



# City of Ann Arbor

## Formal Minutes

### City Planning Commission

100 N. Fifth Avenue  
Ann Arbor, MI 48104  
<http://a2gov.legistar.com/Calendar.aspx>

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Tuesday, October 19, 2010

7:00 PM

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

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

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

#### CALL TO ORDER

**Present** 9 - Bona, Pratt, Mahler, Carlberg, Woods, Dereziński, Briggs, Westphal, and Giannola

1 ROLL CALL

2 INTRODUCTIONS

3 MINUTES OF PREVIOUS MEETING

*None*

4 APPROVAL OF AGENDA

Moved by Pratt, seconded by Carlberg, that the agenda be Approved as presented. On a voice vote, the Chair declared the motion carried.

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

**a City Administration**

*None*

**b City Council**

*Derezinski reported that the City Council had approved the Medical Marijuana zoning amendments at their first reading. He noted that the City Council will need to make some amendments to the proposal before their second reading. He explained that the licensing process will be put forth for initial review prior to the end of the moratorium.*

*The City Council had also approved the Corridor Planning budget which was a carry over of \$155,000.00 from last year budgeted funds, allowing for the completion of the Master Plan as well as studying the corridors of the City. He relayed that the City Council had inquired if the City Planning Commission had changed the direction of the City Council in regards to what issues they should be working on. He explained that Planning Manager, Wendy Rampson and other staff had assured the City Council that the various issues were all a part of the bigger picture, specifically the corridor studies which affected the City's Master Plan.*

*Derezinski reported that the City Council postponed taking action on the Area, Height and Placement ordinance in order to discuss minor issues involving height limits in areas that are not close to residential neighborhoods. He explained that the second reading before City Council was scheduled for in 30 days.*

*He explained that the non motorized path on Washtenaw Ave was approved, as was the two year Glen Ann Place PUD site plan extension.*

**c Planning and Development Services Manager**

*Rampson brought the Commission's attention to the revised staff report before them on Briar Cove. She explained that several Commissioners as well as Planners are attending the Michigan Association of Planning Conference this week. She reminded them of the Landscape Ordinance public meetings scheduled for October 21 at 3:00 PM as well as several other meetings of importance in the coming week.*

**d Planning Commission Officers and Committees**

*Commissioner Derezinski reported that the City Council as well as staff had met to discuss the Washtenaw Avenue Corridor study and the possibility of recommending the establishment of an Improvement Authority. He explained that the participants were looking for an initial indication of consensus in the establishment of a non-binding step that the communities along the corridors would take, to start looking at the possibility of concentrating efforts to establish an authority to this heavily congested area.*

*Commissioner Westphal reported that the Downtown Design Guidelines Task Force continues to meet with the next meeting on October 20 at 5:15 pm at the offices of Mitchell and Mouat on Fourth Ave.*

*Commissioner Pratt reported that the Master Plan Revisions Committee will meet next Tuesday at 5:30 PM at City Hall.*

**e Written Communications and Petitions**

- e-1**    [10-1092](#)    Various Correspondence regarding Arbor Dog Daycare.

**Received and Filed**

- e-2**    [10-1093](#)    Email from Sam Mendez regarding Medical Marijuana.

**Received and Filed**

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

*None*

- 7**        **PUBLIC HEARINGS SCHEDULED FOR NEXT BUSINESS MEETING**

*None*

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

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

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

**09-1234** Public Hearing and Action on Arbor Dog Daycare Special Exception Use, 6.46 acres, 2856 South Main Street. A request to amend the approved special exception use to increase the total floor area from 3,200 square feet to a maximum of 8,800 square feet, to add five parking spaces for a total of 13 spaces, to extend the hours of operation, and to allow a maximum of 125 dogs on site and a maximum of 20 dogs outside at any one time. [Postponed at 12/5/09 Meeting] - Staff Recommendation: Approval

*Chris Cheng briefly reviewed the staff report and explained the petitioner's revisions made to the original request.*

**PUBLIC HEARING OPENED.**

*Jon Svoboda, 2856 South Main, Ann Arbor, spoke on behalf of the petition as the co-owner of the business. He wanted to clarify recent misconceptions in the news. He stated that they have been in their current location for four years and have won awards in 2008-2009. He explained they don't consider themselves a traditional kennel. He noted they have staff on-site 24-hours/day supervising the dogs in a cage free facility. He noted that they are not requesting to expand their outside dogruns hours, but are looking to reduce their request of the amount of dogs in the dogrun by 40% from their last request before the City Planning Commission, in order to maintain a positive relationship with their neighbors.*

*Svoboda stated that their facility building is sound-proofed and there have not been any issues with the noise from dogs inside the facility, and he didn't anticipate any. He said that the original concerns that were brought to the City Planning Commission were concerns with the*

*appearance of a build-out. He felt this was a misunderstanding since they will not be adding onto the structure or building-out the existing facility; it is staying the same. He also stated that they would not be putting 125 dogs in the dog-run at once; rather have reduced that to 15 dogs at the same time. He noted that the concerns with possible odor were related to the large increased amount of dogs in the dog-run at the same time. He expressed that they have also committed to double-bagging which would further assist with odor control.*

*Svoboda stated that he had spoken with a neighbor who had issues with their property values decreasing due to the facility, but stated that he didn't have a response to that. He also expressed that after Commissioner Carlberg had brought the issue of the barking dog to their attention they had an emergency staff meeting to review the facility's policy on barking dogs that are in the dog-run. He said that their policy has always been to bring any dog who exhibits prolonged barking inside the facility.*

*Svoboda expressed that they have received support from the Ann Arbor community in favor of their proposed expansion request. They passed out a packet of information in support of their proposal to the Commission.*

