



City of Ann Arbor
Formal Minutes
Planning Commission, City

301 E. Huron St.
Ann Arbor, MI 48104
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Tuesday, May 17, 2016

7:00 PM

Larcom City Hall, 301 E Huron St, Second
floor, City Council Chambers

- 9-a 16-0765** Kingsley Condominiums (221 Felch St) Planned Project Site Plan for City Council Approval - A proposal to redevelop the site by demolishing all existing structures except for the building at 214 W. Kingsley and constructing a 51-unit, 5-story building with covered and surface parking, along with a request to rezone the property from M1 (Limited Industrial) to R4D (Multiple-Family Dwelling District) With Conditions. Planned project modifications are requested to reduce the west side setback. The site is 89,480 sq ft and is in a 100-year floodplain. (Ward 1) Staff Recommendation: Approval

Alexis DiLeo provided the staff report.

The Vice Chair read the public hearing notice as published.

PUBLIC HEARING:

Vince Caruso, Allen Creek Watershed Group, said his organization does not support the development. He cited two recent reports: "Implications of Precipitation Changes in Southeast Michigan" and "Options for Response: A Guide for Municipalities" that recommend adding a 5-20 percent safety factor to storm water management requirements, and regulating for a 500 year flood, not just a 100 year flood event. He gave statistics demonstrating the increased likelihood of major storm events due to climate change. He said total precipitation increased 44 percent in Ann Arbor since 1950. He said the federal government does not give funding for any structures in the 100 year floodplain. Caruso advised against this project because the location would be better suited for the greenway park which would help mitigate the effects of flooding; parking associated with the development would make the effects of flooding worse, causing expense and distress. He cited the expenses of major weather events in the area. He said we need to exercise caution because FEMA's maps are not the most up to date and maps by consultants have shown that floodplains are typically larger.

Ethel Potts, 1014 Elder Boulevard, Ann Arbor, said here we go again in this neighborhood—downtown-sized buildings being placed in the

neighborhood. She said D2 zoning was sold to the public as a buffer between big downtown buildings and houses and neighborhoods; in this case D2 is in the neighborhood, not a buffer. She stated that by the time this misplaced zoning is amended it will be too late; the land will be developed. Potts expressed disappointment and frustration that big buildings such as this will be built in the Allen Creek floodplain, adding impervious parking surface to prevent the infiltration of stormwater. She said there will probably be pillars and cars underneath the building which will collect trash as the flood waters flow. She stated that this project is sure to cause problems in this time of climate change. Potts added that the Allen's Creek is also involved in the 1,4-dioxane pollution that is spreading from the west side of the state and that this development would worsen the issue.

Eric Lipson, 1318 Rosewood Street, Ann Arbor, expressed concerns about the project due to its location in the floodplain. He said he understands that the current building on the site impedes the flow of floodwaters, but the idea that cars and parking can be put there and not affect the floodplain is a mistake. He stated that they have already had a flood event which destroyed hundreds of cars on Ashley Street due to the construction of the first large building there. He asked whether the practice will be to have owners warn people that in the event of flooding they may lose their car and who will insure all those cars. He said he is concerned that by building in the floodplain, all you are doing is expanding the floodplain, as water is backed up into other neighborhoods. Lipson said FEMA has asked for people not to build in the floodplain; it affects insurance rates for everyone. He said if you are to allow this building to be built, you should not allow parking.

