



City of Ann Arbor
Formal Minutes - Final
Planning Commission, City

301 E. Huron St.
Ann Arbor, MI 48104
<http://a2gov.legistar.com/Calendar.aspx>

Tuesday, May 6, 2014

7:00 PM

County Building, 220 North Main Street,
Board of Commissioners Public Conference Room

10-d 14-0725

425 South Main Street Rezoning for City Council Approval - Consistent with the recommendations of the Downtown Zoning Evaluation Report, approved the City Council in January 2014, this 1.15 acres parcel is proposed to be rezoned from D1 (Downtown Core District) to D2 (Downtown Interface District). The property currently contains a 63,150 square foot building and surface parking lot. No new development is proposed at this time. (Ward 5). Staff Recommendation: Approval
DiLeo presented the staff report.

PUBLIC HEARING:

Ethel Potts, 1014 Elder Blvd, said rezoning this parcel to D2 is in keeping with the public input, She recommended that the Commission go ahead.

Ray Detter, 120 N. Division, Downtown Citizen Advisory Committee, said that over the past few weeks he has been reassuring callers about Baker Commons and the proposed zoning, adding that now he finds that this will be zoned D2, but with a 100 foot height. He said he supports D2 zoning for the 425 S. Main parcel, and a 60 foot height limit would allow for a planned project, but instead you are getting a recommendation from Planning staff for a 100 feet height. He said that is not what the consultants advised, nor the Ordinance Revisions Committee and he has no idea where this recommendation came from and it is not what they were lead to believe. He said they support D2 for this site since it is an interface district with a 60 feet height restriction.

Chris Crockett, 506 E. Kingsley, said the charge to reconsider the rezoning was in part from an alarm of the community about tall buildings going up next to residential districts. She said she has to take offense at the comparison to the west, since it is not next to a neighborhood, built into the hill. She said she tried going to the Ordinance Revisions Committee [ORC] meetings but they are a deep, dark secret and citizens can not find out when meetings are taking place. She said the 2 meetings she did attend, the tone seemed to be D2 with 60 feet height, not 100 feet, adding that people in Planning have to understand that when they use sites across the street and not adjacent parcels, they do not compare. She said we also need more transparency.

Steve Kaplan, 418 E. Washington Street, said he was speaking more to the overlay district than the zoning district of this parcel. He suggested that when there is a D2 zoned parcel next to residential district that the zoning should then trump an overlay district. He said he was the owner of the properties that were assembled for Ashley Mews and the site was roughly triple the size of this site, and a lot of discussion went into placement of the building as far away as possible from the residential houses. He said he is not sure how the stepping back would work and would that be from the Main Street side, and it might not leave the owners with enough floor space making it even feasible to add another floor. He stated D2 yes, overlay no.

Scott Bonney, Newman/Smith Architects, said he was hired by Mr. Klein to review changes to the allowed density of the site at 425 South Main Street. He said they are architects for other projects downtown and are very familiar with the City's ordinance and Master Plan, noting that the original vision was for density along Main Street and then the City hired the consulting firm, ENP who recommended D1 zoning with a 150 feet height, diagonal. He said following that, the ORC came up with this compromise; D2, 100 maximum height, getting 80% maximum lot coverage, 10% minimum open space which will clearly protect the neighboring parcels. He said Ashley Mews sets a precedent and the goal has always been to enhance the walkability of Main Street and continue the density south of William. He said the new compromise is very appropriate with the setback design being one way to control and allow daylight on the neighboring properties. He said he believes there is a 16 foot alley between them and the residential houses so with their R4C setback requirement they couldn't build anything within 46 feet of their building. He said the setback building design produces the desired results.

Hugh Sonk, 505 E. Huron, spoke about getting into a dangerous area when messing with the height limitation in the D2 zoning, and once you go beyond the 60 foot height limit you do a disservice to the community and all their input in trying to limit growth and have transitional areas throughout the town. He said the Ashley Mews site is probably closer to 60 feet if you average the whole site and it does not abut residential houses. He said he was in favor of the D2 zoning for this site, just not with the 100 feet height limit, and he also had questions if the DTE building could be torn down and they could build one massive project.