*Gregory Urda, 223 Buena Vista, Ann Arbor, spoke in support of Ann Arbor Dog Daycare.*

*Linda Coon, 935 Wildwood Lane, Ann Arbor, spoke in support of Ann Arbor Dog Daycare through reading a letter from a neighbor; Mr Shah, President of the Balmoral Park Association.*

*Margaret Svoboda, 2856 South Main, Ann Arbor, spoke on behalf of the petition as the co-owner of the business. She explained that she had gone door to door on three separate days visiting neighbors in the Balmoral Condo Association complex providing her business cards with her cell phone number on them. She reiterated that they wanted to be good neighbors and follow-up on complaints they receive. She read a letter from Leslie Camel, (a client of the Dog Daycare who couldn't be present) who was in favor of the petition.*

*Tim Thieme, 112 W. Oakbrook Drive, Ann Arbor, resident at Balmoral Condo Complex, complimented the Ann Arbor Dog Daycare as well as brought concerns regarding the effect the Dog Daycare has on property values and the noise factors. He stated that while not all units are affected by the noise, the end units act as a sound block for the rest of the building. He expressed his concern with the noise, specifically with the proposed increase in dogs. He stated that he would like to come up*

*with a solution to a better sound barrier through maybe having the dog-run located behind the facility. He questioned if the business was currently operating under a Special Exemption Use why would that use have been allowed in a residential area. He felt that the Dog Daycare should be allowed to expand but in a more rural area.*

**PUBLIC HEARING CLOSED 7:35 PM**

**Held and Continued to the City Planning Commission due back on 12/21/2010**

**Moved by Woods, seconded by Commissioner Derezinski that the Ann Arbor City Planning Commission, after hearing all interested persons and reviewing all relevant information, finds the petition to substantially meet the standards in Chapter 55 (Zoning Ordinance), Section 5:104 (Special Exceptions), subject to: 1) limiting the size of the operation to a maximum of 10,000 square feet; 2) limiting the hours of operation from 6:00 a.m. to 8:00 p.m. Monday through Friday and 8:00 a.m. to 8:00 p.m. on weekends and allowing indoor boarding during the hours the day care is closed; 3) limiting the number of dogs to 125 with no more than 15 dogs outside on the site at one time and limited to the hours of 10:00 am to 5:00 pm; and 4) occupant complies with Fire Department requirements for additional fire extinguisher, No Parking Fire Lane signs on site and a future Fire Department review if the business changes use, and, therefore, approves the Arbor Dog Day Care Special Exception Use.**

**COMMISSION DISCUSSION:**

*Giannola stated that she was willing to reconsider the petition, because she believed there would be additional information brought to the Commission. She felt that the video was misleading and didn't prove the petitioner's case. She would've liked to have seen 20 dogs put in the outside dog-run and the video showing those dogs not making noise; however, what the video did show was barking dogs inside the building, and only 6 dogs outside in the dog-run. Giannola said that as a scientist she likes to see proof and felt that the experiment was flawed and didn't prove the petitioner's statements. She questioned if dogs were barking inside the facility why wouldn't they also bark when they were outside in the dog-run.*

*Giannola explained that the dog-run seems to be located very close to the Balmoral Condo buildings and since she felt there isn't a recourse for the public related to the noise ordinance, after the Commission would approve the expansion, she felt she couldn't change her vote on the matter. She noted that she can't support the "unringing of a bell".*

*Westphal expressed that he, too, found himself in a similar position. He had visited the site and the Balmoral Condo complex during a 30-minute lunch break and had not heard dogs barking in the outside dog-run, but had heard faint barking coming from the inside. He reiterated the barking that had been noted by another Commissioner earlier and stated that he felt the petitioners are making good efforts to address the barking issues.*

*Westphal stated that his charge as a Planning Commissioner was to make sure the petition met the Special Exception Use standards. He noted that Item 4 on that list had not been met by the petitioner; specifically indicating that uses ...'Will not be detrimental to the peaceful enjoyment, economic value or development of neighboring property, or the neighborhood area in general;'. He said that since Planning staff wouldn't have been made aware of the noise issues and complaints when they recommended approval of the petition, since they would've been lodged with another department, he felt that the public hearing forums were an opportunity for these issues to be brought forward by the neighbors.*

*Westphal said that he would be willing to rehear the petition at a future date, but didn't feel that expanding an operation that currently doesn't meet the standards could be addressed now.*

*Pratt asked if he was correct to understand that the Special Exception Use would be granted for the property as long as the same use is on-going, and not specifically for the petitioner and their business.*

*Cheng responded that he was correct, and if the property would be sold and another use would take effect, then the granted Special Exception Use would no longer be valid.*

*Rampson explained that the Commission does have the ability to add conditions to the Special Exception Use to mitigate any foreseeable impacts. She noted that the Commission could introduce and establish trigger points that would be included in the outlined usage.*

*Pratt noted that his concern with this Special Exception Use was with possible future issues involving zoning.*

*Commissioner Briggs asked if they could add a condition that would allow the Commission to revisit this Special Exception Use after a certain time lapse.*

*Rampson responded that they could add any condition that would mitigate the impacts that the Commission have identified, such as those that already have been suggested in the motion; i.e, hours of operation*

*and the Fire Department's requirements. She explained that the Commission would have to consider if they could approve the petition with specific conditions placed on the usage or if the request doesn't meet the criteria for the usage in this particular area, in that it is adjacent to residential and therefore incompatible.*

*Briggs stated that she felt the owners of the business had done their best to address and correct the issues as they have been brought to their attention. She felt that she would be more comfortable with the proposal if the Special Exception Use could have additional conditions added to it which would allow the Commission to revisit the issue at a later date. Briggs expressed that several of the concerns that had been brought forth seemed to her to be fear-based.*

