampson commented that the term was 'off-set', instead of 'step-back'.

Bona agreed.

Briere said it seemed like they were rewriting the character district of East Huron 1, and too ambitious to tackle at this evening's meeting, given the lateness of the hour.

Westphal said he was inclined to go with the Perdu Report.

Giannola suggesting removing the reference to the new concept of shadow setbacks in number 2.

Bona said she would like to keep the concept in there as a consideration.

Giannola said the diagonal is still the most important to her and the shadow concept

hasn't been discussed enough to know what the definition is.

Peters strongly suggested keeping the reference to the shadow setback in there, as the recommendation moved to Council, given the input from the residents in the neighborhood on the issue.

Moved by Clein, seconded by Briere, to amend number 2 to read: Reduce the maximum height in the East Huron 1 Character District to 120 feet, include a tower diagonal maximum and consider a step back requirement to reduce the shading of residential properties to the north. On a roll call, the vote was as follows, with the Chair declaring the motion carried.

Yeas: 9 - Bonnie Bona, Wendy Woods, Kirk Westphal, Diane Giannola, Eleanore Adenekan, Kenneth Clein, Sabra Briere, Paras Parekh, and Jeremy Peters

Nays: 0

Clein suggested moving number 3 to an additional resolution in the future that might include such things as looking at the zoning of other D1 areas that are abutting historical zones.

Bona agreed, adding that this block is a bit misleading in that the neighborhood to the north of this is residential use, it is not zoned residential but D2 and has smaller structures on it.

Westphal said he would be willing to strike the number and add another number to allow them to study additional areas not named in the original charge.

Moved by Clein, seconded by Bona, to strike number 3. On a roll call the vote was as follows, with the Chair declaring the motion carried.

Yeas: 9 - Bonnie Bona, Wendy Woods, Kirk Westphal, Diane Giannola, Eleanore Adenekan, Kenneth Clein, Sabra Briere, Paras Parekh, and Jeremy Peters

Nays: 0

Moved by Clein, seconded by Briere, to add an additional number to read: Request that the City Planning Commission recommend to City Council which properties currently zoned D1 and directly abutting or within 25 feet of a residential or historic district be rezoned to D2. Alternatively the City Planning Commission may recommend an approach to moderating the size, height and mass (of buildings that may be constructed in these sensitive locations) by modifying requirements of overlay districts.

Briere said one of those sensitive areas is Main Street where it abuts residential zoning. She agreed with Clein in that they should look at the parcels.

Giannola said that given the many smaller historic districts in the City that abut D1, you would be left without any D1 parcels

Peters said that he supports reviewing the parcels that abut the residential area, as well as historical parcels since he is suggesting reviewing them but not necessarily changing anything to those parcels.

Clein read amended number to read: To review zoning of current D1 properties, transitioning from the downtown core and directly abutting or within 25 feet of residential zoned or historic districts.

Rampson commented that they have already reviewed the residential parcels that abut D1 districts.

Clein read amended number to read: Consider reviewing zoning of properties currently zoned D1 that transition from the downtown core to the surrounding areas.

Bona said she felt the addition was too vague since the Commission didn't have a plan for the direction.

Briere said that Council will hear from people who have also shared their concerns and feeling with the Commission and committees. She said the Commission can recommend to Council there are areas that need to be further reviewed without listing specific ones and let Council determine which ones need to be addressed.

Bona asked if there was any way of putting the recommendations before Council and having them give specific directions instead of just saying Yes, you can study all the parcels.

Giannola said she would like to have it left out for the recommendations and later have the public be notified when and if a review is done and if the sites have potential problems.

Clein withdrew his motion. Briere agreed.

The Commission agreed to continue the discussion of this item to the next meeting.

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

12 COMMISSION PROPOSED BUSINESS

13 ADJOURNMENT

**Moved by Briere, seconded by Adenekan, to adjourn the meeting at 12:40 p.m.
On a voice vote, the Chair declared the motion carried.**

Kirk Westphal, Chair
mg