Andy Klein, one of owners of 425 S. Main, said he has been involved in the whole process and it has been interesting to see how everyone seems to have the perfect solution on how to develop your site. He said the site was developed 30 years ago during a recession and his family

took substantial risk in developing the site with 18% interest rates, in order to invest in Ann Arbor, adding that they have all gone to school in Ann Arbor. He said this parcel has obviously been singled out, since there have been other parcels that been received negative reviews but have been developed; but the difference with this site is the unique location of the site. He said ENP recommended D1 because it is a gateway to the downtown and as a special transitional site applying D2 with a 60 feet height limit does not work, while D2 with 100 feet does work and is consistent with the area. He said they respect their neighbors and if some compromise could be worked out they would support it. The current compromise is a density reduction, height reduction, and protects the residents by stepping back, resulting in reducing the building height by 40%, and the buildable square feet by almost 60%, which does significantly reduce the develop-ability of the parcel. He said while he does not like it, he can live with it and still do something valuable with it in the future in the City; if he is left with a 60 feet height limitation he is pretty much left with an unbuildable lot and not much left to do there. He endorsed the proposed rezoning.

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

Moved by Giannola, seconded by Parekh, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the 425 South Main Street Rezoning from D1 (Downtown Core) to D2 (Downtown Interface).

COMMISSION DISCUSSION:

Peters asked if they did not approve the second motion, would the functional height limit be 60 feet.

DiLeo said there would be no height limit.

Bona clarified that the ENP report recommended D1 zoning, 150 feet height limit when within 25 feet of a residential area. After that, The City Planning Commission recommended D2, and then City Council reinforced D2 zoning with a 60 feet height limit.

Westphal asked about the planning process on this site pre-A2D2.

DiLeo said she believed the zoning was C2A which had a 400% FAR, by right, 660% maximum density with premiums and no height limit. She said it was then rezoned to D1 with a 400% FAR allowed by right, 700% with premiums. She noted that height limits are not addressed in the base district but are specific to the character areas. She said this parcel was placed in the Main Street Character area, which has 180 foot height limitation. She said the result was that the FAR did not really change, but

the height limit went from no limit to 180 feet. She said the ENP report noted that the public feedback was in support of D2 for this parcel but their professional recommendation was that it should remain D1 but with height limits and a tower diagonal limit. She said while diagonals were discussed during the A2D2, they were not included in the overlay district.

Giannola suggested discussing the character district before moving on the zoning.

Clein said that the character overlay districts determines massing and they should go ahead and address the D2 zoning.

Peters agreed with Clein in keeping the issues separate.

Giannola said it makes sense to discuss both together.

Bona said the most important question is FAR. She said the buildings that have caused the most angst are at the upper FAR ratios, and the text amendment is one way to address the nuances. She said this is a clear cut issue of a lot of floor area or less and stated that any site next to residential should be D2.

Moved by Peters, seconded by Giannola, to postpone action on the 425 S. Main rezoning until after the next item on the agenda [text amendment].

Giannola asked if the discussion on the 425 South Main Street Rezoning and the Text Amendment to Chapter 55 (Zoning) to Add Requirements to the Main Street Character Overlay District could be held together but the motions made separately.

Briere suggested that it would not be proper to have the discussion before the public hearing.

Clein said they have heard from most people that D2 is acceptable to them on this 425 South Main Street parcel, with quibbles about the details, of which will be discussed under the next agenda item and motion.

On a voice vote, the Chair declared the postponement motion carried.

10-e 14-0726

Text Amendment to Chapter 55 (Zoning) to Add Requirements to the Main Street Character Overlay District for City Council Approval - As a result of the City Planning Commission's recent evaluation of the 2009 downtown zoning amendments, this proposed zoning ordinance text

amendment will revise the Main Street Character Overlay District. The changes will add height and setback requirements for the "D2" (Downtown Interface District). Specifically, the changes will set a maximum height of 100 feet and require upper story setbacks from any residential property lines for D2-zoned properties in the Main Street Character Overlay District. Staff Recommendation: Approval

DiLeo provided the staff report.