*Derezinski agreed with Briggs in that the petitioners have done their best to address the concerns and even changed their internal policies to be accommodating. He felt that it was important to weigh the concerns that have been brought to the Commission with those many individuals who are in favor and support the proposal. Derezinski noted that it is rare to see an applicant spend as much time as the Svobodas have done on visiting their neighbors and meeting the concerns. He compared the petition with the Zingerman's expansion project and how neighbors brought valid concerns yet were in support of the company and what they had planned. He noted that it was rare to have a petition come before them that didn't also have objections and concerns brought before them. He stressed that this business was an existing business that wanted to expand and in so doing addressing 99.9% of the concerns. He was in favor of the petition and felt it should be approved.*

*Commissioner Bona said she agreed with Commissioners Westphal and Giannola that there were issues with this petition that were real and present today and not simply something that might be anticipated for the future. She stated that she would be in favor of granting the request if there was a way for the Commission to add a condition that would revoke the Special Exemption Use if certain conditions, [such as bringing indoors the barking dogs at a certain point] weren't met in the future she would like to see that; however, she noted that she wasn't sure how one would measure and quantify such a condition.*

*Bona noted that she thought the business was a wonderful business and she believed that the owners were doing everything possible to try to address the issues brought to their attention, yet she was concerned that the current owners might not always be the owners of the business under discussion. She said that she would feel differently if the request was doubling the amount of dogs to 50, but given the large volume in this request she had difficulty supporting the request as presented.*



*Commissioner Carlberg stated that she thought they had a logistic problem due to the location of the dog-run, and if dogs are barking in the dog-run it will inevitably be heard at the Balmoral Condo Complex. She reiterated that the Commission had asked the petitioners if the dog-run could be relocated to another place in order to possibly mitigate the noise effects.*

*She said that she didn't feel that this situation was one in which the majority rules. She felt they would be allowing a nuisance to continue, whether that would be bothering one or five neighbors, which would be contrary to the Special Exemption Use Standards.*

*Carlberg hoped there would be a way for the petitioners to be able to deal with complaints received on barking dogs, and while she appreciates the efforts of the owners having them sign a policy regarding barking dogs, she noted that the Svoboda's had stated that they already had such a policy but it wasn't being followed. She said that they would almost have to have a staff person outside in the dog-run area in order to be able to hear the barking on the outside since she wasn't sure one could hear the external barking if you were inside with the internal barking going on. Carlberg questioned how such a policy could be carried out without a staff person outside whenever dogs were present.*

*She felt it might be an unenforceable policy and stressed that she didn't feel it should be the neighbor's responsibility to see if the owners were carrying out that policy. Carlberg said that neighbors shouldn't have to call to say there was a problem with barking; that should be the responsibility of the owners of the business.*

*Carlberg stated that she would suggest that the request be tabled for a month to allow the owners to see if they can implement the policy and during that time to see if we receive any complaints from the neighbors about barking dogs in the dog-run. She commented that currently it is impossible to deny that a nuisance exists but one month would allow time for re-assessment of the situation.*

*Giannola noted that the actions of a dog barking isn't considered fear-based; it's fact. One doesn't anticipate dogs barking, it's a fact that they do. She felt it would be an easier standpoint in dealing with the situation if the Commission realized that dogs bark and since they do, how is the petitioner going to deal with the barking, which is the nuisance issue they are discussing.*

*She stated that she felt it becomes a simple matter of multiplying the current noise, that 125 dogs will make more noise than 25 dogs.*

*Briggs asked the petitioner to respond to a few questions. She asked if there was always a staff person outside with the dogs in the dog-run.*

*Svoboda responded that there are two staff persons present outside with the dogs.*

*Briggs also asked if the petitioner's new policy allowed for each staff person to make individual decisions on a case by case basis on barking dogs, whereas before they had to have a supervisor make the decision.*

*Svoboda answered, yes.*

*Briggs asked for verification that the petitioner had changed their request and were now asking for permission to have 15 dogs in the dog-run at the same time.*

*Svoboda responded that was correct.*

*Briggs asked if there was any possibility of relocating the dog-run on the property.*

*Svoboda explained the present location of the facility on the lot and responded that given the lot lines they wouldn't be able to relocate the run.*

*Briggs asked if there was any additional sound proofing that could be done to the area of the dog-run.*

*Svoboda said that if they were to fill in the gaps in the current fencing with strips of solid wood, it would only prevent the sound from travelling northward, and wasn't guaranteed to help with the noise.*

*Briggs asked if the petitioner would be amenable to reducing the number of dogs to less than 125 dogs total.*

*Svoboda said that he could bring the total amount of dogs in the dog-run down to 11 but it wouldn't allow them much of a break time between dog-run rotations, and he didn't believe he could make the dogs go to the bathroom faster. He stated that he was willing to lower the total number of dogs at the facility to 100 if that would satisfy the Commission.*

*Briggs clarified some previous comments and stated that she realized there were legitimate concerns from neighbors, and she would be in favor of adding additional conditions that would not allow certain*

*conditions to transfer to a new property owner or business owner or to take into consideration a specific number of noise complaints that if logged with the City they would be brought to the attention of the Commission and that would trigger a review of the Special Exemption Use of this petitioner that could result in revisiting the granted use.*

*She expressed how impressed she was with the efforts of the petitioner and how much they have reached out to the community in trying to be a good partner to their neighbors. Briggs said that in the neighborhood where she lives she also hears dogs barking occasionally, and that isn't a problem, but the problem arises when the barking becomes continuously. She said when neighbors hear continuous barking and it begins to grate on them, it is a problem that needs to be addressed.*