Fred Beal, petitioner, thanked the Commission and staff for their careful review. He introduced Brad Moore, the architect and Kathy Keinath from Perimeter Engineering. He explained that his team is very, very cognizant of the issues related to building in the floodplain and in fact, the very design of their project is designed to mitigate existing problems with flooding on the site. He said currently there is 28,000 square feet of on-grade building sitting 95 percent in the floodplain, which is directly above the Allen Creek Drain for several hundred feet; they are completely tearing down this building and moving to the opposite side of the site. Beal admitted that their proposed design does sit partially on the fringes of the floodplain and that the deepest flooding that would occur in the event of the 100 year flood is only one foot. He added that they had not seen this area flood in the time they had been owners of the site. Beal explained that as required, they have two exit structures from the building

outside of the floodplain and they have elevated the building the full height of the parking structure. Comparing the proposal to the current site, he said, they are vastly reducing the impediments to flow-through and increasing the green space on the site. He said the site as it exists now is untenable—it is contaminated, it is in the floodplain, and it has never been site planned. This last point means that for any modifications they would make to the site, they would have to go through a development review process. He stated that they are looking at a cost of 6 million dollars to mitigate the contamination in the soil and deal with stormwater adequately; this justifies the large scale of the project so that they can recoup that cost. Beal explained that the site as it exists currently was built out of debris; when they put in the drain initially they used soil from the Allen Creek Greenway that was already contaminated with heavy metals. He said their project will reduce the amount of contamination that moves through the soil because they are making such a big cleanup effort.

Kathy Keinath, Perimeter Engineering, member of project team, said she was available to answer any questions.

Alan Haber, 531 Third Street, Ann Arbor, stated that he is the human face on the other side of development. He said his shop has been at 221 Felch for the last 20 years or so. He stated that the information that he has received is that it is not a good idea to build in the floodplain. In terms of what is good for the City of Ann Arbor, he said, this neighborhood is one of the last enclaves where independent artists, craftspeople, and small business owners survive. Haber said that when the Tech Center was removed for the building of the new YMCA that displaced a whole community of artists and other creative people. He stated that keeping a place available for artists and small business people is important for the City. He added that the Beals have been great to him all these years but he would not like to be the product of a demolition.

Brad Moore, architect for the petitioner, reminded the Commission that at the last meeting a neighbor indicated they had collected signatures from immediate neighbors in support of the project and that was in their packet. He explained that at the very limit of the floodplain, the depth of the water is less than a foot; they have designed the building in such a way that two of the three exits allow people to exit the building without entering a floodplain during a flood.

Noting no further public speakers, the Vice Chair closed the public hearing unless the item is postponed.

Moved by Peters, seconded by Franciscus, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Kingsley Condominium rezoning from M1 (Limited Industrial) to R4D With Conditions (Multiple-Family Dwelling) and Conditional Zoning Statement of Conditions, and

to approve the resolution to recommend that the Mayor and City Council approve the Kingsley Condominiums Planned Project Site Plan, a planned project and development agreement with an arrangement of buildings that provides a public benefit, subject to 51% minimum open space, 1 foot minimum additional front setback, and combining the lots prior to issuance of any permits.

COMMISSION DISCUSSION:

Chair Bona asked how the existing building on Kingsley that will remain on the site fits in to the R4D zoning district.

Alexis DiLeo, staff, responded that the building meets the setback requirements of R4D and that for use it would need to be residential or an accessory use to the proposed residential development that will be built. She explained that the proposal calls for too many dwelling units for the existing building on Kingsley to be used as a dwelling unit, following the requirements of dwelling units per acre in the zoning district.

Bona asked whether using the building as an office would be permitted as an accessory use in the R4D zone.

DiLeo explained that the office would have to be for a public entity which are exempt from zoning, but it could not be for a private company as those are not permitted in residential districts.

Bona said then it seems that the petitioner's idea to have the building function as an office for the Allen Creek Greenway would not be possible.

DiLeo responded that a public entity such as a greenway conservancy or the City of Ann Arbor Parks Department would be able to use the building as an office.

Bona said she had not thought the Allen Creek Greenway Conservancy was a nonprofit.

DiLeo replied that they are not, but the petitioner has proposed the idea of

having the Parks Department host an interpretive center for the Greenway if they choose. She said her understanding is that if this does not happen, then the building could be used for a club house or another type of accessory use for the condominium complex.