PUBLIC HEARING:

Ray Detter, 120 N. Division, Downtown Citizen Advisory Committee, said that this whole process is trying to fix mistakes, and this location was a mistake in terms of zoning. He said we wanted to change it to D2 as we felt that really represents the nature of the Downtown Plan and the commitment to protect the near downtown neighborhoods, particularly the historic neighborhoods. He said some of us live near Kerrytown which is zoned D2, and we fear very much that if you start messing with D2 in terms of its identification and making it something other than 60 feet, where does this stop. We have already done that with D1 and we have in that situation lowered them to make them relate to the neighborhoods. We want to keep D2 what it is, and the talk about having a big square block that is 6 stories high simply hasn't happened; 618 South Main is a good example of that. He said Dan Ketelaar met with neighbors and groups and then came up with a Planned Project. He said he isn't opposed to Planned Projects as long as they are what they say they are – a public benefit. He said they could still go through the process of a planned project when it is zoned D2. He said what we don't want to see is it being zoned D2 with a character area with a preconceived plan based on negotiations, rather, just D2 with a planned project approach, that will allow them to design the building in a different way that is better for the community, for Main Street, and better for the neighbors next door. He said we will all be involved in that process and correct the mistake of zoning this D1.

Ethel Potts, 1014 Elder Blvd, would like to have been to the ORC meetings to hear their discussions. She said the new overlay is undercutting the work that was done to rezone some of these parcels . The proposal to change what D2 means is not suitable anywhere if it can be 100 feet. The public never said that D2 could be different for each location. She said all of the work of the task force would need to be done over again in that case. She asked where else in town will there be a zoning redefined for a particular site.

Steve Kaplan, 418 E. Washington, said that he is not sure what was meant by the concept of a character overlay. All of the character of Main Street is made up of 3- 4 story buildings. He said to try to

assimilate this with anything on Main Street, where 6 stories does not attenuate the nature of buildings on Main Street, it does not cripple or stop the sense of walking, dining and shopping. He said 6 stories is a lot of density, more than triple the existing density of the current use.

Hugh Sonk, 505 E. Huron Street, said some of the concern is whether you are messing with the buildable floor area. He asked for more discussion on what one could expect on that parcel with the proposed zoning, which could clarify concerns and fears about the possibility of having a 10 story building lot line to a residential lot line, and how the proposed zoning would play out with the discussion of a tower.

Chris Crocket, 506 E. Kingsley, said it's not just about the vibrant place to walk along Main Street, but also the vibrant place to live and the zoning needs to work synergistically so Ann Arbor does not just have a nice touristy atmosphere where we get the crowds on the week-ends and the rest of the time it is dead and people start abandoning their homes and moving out. She said it's about people living here and when you compromise one neighborhood's indifference to another neighborhood you are compromising something very important about your-our city. She said they made mistakes with D1 and D2 zoning and she will have to live with one of the biggest mistakes in her neighborhood which she would not wish upon anyone.

Scott Bonney, architect hired by Mr. Klein, said he has worked in many cities where their zoning is more gradual as well as granular than Ann Arbor's zoning. The City's overlay districts try to fine tune the zoning by adding maximums and minimums that are related directly to those neighborhoods, which add that granularity needed for a site such as this. He said it cannot be black and white; it has to be grey, because of the nature of Main Street and the most important streets in the downtown. He said he has not been hired to design anything but if he were, he would place the density on the north side of the site, creating a step-terrace style building. With 80% maximum lot coverage and 10% minimum open space, which will do a great deal for keeping the building from being high impact with those restrictions, and will protect the neighbors very well. He said the ordinance frame that has been created will help any logical planner and architect to move in the desired and outlined direction on this site.

Pat Martz, said she lives across from S. Ashley, which looks directly at Baker Commons, which when looking up towards Main Street it looms and if you add 10 stories they are going to loom over the neighborhood on that side. People tend to avoid walking beyond William Street because the buildings are too tall and there are no eyes on the street. If you are going to have these character overlays, you are going to have

planning chaos because everyone will want one for their neighborhood. When you are talking about D2 you are talking plenty of density. She said to go to moderation.

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

Moved by Woods, seconded by Giannola, that Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the amendments to Chapter 55, Zoning Ordinance, Section 5:10.20A regarding building height and massing standards for the Main Street character overlay zoning district.

COMMISSION DISCUSSION:

Westphal referenced comments made about public notice for the Ordinance Revisions Committee, and asked staff to explain how the meetings are noticed.

Rampson explained that the Ordinance Revisions meetings are posted on the Planning website, as well as sent to the Clerk's office for notification to the media [and posting at City Hall]. Postcard notifications are not mailed out for these types of committee meetings.

Westphal asked why the meetings are not posted in Legistar.

Rampson explained that since they are committee meetings they are not included.