*Commissioner Woods stated that she appreciated the efforts of the petitioner to reduce the number of dogs as well as the hours of operation. She felt that they had really gone that extra mile to try to be a good neighbor. Woods also said she appreciated the neighbor coming forward with their complaints about the barking noise, but wondered how the Commission would look at the situation if they were to deny the request to allow the business to expand and then found out that the one particular neighbor had moved and there wasn't a complaint anymore. She said she respected that the rights of a minority have to be taken into consideration as well.*

*She also noted that she was concerned that any possible profit the business might accrue from an expansion is slowly being evaporated as the Commission is taking a lot of time reviewing this petition. She stated that she wasn't sure another month would put them any closer to making a decision as the Commission seems split on the issue of the barking as a nuisance. Woods said that she appreciated the comments and suggestions of adding more conditions to the Special Exemption Use but felt that adding more conditions would only complicate the possibility of allowing the business to expand and she felt the petitioner had showed good faith in meeting the concerns brought to their attention and she concluded that she was in favor of proceeding on the action.*

*Westphal asked staff about City ordinances related to noise leaving a parcel on a commercial property.*

*Cheng responded that the Dog Daycare required a Special Exemption Use because the property in question was zoned for Office Use, and that the City had a noise ordinance that was enforced throughout the City which utilized a measurable decibel level coupled with the time of day for certain levels.*

*Westphal asked for clarification if noise was allowed to leave the parcel.*

*Rampson responded that noise levels could leave the parcel but they would have to be measured with a noise meter to determine if they reached the nuisance level. She explained that only in the M1 zoned districts noise wasn't allowed to leave the parcel.*

*Westphal noted that he was in favor of postponing taking action on the request to allow the owners to see if their new policy works, and he agreed with Bona that it was important to make sure there was a mechanism set in place that would insure the Commission's review of the issue in perpetuity allowing them to revisit the SEU annually. He didn't see any recourse for neighbors, who might complain about noise from barking dogs, with the proposed conditions listed in the motion.*

*Woods asked for clarification on the difference of noises. She asked if the issue at hand was loud noise levels versus continuous noise. She asked if there was a daycare with children crying at the same site and neighbors complained how would we handle that. She expressed that the Commission might be trying to solve a problem that they didn't necessarily have a solution to. She noted that the Commission has a charge to help residents enjoy their homes but she wasn't sure how involved the Commission should and could get with enforcement.*

*Giannola stated that for her it would be the duration of the noise that is concerning. She noted that while the barking of dogs might be enjoyable to dog lovers it wasn't enjoyable to everyone. She explained that since the request was for a Special Exemption Use to allow a dog daycare with barking dogs in an area that is not already zoned for this type of use it was the duty of the Commission to take these issues into consideration and set conditions on the use for the best of the neighborhood.*

*Woods stated that noise decibels and duration were two different things and she wasn't sure the Commission could get into a debate about what each issue meant to each of us.*

*Giannola responded that the duration of noise became the nuisance.*

*Woods responded that then we would have to debate what nuisance meant to each of us.*

*Carlberg noted that the Commission has always had to look at the noise levels from proposed child daycare facilities requesting Special Exemption Uses. She said there will be increased noise from 25 children versus 3 children playing in a backyard. Carlberg explained that a Special Exemption Use helps evaluate whether the proposed project*

*being introduced into the neighborhood is or isn't a nuisance. She reiterated that while the word nuisance isn't well defined she did consider barking dogs that continued for an hour, while she was observing the site, to be a nuisance.*

*She said that since they knew about the current existing nuisance issue before issuing the Special Exemption Use it was important for them to consider this in making their decision. She noted that it was of importance for the Commission to set the parameter of the conditions of the use before them.*

*Derezinski commented that he felt the staff recommendation did have bearing and he felt that they had done their research on this petition as well as with the petitioner before forwarding their recommendation of approval to the City Planning Commission. He reiterated that the petitioner has gone beyond our staff's request of them.*

*He also agreed with Woods in asking the Commission if they might be going beyond their scope in adding addition layers of conditions to this petition. He expressed the need to be cautious in how far the Commission pushes petitioners when in this instance he felt the petitioners have shown great goodwill in working with their neighbors. He stressed that he didn't feel that the few complaints received should merit a denial for the petitioner to expand their business in their current location.*

*Chairperson Mahler stated that he was in favor of the petition when it was to have 25 dogs outside in the dog-run at one time and he was also in favor of having 15 dogs. He commented that the City Planning Commission wasn't in the business of property values and couldn't speculate either way how this approval or denial of the petition might affect future property values in the area.*

*Mahler noted that the strong majority of the public who have brought comments to the Commission have stated that they feel the expansion wouldn't interfere with their quiet enjoyment of the property. He did not feel that the small minority should hold up this project.*

*He felt that tabling the petition for another month to see if there were complaints received would leave the petitioners to meet an impossible standard, since he felt there would always be someone complaining, especially now after all the airtime this petition has received. He noted that before the petition was brought to the City Planning Commission there were no complaints lodged against the noise from the business.*

*He agreed that it is a fact that dogs will bark, but it was also speculative*

*to think that the neighborhood would be up in arms about the expansion when the president of the Balmoral Condo Association has written the Commission to express that the Svoboda's have addressed all his concerns.*

*Mahler stated that he didn't think that the Commission could hold up the petition based on future successor ship or ownership of the business. He noted that a change of ownership is highly speculative and the Commission's decision shouldn't be based on such, as he felt that would fall under the previous comments of Commissioner Briggs regarding fear-based decisions. He said he will vote in favor of the project again, whether at 25 or 15 dogs.*