Bona said she feels that the R4D zoning is like spot zoning in this case as it is not typically used so close to downtown. She expressed concern that the neighborhood is losing a mixed use component to this site, as Mr. Haber expressed. She stated that whenever we get residential projects, the opportunity to incorporate retail is a rare opportunity; as this site already contains retail in its present state to remove that would be a loss. She said she finds the R4D classification inappropriate for the site and the conditions not valuable; she is not interested in reducing the number of bedrooms or units. Bona cited the petitioner's argument for R4D described in the packet and said it was an argument for rezoning the property, not a good argument for rezoning to R4D specifically. She agreed that the property needs to be rezoned, as manufacturing is not appropriate for the site, but believes R4D is too limiting, as it limits the number of uses on the site. She said she thinks D2 would be far more appropriate in this case.

Briere said she had reviewed the conditions for approving a planned project but had several questions. She expressed concern that as close as this development is to the river, underground storage may not be desirable. She asked how the developer is addressing stormwater mitigation, how much water will be able to be stored.

DiLeo responded that the stormwater will be held underground on one of the only spots on the site that is outside of the floodway and the flood fringe and not on top of the drain. She explained that the developer is proposing to address the 100 year storm volume, but they are providing 120 percent of the 100 year storm volume because it is not desirable to do infiltration, as per the County's Water Resources Commissioner's requirements.

Briere asked how they are releasing the detained water.

DiLeo explained that they are releasing the detained water into the drain but at a slower, prescribed rate. She said she would have to defer to the petitioner or the engineer of the petitioner to determine the exact volume.

Keinath said they are not releasing into the Allen Creek drain directly, but into the storm sewer that is on the street which then connects to the Allen

Creek drain. She explained that they are proposing to put in back flow prevention, which is like a check valve put in the line so the Allen Creek drain cannot backup into the underground detention system before our water makes it in to be stored. She said that in addition to the underground detention they are proposing seven rain gardens and porous pavements. She reiterated that the underground storage is outside of the floodplain and includes a baffle, a controlled release, and an emergency overflow.

Briere said that Kingsley Street commonly floods at the other end of the property and Felch Street floods just at the corner with Ashley. She asked the developer how this project will impact existing flooding that occurs.

Keinath responded that hopefully what they propose for this development will help mitigate some of the existing flooding that occurs. She explained that currently there is no detention on the site and it is completely impervious; they are adding detention and removing imperviousness in the floodplain. She said she is aware of the flooding that currently occurs, much of it comes from Miller Street and First Street. Keinath noted that they are adding pervious pavers on the slope which will help some of the floodwater soak into the ground.

Briere asked whether that sloped section was in the flood fringe.

Moore added that two new projects upstream are adding detention which will help reduce some of the sheet flow which contributes to flooding in the area.

Keinath noted that much of the sheet flow will now go through the City's rain garden and not onto First Street. She indicated on a drawing where the floodplain line is, and showed that the structure will be partially located in the floodplain, but not in the floodway.

Briere said she is working her way through the reasons for approving a planned project and asked how this project will be energy conserving or solar-oriented.

Moore said the building will be solar ready so it will have the structural capability of withstanding both the gravity and wind loading from future installation of solar panels. He explained that there will be conduits running from the roof to the main electrical room of the building so there will be no disturbance inside the building if the condo association decides to add solar panels to the roof.

Peters directed a question to the civil engineer on the project about the 1,4-dioxane plume and the soil borings on the site and whether they know how far down the plume is and how it would affect the site.

Keinath said she may not be the best person to answer the question. She said they hired environmental studies to work through the brownfield process; she is personally not aware that they found 1.4-dioxane on the site.

Peters asked what the deepest depth on the site would be for the 500 year storm event.

Keinath said it is a little deceiving when talking about the 100 year storm event versus the 500 year storm event as the latter is not five times as intense because it is referring to a frequency and not a rate. She said her understanding is that the 500 year storm flood depth is only about a foot or two higher than the 100 year storm flood depth, which would be two to three feet.