Westphal said that these committee meetings are frequented by members of the media regularly, and he welcomed any comments from the public for suggestions on how notification could become better, since these committees depend on public input.

Westphal stated that he found insinuations about 'negotiations or other dealing being designed behind the scenes' objectionable and asked for specific instances of such to be brought to the attention of City staff or the appropriate City Council persons.

Bona clarified Floor Area Ratio [FAR] versus height in the D2 district, noting that the FAR is consistent throughout downtown in the D2 district; 200% maximum and 400% with premiums. She said the "character areas" modify how the FAR can be shaped: you cannot add more square footage based on your character area, you can just shape it differently. She said as an example, the Main Street area has no D2 zoning within it; it's all D1 zoned, so the opportunity to consider some of the suggestions that have been made both during the zoning of the downtown as well as after, through the ENP Report, included

modifications to shaping that, suggesting setbacks to neighborhoods. She noted this issue came up particularly with parcels along the north side of E. Huron so not to have a 60-100 foot wall up against the residential.

Bona continued that an idea considered throughout the downtown zoning is the use of diagonals, which is a requirement that would make a tower tall and thin, rather than short and squat. She said we have never instituted diagonals, because they directly conflict with height limits and noted if you want diagonals, you probably want no height limits. She said the Main Street character area has a maximum base building height of 4 stories, which is the basis for where the setback starts, as suggested for this, which would be different from any other D2 in that other D2 zonings with other character areas have a maximum 60 feet versus 4 stories, right at the property line and could cover most of the site. She explained that this suggestion is to not be that high, directly at the property line, but start to step back as discussed about the properties on the north side of E. Huron. She said a simple thing to do would be to call it 60 feet like every other district, but since there was a desire to try to perfect it, the recommendation was to look into the diagonals again and stepping back from residential properties. She said his was the opportunity to do that and provide the nuance discussed. She said this property could be subject to a 60 foot height limit and go through the Planned Project, because it would probably be more efficiently laid out and give it more flexibility, but it would make it more complex for the property owner.

Bona said as a member of the ORC, she can say that they really struggled with this site and they were not about to design the building for the owner, but rather provide the flexibility and control that seemed the most important.

Briere asked why they did not recommend D1, with a revised character district specifying 100 feet, which would be in keeping with the other revised character districts that have gone on for D1 zoning and in keeping with the ENP Associates report. She said the question is not whether she likes it or supports it, but rather why they did not go that route. She said in all the other situations, they have shortened the requirements, but they have not modified D2 to be taller, which she said was a jarring note. Why chose D2 with Main Street character overlay for 1 parcel? She said it sounds a lot like spot zoning to her, which they have discouraged in the past; rather than D2, First Street character district, where all of the rest of D2 is.

Briere asked how the language for the 45 degree angle would be explained in the character overlay and if it would explain the north,

south, east, west, and if not, she was not sure what it would be accomplishing, since it would not be protecting the shadowing of the neighboring parcels.

Westphal said they did not include in their [ORC] scope to redefine the boundaries of the character districts, and the A2D2 committee spent years looking at the various districts in coming up with which ones fit together with cohesion. He said the fact that this parcel would be the only D2 on Main Street seems okay to the committee, and given that it was in the core downtown, the committee struggled with the correct zoning given the residential neighbors. He said they discussed split zoning for the parcel, and when the committee got into that level of complexity they looked at rezoning.

Bona said that the committee also looked at properties adjacent and if it made sense to expand the D2 zoning. She said they could not justify that since they were not adjacent to residential. She said she does not consider D2 zoning adjacent to residential zoning to be spot zoning.

Bona explained that the setbacks are only on the side next to residential, to reduce the height adjacent the residentially zoned side. She said the way the proposed language is written, there would not be any setback required on the south, west or north of 425 S. Main. She said the idea of having the setback adjacent to the residential or having a tower on the north side would only be possible with a 100 foot height limit or a Planned Project. If one wanted to force them to build a tower on the north, while stepping back to the east, we would have to add that to the overlay district.

Westphal explained that there would not be anything to prohibit a setback towards the south as long as they have the effect of the 45 degree angle to the sun that lands on the residentially zoned property.

Giannola said that a 100 foot D1 building is not the same FAR as a 100 foot D2 building, because of the arrangement of the massing. She said if they would have left it a D1 zoning, it would have been a much larger building than the proposed D2.