*Westphal asked if complaints received from the Dog Daycare would've been forwarded to the Planning Dept.*

*Cheng responded that he hadn't received any, and couldn't say before verifying with the Police Department's Community Standard's division.*

*Rampson commented that Community Standards wouldn't forward complaints to the Planning Department unless they knew they should be doing so because it was involving a particular use.*

*Westphal asked if there was any way to stipulate that the petition would come back to the Commission in a year to review.*

*Cheng responded that setting that as a stipulation would be possible but the Commission would have to set the parameters.*

*Westphal stated that since not everyone was aware of how and where they could file complaints he felt there were many residents who would complain if they knew with whom and where.*

*Pratt noted that there were 5 letters of opposition in their packets, and two of them were without name and address. He also noted that in one of the letters they referenced Balmoral's Bylaws as not allowing continual barking dogs at the Balmoral Condo complex.*

*Rampson stated that she would feel more comfortable checking with the City Attorney's office to verify if the Commission could approve a petition with the added stipulation that it would be contingent on an annual reviewed, before they made their decision. She explained that typically, with the Special Exemption Uses the Commission approved the use and the Commission can develop special conditions that mitigate the impact of the proposed use.*

*She cautioned the Commission that depending on the stipulated conditions they place on the use, they might find themselves back in the same situation, a year in the future, discussing the issue, after the owners have invested in their expansion.*

*Bona said that the real problem with the Special Exemption Use if granted is that it goes with the property, and while this owner is working to resolve issues, a new owner might not be as amenable. She felt that the current owner was almost, if not already, there in finding a solution to the issue of dogs barking outside while in the dog-run. She didn't feel that setting a condition of an annual review doesn't resolve future issues with possible turnover to a new business owner.*

*Woods said she wasn't in favor of postponing the decision.*

*Carlberg commented that she felt the Commission was relying on the business' policy of removal of barking dogs, and asked if that could be added as a condition; for the petitioner to follow their own policy and practice of immediately removing barking dogs from the outside enclosure. She felt this would give the Commission confidence that there is a policy in place.*

*Bona stated that she couldn't vote for the petition this evening, and would like for Rampson to be able to get further information from the City Attorney's office for the Commission which could change her vote. She said she would like to ask the petitioner if they would like a vote on their request this evening.*

*Chairperson Mahler posed the question to the petitioners, if they would rather entertain the postponement to allow the Commission to review all possibilities of the SEU or would they like a vote this evening.*

*Mr. and Mrs. Svoboda responded that they would be willing to wait. Margaret Svoboda commented that they have waited 13 months and they could wait another month. She also said that their hands are currently tied and if they don't wait another month their request will be turned down.*

*Derezinski agreed that if they did vote this evening he felt their request would be turned down and he didn't want to see that happen. He stated that a postponement would allow staff and the Attorney's office to review possible conditions, such as a longer period for revisiting the petition and the removal of consistently barking dogs.*

*Jon Svoboda said he was okay with waiting and he was also okay with the Commission adding the condition of the removal of barking dogs to the SEU, tonight. He said that their policy currently is that they are to*

*remove any dog who barks for three minutes straight. He commented that they haven't had a police complaint.*

*Bona asked if it would be possible to bring the item back to the Commission in two weeks.*

*Rampson responded that they could bring the item back on the agenda at the next City Planning Commission meeting which is scheduled for November 3. She informed the public that if they were interested in receiving an email notification when this item would come before the Commission they could sign the request form on the podium.*

*Westphal asked that the staff also communicate what steps could be taken if they have noise complaints.*

*Woods stated that in order to be fair she would like for the Commission to clearly put forth any and all issues in order to have the petition approved.*

*Mahler noted that he believed the Commissioners have clearly spoken their concerns this evening and he sees only one specific request to be considered by the Planning Department staff, which is regarding the policy of bringing indoors a consistently barking dog. He pointed out if Commissioners wanted other requests they should bring those forth now.*

*Rampson mentioned that she had also made note of concerns involving if there were to be a change in ownership of the business.*

*Bona responded that that was just one of the ways in which to solve the underlying concern which is the barking dogs outdoors.*

*Briggs commented that she hadn't heard Commission feedback on the proposed reduction of number of dogs in the dog-run at the same time. She asked if the Commission felt that the reduction would address their concerns.*

*Pratt said he saw that as the petitioner moving in a positive direction and working with the Commission as they had been doing all along. He said that he appreciated that reduction since he had had to deal personally with having a dog that barks incessantly and understood the ramifications of the noise issue.*

**A motion was made by Commissioner Bona, seconded by Carlberg, that the Resolution/Public Hearing be Postponed to the City Planning Commission and should be returned by 12/21/2010. On a voice vote, Chair Mahler declared the motion carried.**



**10-1076**

Public Hearing and Action on Briar Cove Apartment Site Plan for Planning Commission Approval, 20 acres, 650 Waymarket Drive. A proposal to add parking spaces throughout the existing apartment community - Staff Recommendation: Postpone

*Woods informed the Commission that her daughter lives in Briar Cove Apartments, but she had no financial interest in Briar Cove.*

*Matt Kowalski presented the staff report and explained the proposed project, noting that if the Planning Commission approved the presented Site Plan it would be a final approval.*

**PUBLIC HEARING**

*Mark Highlen, Bettak Companies, 31731 Northwestern Highway, Suite 250, Farmington Hills, spoke as the petitioner of the project as well as the owners of Briar Cove Apartments. He mentioned that due to their high occupancy rate they are experiencing parking issues for their tenants. He expressed his appreciation of the helpful and prompt Planning staff which have had a good attitude throughout the process.*