Peters thanked her and said that according to the math he had done with regards to some of the requirements that had been discussed, increasing detention for the 100 year flood event by 20 percent would be about 2.4 inches, or a total depth of 1 foot and 2.4 inches.

Sofia Franciscus asked where the current contaminated fill will be taken from the site.

Moore responded that the contaminated soil will be transported to a licensed landfill as any hazardous waste would.

Keinath added that there will be a due care plan in place due to the Brownfield requirements, so there will be restrictions on how they dig they soil out, where it can go, who can be exposed to it, etc.

Moore added that all of this information has been submitted and is available in the public domain.

Alex Milshteyn asked why the developer went with R4D for the rezoning instead of D2.

Moore responded that it was in part a discussion with his client and the neighbors and general public...

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Milshteyn referenced the building at First and Kingsley and said as he understands half of it will be given to the City to use as they wish, potentially as an interpretive center for the Allen Creek Greenway and asked what the other half will be used for.

Moore responded that the other half will be used as a community center for residents of condominium association, a gathering space for larger events.

Milshteyn asked how large the building is.

Beal replied, 2,000 square feet.

Milshteyn asked who will be responsible for building out the building, allowing the city to have half and the association to have half.

Beal said that as they have arranged it in the proposal, the developer would provide build out services for the space if it were accepted by the community; the assumption is that it would function as some sort of Allen Creek interpretive center...

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Moore said they had a meeting with the Michigan Department of Environmental Quality (MDEQ) in Jackson, Michigan and they went over how that should be designed. He said there will be grilled openings in the wall, with security grills, and water will be free to flow through those grills and then flow out from those grills. The idea is that the water has to be able to flow in and flow out unimpeded, he said, so there is a series of openings that go from grade up to seven feet along that part of the building.

Shannan Gibb-Randall said it looks like they are not going down to grade, it looks like they are up above.

Moore responded that some are just intended to allow the free passage of air and sunlight, and every other or every third go down to grade.

Gibb-Randall asked if there was a certain porosity requirement they had to achieve in terms of how much water flow is allowed through there. She

asked why not allow anything under a foot to flow through, because debris will get stuck in the grates. She asked if DEQ allows anyone to build in the floodplain as long as a certain porosity is met.

Moore said a certain portion of a wall that is built in the floodplain needs to be transparent to water, letting it go in and go out. He said it was a decision they made to provide secure parking.

Sarah Mills followed up on the questions asked by Gibb-Randall and asked what the plan was for cleaning out the grates.

Moore responded that cleaning out the grates would be part of the maintenance regimen for the rest of the condo association; the maintenance man would be removing trash from the grounds, including the grates.

Mills noted that the developer described the site as a walker's and biker's paradise in their memo and said she appreciates that they have added sufficient covered bicycle parking.

Moore said that in addition to adding one bicycle parking space for each car parking space there is the ability to add a second rack at the purchaser's desire.

Mills said she appreciates that. She asked the developer to speak on the conversations he has had with staff about the possibility for a future Allen Creek Greenway easement.

Keinath said she missed the last meeting where that topic was discussed heavily but has spoken with Connie Pulcifer, Systems Planner, City of Ann Arbor, who is leading the study, who informed her that they are in the initial phase of the study, taking inventory. She said the alignment that they are currently looking at is to follow the railroad, generally. She noted that the railroad on site is a railroad spur, not the main railroad. Keinath said Pulcifer reported that a key issue is the embankment, as the railroad is a lot higher than some of the surrounding area, so they are not yet sure where the greenway will go. She indicated several properties on the diagram that will also need to be integrated. She reported that Pulcifer told her the path would be 14 feet wide, whatever the route ends up being.

Thus, the developer dedicated 14 feet along the property line that can be used as an easement for the future greenway. Keinath said that Pulcifer

indicated that the greenway would not just be a path, and would require landscaping and the planting of trees. However, Keinath indicated that they would not be able to plant trees on top of this dedication because that is where the underground detention area is and it can't be moved because it is the only place outside of the floodplain. She said the deal they reached for now is to provide a connection with a woodchip path and allow for the 14 foot easement which would be available to the City if they chose to use it.

