

From: Kirk Westphal <writetokirk@gmail.com>
Sent: Tuesday, February 02, 2021 3:53 PM
To: Planning <Planning@a2gov.org>
Cc: Lenart, Brett <BLenart@a2gov.org>; Delacourt, Derek <DDelacourt@a2gov.org>
Subject: comment on CPC approval of by-right site plans

Dear Commissioners,

Please see my comment below about by-right site plan approval. Thank you for considering this issue.

Lies, damned lies, and phony council votes

Performative votes on by-right projects misdirect community energy and raise rents

By Kirk Westphal, former Ann Arbor City Council Representative and former Planning Commission Chair

As a community that aspires to be truthful, transparent, and equity-driven, we need to hold ourselves accountable when we see things that work against these goals—even when they're politically uncomfortable.

In my view, one of the most toxic lies that we perpetuate in Ann Arbor goes like this: when the City Council takes a vote on a large construction project, after multiple late-night meetings and hours of public comment, the Council has the power to stop the project from happening.

In the vast majority of cases, this is simply untrue. The Council must approve the project. I can think of one case in the past 15 years where they didn't approve a legally allowable ("by-right") project. The developer proceeded with a lawsuit, and the project was built anyway. (There are some projects that by state law must go to council for a vote, such as ones that seek to change zoning rules.)

If you've got a property that allows the construction of an apartment building on it, for example, you've got to go through a painstaking process of proving that what you're planning to do with your property meets the city's codes and ordinances. While this process needs to be more efficient (it's slow relative to some other cities), this is generally a good thing—we obviously want new buildings that are safe, don't harm the neighbors, and adhere to the vision of the community.

Next, you have to seek approval from the Planning Commission. That vote becomes a recommendation to the City Council. (One could argue that even this step is superfluous, although sometimes the Planning Commission negotiates beneficial changes to plans before they get to the City Council.)

Each step not only takes time but costs money when architects, engineers, and lawyers have to spend more hours appearing at meetings. It's one reason housing affordability in Ann Arbor seems so unattainable.

So at the end of this process, why *does* the City Council take a vote on a building that can't legally be voted against? It's simply tradition. I can't trace back to when it started, but for obvious reasons, a tradition like this is politically very hard to get rid of. After all, it makes it *look like* the community is getting the final say in the fate of a development, and it sets up the facile argument that any elected official who wants to do away with that step is "taking away" the community's voice.

Now the question becomes, Why *should* we continue politicizing what is, in reality, strictly a check-box, administrative process? I don't think we should. And thankfully, it appears that the Planning Commission doesn't think so either. Here's a snippet from a memo they're discussing Tuesday evening:

Consideration of Planning Commission approval of "by-right" site plans. Site plan review is an administrative function, and by delineating the approval of site plans to the Planning Commission [ed: meaning that approval of plans that are legally allowed should end at the Planning Commission level and not go to City Council], this would provide some additional capacity for the City Council to consider those legislative actions that amend the City's ordinances to ensure administrative procedures lead to the desired outcomes.

I'm glad they are talking about this, because in my 12 years of appointed and elected service to Ann Arbor, I can't think of any city process that does so many bad things at the same time:

-
- wastes the public's time,
-
-
- increases cynicism about government,
-
-
- creates feelings of community powerlessness,
-
-
- biases power further toward the wealthy,
-
-
- prevents staff and City Council representatives from
- doing more important work,
-
-
- puts the city in financial jeopardy through lawsuits
- (a judge made one Michigan city sell parkland to satisfy a judgement against them),
-
-
- inflates the cost of home building,
-

-
- fuels false narratives about city growth, and
-
-
- reinforces exclusionary housing practices.
-

Please consider writing to the Planning Commission (planning@a2gov.org) to encourage their discussion of this issue and ask the City Council (citycouncil@a2gov.org) to stop City Council voting on by-right site plans. All appointed and elected officials should seize this opportunity to tell the truth: the best way that residents can help shape the future of the city is by proactively organizing and lobbying for neighborhood-wide changes, or participating in periodic community “master planning” meetings dedicated to envisioning what a neighborhood should look like.

Let’s focus our community energy where it’s most productive.