*Noting no further speakers, Mahler declared the Public Hearing closed at 8.59 PM.*

**COMMISSION DISCUSSION**

*Bona stated that she felt the request was very reasonable and inquired if Briar Cove residents had access to the Ann Arbor Transportation Authority's with any bus stops nearby.*

*Highlen responded that he believed there was a stop on Eisenhower; however he didn't believe there was any stop on Waymarket Drive.*

*Bona questioned the petitioner if they would be losing any parking spaces in the landscaping requirements.*

*Highlen explained that there are many islands currently in the parking lots, some with and some without trees. Those without trees, if large enough to qualify, would have trees planted on them, while they would also be creating new islands. He explained that they also plan to add parking to the outer perimeter with islands and additional landscaping.*

*Bona commented that there would be substantial new landscaping added to the site which would greatly enhance the property and she liked that they would be getting added parking in less pervious areas is a bonus.*

*Highlen said that he had hoped that they would be able to split up the landscaping into phases which would allow them to complete all the proposed plantings. He also mentioned that they would be installing bike lockers per the City's requirements, and right-of-way buffers at both entrances bringing both parking lots up to standards as part of the Area A plan.*

*Bona said that if possible she would like to see any areas that are currently missing plantings be included in Phase 1 of their project.*

*Westphal asked if current tenants have assigned spaces and if they are prohibited from subletting their parking spaces.*

*Highlen responded that only the carport spaces are assigned, and the rest is open parking. He explained that all the tenants are required to have their license plates registered with the apartment management.*

*Mahler asked if the Commission would be approving all of the proposed phases of the project.*

*Kowalski responded that was correct.*

*Mahler asked the petitioner why they had split the project into phases, since it would seem that it would be more economical to complete all the phases at the same time.*

*Highlen responded yes, but explained that it would be a fine balancing act to minimize any new impervious surfaces which would require new storm water retention systems approved by the Washtenaw County Water Resources Commissioner while minimizing the disruption of the construction to the tenants. He said they have to consider practicality, functionality, cost, and tenant satisfaction.*

**A motion was made by Carlberg, seconded by Briggs, to approve the Briar Cove Apartment Site Plan for Planning Commission Approval; a proposal to add parking spaces throughout the existing apartment community, subject to approval by the Washtenaw County Water Resources Commissioner. On a roll call, the vote was as follows with the Chair declaring the motion carried.**

**Yeas:** 9 - Bonnie Bona, Evan Pratt, Eric A. Mahler, Jean Carlberg, Wendy Woods, Tony Derezinski, Erica Briggs, Kirk Westphal, and Diane Giannola

**Nays:** 0

Planned Unit Development (PUD) Supplemental Regulations and PUD Site Plan, 2.10 acres, 2015 Washtenaw Avenue. A request to revise the approved PUD supplemental regulations to increase the total number of employees and parking spaces allowed and a proposal to construct 24 additional parking spaces at the southeast corner of the site for a new total of 58 spaces - Staff Recommendation:

*Chris Cheng presented the staff report and explained the proposed project.*

#### *PUBLIC HEARING*

*Steven Ranzini, 101 N. Main Ann Arbor, President of the University Bank, spoke in support of the project. He mentioned the many bank awards that have been bestowed upon their bank and stated that they were trying to be as good custodians as possible for the landmark building in question. He explained that they believed putting any parking in front of the building would destroy the beautiful aesthetics of the site, which they believed was the front lawn.*

*He explained that they proposed to remove a small wooded area in the rear yard. He noted that historical photographs showed the proposed area was not wooded and was used for grazing of sheep.*

*Ranzini stated that they have made numerous revisions to the proposed plans and have been working with City staff for over 20 months. He said they had held 3 meetings with neighbors. He explained that the bank had originally started with a request for an additional 27 parking spaces and they are currently at 13. Ranzini stressed that parking is critical to the long-term sustainability of the building. He noted that the building had been vacant for nearly 2.5 years before they moved into it. He said that with the current PUD (Planned Unit Development) they needed to have between 25-50 employees. He felt that the expansion would bring them closer to the needs of the building of that size in the City, and to future businesses that might take over the building after University Bank leaves.*

*He said that if University Bank isn't allowed to expand it could trigger the need for them to leave the site earlier than planned. He explained that the building is currently used as a headquarters office building with regular banking hours. He estimated that they only see 20 customers per day that visit the site so the traffic is primarily generated by their staff.*

*He explained that currently they are at the maximum parking with 50 employees in the building and only 35 parking spots. He said that 5 of the spaces belong to the multi-family house nearby which is also owned by University Bank. He reiterated that the key to sustainability is the*

*stewardship of the site, and he felt that in allowing the increase the City would be bringing the site closer to normal providing for a larger number of businesses in the future that could utilize the building and site.*

*Gerald Serwer, 2021 Washtenaw Ave. Ann Arbor, neighbor to the proposed project, brought several concerns. He stated that the access road to the rear proposed parking would abut their property line on the east of their house and with the parking lot abutting the north property line. He mentioned that there would be several large trees that would be removed and a large tree on his property would have its' roots impacted. Serwer said that the removal of the trees would be a loss to the community, as well as to him and his property, in that the current tree line forms a visual barrier between his property and the bank building. He stressed that the loss would impact aesthetics.*

*Another concern he had was regarding drainage. He stated that the proposed parking area is elevated above their yard and drainage is currently an issue which he anticipates will only worsen if trees are removed.*