Woods said it is difficult to distill hours of committee discussion, but she remembers that the reason they did not go with D1 was because it was considered an interface site. She did not consider it to be spot zoning and explained that the committee and Commission is trying to be sensitive to the various districts. She said even though there has not been a lot of discussion lately about the overlay districts, they have been around for quite some time and the Commission is using some of its many tools available in responding to what they are hearing. She

apologized to anyone not able to find information on ORC meetings and said they would try better to make sure they were advertised at the Planning Commission meetings. She pointed out that someone owns this property and they need to be sensitive to both property owner as well as the neighboring residents, knowing that we all live in Ann Arbor and want the best for us all. She said the Commission spends a lot of volunteer time on these issues in hopes of getting these issues right, but sometimes these issues need to go on to City Council for their final decision.

Parekh asked if this parcel was recommended for a review of possible rezoning from D1 to D2, with an established maximum height of 60 feet, earlier this year or last year.

DiLeo said yes.

Parekh asked what the ORC saw as advantages with what the original proposal was to what the current proposal is.

Giannola said the main advantage is a better building, because if we allowed it to go from lot line to lot line under D1, with 60 foot height, the odds are high with us getting a giant block building, while the D2 gives it more options to be a better building.

Westphal said it has not been the intent of City Council to invite Planned Projects, necessarily, but a greater desire to have a more predictable zoning process and coding in place.

Briere said that she felt an earlier Council felt the City was getting a better project with a PUD with more public benefit than with a Planned Project, noting that she remembers hearing members of City Council and the Mayor stating that they did not want to see any more Planned Projects. She said they now felt that with the D1 and D2 zoning, they eliminated the need for PUDs in the downtown, and with the creating of more flexibility in the code they have been more supportive and approved Planned Projects, like The Varsity, 618 South Main and others.

Bona said the idea of revisiting diagonals and looking at setbacks to reduce shading is in the resolution and part of the discussion of the ORC, stressing that the setback cannot be done with a 60 foot height limit, since the square footage would need to be moved somewhere else. She said the ORC had many meetings to discuss this over and over again and while the proposed amendment feels good, she would also be fine with going with a 60 foot height limit.

Briere said she could not find reference to the diagonals in the resolution

language proposed. She said she the language of the Council resolution was that the parcel should be rezoned from D1 Downtown Core to Downtown Interface D2 and establish a maximum height of 60 feet in the Main Street character overlay zoning district, and she was disappointed that they did not have that result in front of them today. She said as innovative as she finds the idea, it is inconsistent with anything else that has gone on. She said varying upward to 100 feet in a D2 district, by right, made her feel very uncomfortable.

Westphal said the clarification for him was the explanation from Giannola on the building options.

Adenekan asked if Briere would like to make an amendment so they could vote on the issue.

Briere said she was more likely to vote no.

Bona referenced the diagonal for eliminating shading and said it did address E. Huron and the D1 zoning.

Westphal said that while this would be the first time they set a character district height that is greater than the character district height in other character districts in D2, discussion has been raised on capping the taller buildings as a way of decreasing the discomfort to neighbors because the shading would take a different character.

Briere said that if the Commission believes that height limits are the problem, then she would rather see this come back with that addressed instead of doing it piecemeal, and she would rather have one discussion on the issue.

Parekh asked if these same proposed zonings overlays might also be appropriate for Kerrytown and other districts.

Westphal explained that the ORC was directed to review specific sites by City Council.

Giannola said this site is very large and they won't have another such large lot in the downtown.

Clein said this parcel is unique and the solution that the ORC has come up with seems to be a unique solution, which brings us to the challenges of the zoning not being consistent with the Main Street properties to the north, south and west of the parcel. He said he wasn't sure that they would be getting anything different built on the site, than if it was zoned D2, First Street overlay. He said the Commission had decided in

December that the site should be zoned D2, 60 foot height limit and there was no discussion to go any higher, so he was more in favor of sticking with that and having the owners go for a Planned Project.

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

Yeas: 6 - Bonnie Bona, Wendy Woods, Kirk Westphal, Diane Giannola, Eleanore Adenekan, and Paras Parekh

Nays: 3 - Kenneth Clein, Sabra Briere, and Jeremy Peters

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Moved by Woods, seconded by Parekh, to bring back the postponed agenda item, 425 South Main Street Rezoning. On a voice vote, the Chair declared the motion carried.

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