*Sheryl Serwer, 2021 Washtenaw Ave. Ann Arbor, neighbor to the proposed project, brought concerns regarding the proposed reduced buffering between her yard and the bank as well as parking issues. She noted that currently the rear patio of the bank is the area where the bank employees use for their smoking area and by removing the tree barrier it would impact her, more so, since she works at home during the day. She mentioned that the petitioner could move the dolphin statute a few feet and preserve the large trees in the area.*

*She explained that they contribute to the maintenance of the access road. She also noted that they are not allowed to park opposite their house in order to provide overflow parking for the bank customers. Serwer said that the most she has seen parking in the overflow parking is 7 cars at once.*

*Michael Sorosi, 2109 Tuomy Road, Ann Arbor, neighbor to the rear of the bank, provided handouts to the Commission, and spoke of his objections to the proposal. He stated that last week he had walked around his neighborhood asking who wanted a parking lot in their back yard. No one was in support of the proposal since they felt a parking lot didn't belong in a residential area. He spoke about the R-1A zoning and what the designation spelled out. He noted that the purpose in the R-1A was for preservation of residential fabric and he didn't feel that a parking lot fit into that category.*

*Tom Johangen, 2107 Tuomy Road, neighbor to the rear of the bank*

*spoke of concerns with aesthetics as well as drainage, noting that they are at a lower elevation than the proposed site.*

*Matt Keen, with KEM-TEC and Associates, spoke as on behalf of the project as the engineer who designed the plans of the proposed parking lot. He explained that they would be digging out 38 inches of the parking area and bringing in a drainage system that will drain the water to the front. He didn't anticipate any added water levels to the site.*

*Ken Sprinkles, 2015 Washtenaw Avenue, spoke as the petitioner's representative. He explained that he had been involved in numerous public meetings over the last several months and they had addressed concerns brought to their attention regarding car headlights and the need for screening. He reiterated that the plan called for a water retention system that would bring the water to the front of the site, which is an area that is lower than the adjacent sites, and would actually retain the water on the bank site instead of running off onto their properties.*

*Sprinkles noted that the site has been operating under a PUD since 1978 and has been used for other an residential use for some time now, which he thought was well known by the neighbors. He said that they have been willing to make improvements to their plans and have been willing to assist the neighbors with landscaping and or monetary help while the bank does their improvements.*

*Noting no further speakers, Mahler declared the Public Hearing closed at 9:33 PM.*

**Held and Continued to the City Planning Commission.**

**A Motion was made by Westphal, seconded by Pratt, that the Ann Arbor Planning Commission hereby recommends that the Mayor and City Council approve the University Bank Planned Unit Development (PUD) Supplemental Regulations and Site Plan.**

**COMMISSION DISCUSSION:**

*Carlberg asked for an update on the current proposal, noting that she was looking to minimize the impact to the backyard. She noted that staff had indicated that there would be space for 10 cars to park along the access drive so the need for additional parking didn't seem that great, yet the petitioner wants to add 9 employees. She asked if the bank added 9 more employees could would there still be room for them to park along the access drive and not have to impact the rear yard.*

*Cheng responded that he had visited the sight and had discussions with the petitioner regarding the parking. He also said if the bank was doing*

*business primarily as a bank they would have a lot of customers, but they state that most of the parking is used for office employees since they are using the facility more so as an office. Cheng said there had been some discussion whether they were a bank or an office. He explained that from his observation, on site, there is plenty of room for at least 10 additional cars to park along the access drive, that is more than 200 lineal feet long and 30 feet wide.*

*Cheng said that if they added 14 spaces along the drive they would demonstrate that they could add the additional parking and not impact or damage any natural features. Or, in staff's opinion, they could park along the spaces along the drive and in so doing not need to take out the woodlands as proposed.*

*Carlberg said that in her observation it would seem that if they wanted to add parking spaces to the north, they would have to do quite a bit of grading which she didn't think would be a good idea. She also asked how the parking along the access drive would affect the neighboring residents.*

*Cheng said that he had spoken to the neighbors about this issue and in reviewing the space stated that as far as he was aware both the bank and the neighbors can use that drive for parking. He also noted that the neighbors have never seen the drive fully used for necessary parking. He said that the petitioner has to weigh the option of the being good stewards of the land vs. the aesthetics of the issue.*

*Carlberg stated that she would not like to see the beautiful lawn disturbed but could live with having cars parking along the existing drive for part of the day as an alternative to losing the natural features in order to install a parking lot for 14 cars. She said that she is aware that staff is very consistent on natural features and whenever there is an alternative to taking out natural features they will work with the alternative.*

*She expressed concern with screening the neighbors and felt that they had not addressed that issue. Carlberg wondered if there was any middle ground where part of the drive could be utilized for parking and if they needed to construct some parking in the area along the fence that could be adequately screened from the neighbors. She noted that they needed to be looking at long term solutions for this issue as this could pose a similar problem in the future if and when other businesses moved into this building. She felt that an alternative as screening would be adequate mitigation to removing trees. Carlberg said that she thought it was important to help businesses expand when it can be done and she favors a local bank staying in the community.*

*Briggs said that she was concerned that the Commission's discussion had focused in on the petitioner adding additional employees and in order to expand they would need more parking, when the area already is a strong transit corridor and the vision for that area is that it will become stronger. She noted that the neighbors had legitimate concerns regarding not wanting a parking lot in their backyards but she also understood the petitioner's desire for not wanting to park along the drive in order to have pleasing aesthetics.*

*Derezinski said that he had had the opportunity to walk both sides of the fence of the property. He explained that he had been on site with Mr. Ranzini as well as met with neighbors to hear their concerns and in looking at the staff's recommendation to deny their request he asked if there have been any further compromises suggested regarding the parking. He asked if there had been any public meetings since the ones recorded in May 2009 that was reaching out to the public to come up with a creative way of looking at the proposal and situation.*

*Cheng responded that before the request was brought back to the Planning Commission he had strongly suggested that the petitioner set up public meetings with their neighbors again, since 20 months had passed. He said that the petitioners had indicated that they were meeting with the neighbors over time. Cheng shows the Commission other areas on the site plan that they could explore for possible parking but he noted that the petitioner wasn't interested in those areas.*

*Bona stated that she was aware that this specific site had historically been and continued to be a difficult site to occupy and own. She said that the site plan should show the driveways to the residence. She felt that parking on the drive was not a good idea for everyday parking since it was very difficult to park on a curve. She said that it was great for overflow and that it had been clarified that the neighbors could use it.*

*She agreed with Carlberg and said she was a huge fan of landmark trees and she felt that the tree mitigation will enhance the site. Regarding the access drive she noted that the existing wood fence would be removed and a privacy fence would be installed in its place with the drive going very close by. She stated that she doesn't see any PUD benefit as currently proposed, more than what is essentially required. She noted that the drainage and the storm water requirements are required and not optional, the tree mitigation is required; however, some options for providing some public benefit would be to find a fence or stone wall that might be more acceptable to the owners at that drive, additional landscaping, or a wall for the headlights.*

*She noted that staff had suggested a sidewalk leading up to the building*

*to be added but the petitioner hadn't included that. She said she would support using the drive as parking if there were a separate sidewalk that could be used.*

*Bona said that she felt the building had always been underutilized and they would need to add parking and no matter where they add the parking we wouldn't like it, but she also noted that they should include additional benefits as she outlined.*

*Pratt stated that he likes that every PUD is discretionary and he can say what he likes. He said that University Bank is an asset to the community and he wants Mr. Ranzini's business to grow and stay in Ann Arbor and he doesn't want the neighborhood disrupted or upset in the process. He said that he felt there are solutions available to them and that a 30 foot wide driveway was more than enough space to allow parking on one side and still have room to pass.*

*He asked where the water goes from the pond, noting that there will be less water on the surface in the future which will be a benefit. He asked if there would be additional lighting added to the parking lot.*

*Cheng responded that there would be lighting added to the parking lot with a timing device attached to it that would turn it off after certain times.*

*Pratt noted that if no new parking was to be installed, then there wouldn't be a need for additional lighting.*

*Cheng agreed.*

*Pratt asked the petitioner if their engineers had researched to find out if there wasn't ground water sitting right under the surface instead of feeding into the pond.*

*The petitioner nodded, yes.*

*Pratt said that he agreed with Carlberg in that there definitely were a couple of other alternatives.*

*Westphal asked staff regarding Section 4a of the Supplemental Regulations section, where it mentioned 'bank branch'. He asked if this language was in the original PUD, and if there was any concern with future use of the parking for more of a retail use instead of employee parking.*

*Cheng responded, No, that the original site plan showed it as 'office use'. He explained that there were no PUD Supplemental Regulations*



*required in 1978 and the site plan listed 'office use', 'dwelling use', 'storage space'. Cheng referenced the Supplemental Regulations and noted that there was no mention of allowable retail use, and he didn't foresee that under the PUD Supplemental Regulations that they would allow that in an area surrounded by residential.*

*Westphal said he was referring more to a bank branch being more retail than office. He asked if staff and the petitioner would consider removing the wording 'bank branch'.*

*Cheng said that they were currently operating as a bank branch which was an allowable use under Office use.*

*Westphal suggested that parallel parking could be on the north banks of the drive and would then not block the view of the mansion. He commented that he would be in favor of exploring other options for the proposal and liked Bona's comments regarding alternatives to the proposed fence and that an enhanced buffer was desirable.*

*Woods said she agreed with Carlberg and the other Commissioner comments regarding the proposal. She too was in favor of their employees using parking along the drive instead of removing the natural features.*

*Giannola added that if they did allow the parking in the rear that they make sure there is more buffering added. She asked where the storm water retention site would be in the front.*

*The petitioner responded that there would be a small grass berm on the front lawn where there currently was an indent in the lawn, but there wouldn't be any change to the way it currently looks.*

*Derezinski stated that he felt the petition needs more work and input from the public. He said there was room to explore alternatives as mentioned with the buffering by the parking, and he felt there was room for compromise. He suggested that they return to the drawing board and discuss it with staff.*

*He explained that the area was his old neighborhood, and he loves the area and the beautiful building. He said that he worries about losing the building.*

**A motion was made by Commissioner Derezinski, seconded by Vice Chair Westphal, that the Commission postpone taking action on the University Bank Planned Unit Development (PUD) Supplemental Regulations Revision and PUD Site Plan until issues have been resolved and to allow staff to work with petitioner to bring**

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

**Yeas:** 9 - Bonnie Bona, Evan Pratt, Eric A. Mahler, Jean Carlberg, Wendy Woods, Tony Derezinski, Erica Briggs, Kirk Westphal, and Diane Giannola

**Nays:** 0

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

*None*

**10 COMMISSION PROPOSED BUSINESS**

*Bona suggested that the Commissioners hold onto their packets for the Arbor Dog Daycare and bring them to the next meeting, since there was so much information already provided to them and she didn't think that the Planning Dept needed to duplicate the material they had been provided with.*

**11 ADJOURNMENT**

*At 10:05 PM*

**Motion by Pratt, seconded by Westphal to adjourn the meeting at 10:05 PM. On the voice vote the motion passed unanimously.**

**The complete record of this meeting is available in video format at [www.a2gov.org/ctn](http://www.a2gov.org/ctn), or is available for a nominal fee by contacting CTN at (734) 794-6150.**

**Eric Mahler, Chair  
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