Mills asked if they had discussed routing the greenway along the east side of the property.

Keinath responded that yes, she had brought up that idea to Pulcifer because the Allen drain originally was located on Ashley Street but has since been moved. She said that by moving the pathway to the east puts it closer to neighbors' backyards which wasn't completely desirable and there is also the issue of the County's easement over the drain that takes up a lot of space; so that is how they ended up with the current location.

Mills said it looks like you have put some stripping across the street just east of the turn that is not currently there and asked if that was a requirement of the City.

Keinath said they were required to add that crosswalk because right now there is a ramp that goes to nowhere on the other side so it was determined that the safer location for someone to cross because of that intersection is just to the east of it.

Moore added that it gives a driver plenty of sight distance for the turn.

Mills asked why the pathway jogs to make its way up to the existing building that may be used for the interpretive center.

Keinath said they could look at changing that. She said the location of the crosswalk was selected prior to the conversations about using the existing building for a public purpose, so they could very easily make the pathway connection.

Moore said the building would need to be remodeled to accommodate the interpretive center use so they could potentially construct a second entrance that is better positioned to the pathway.

Mills said it seems like it winds, and people won't walk around, so it would

make sense to connect it.

Keinath responded that the building is elevated so there would be some reconfiguring that would have to happen but they could do it.

Mills asked them to clarify whether there were stairs on the sidewalk if you were to continue the path.

Keinath responded yes, it has been diligently graded to be ADA accessible.

Clein asked whether the existing building will be ADA accessible.

Beal said yes, if you go to the west parking lot, the parking spaces adjacent to the drive, there is an accessible entrance at the northwest corner of the building.

Clein said okay, so one would enter at grade. He then asked whether the northwest side of the site is one of the highest portions of the site.

Keinath responded in the affirmative.

Clein asked how water gets to the high portion of the site from the lower portion.

Keinath explained that from the lower portions of the site it drains through the parking lot into grates that will drain into rain gardens. She stated that in each one of the rain gardens there is an overflow into underground piping that is connected in a complete loop around the building, and then rain water would drain into a gravity outlet to the sewer out in the street.

Clein asked what the elevation difference is between the lowest portion of the site in the rain garden to the inlet into the sewer system.

Keinath responded that she has worked on this project for hundreds of hours trying to make the grading plan work because there is the stormwater issue and the issue of not wanting to put fill into the floodplain; they want to take things out of the floodplain with their development. She said they have been very meticulous about the grading. She indicated a portion of the map and stated that it was two or three feet lower than where the pipe is underground, so it is not draining from the surface; and in another portion of the site the pipe has about four or five feet of coverage. Keinath said it is a delicate balance between keeping it low enough and

high enough and still getting the gravity outlet to work for what we think is the elevation out in the street.

Clein said right, if it is too low you are not pumping it out in the street. He asked whether they are routing the pipes around the building or underneath.

Keinath said they are all connected as per insistence by the Drain Commissioners Office in order to have two ways for the water to route around the building in case there ever was an obstruction.

Clein thanked her for explaining the physics of the stormwater detention system.

Keinath said it is one of the most complex hydraulic sites she has ever worked with because of the grade and the stormwater plan.

Clein asked what percentage of the proposal is impervious.

Keinath said about 35 percent pervious and 65 percent impervious, a reduction from almost 100 percent impervious currently.

Clein stated that it sounds like they are reducing perviousness by about 35 to 40 percent. He then asked how long the building will be.

Moore responded that the building will be 260 feet long.

Clein asked whether the residents will get storage spaces.

Moore stated that residents will have the option to have a hydraulic storage box over the hood of their parking space, but there will be no garage or dedicated storage space for each resident.

Clein clarified that there will be no chain link partitions for storage in the garage, so any storage will be up at the ceiling level. He then asked if they had already applied for approval with MDEQ or whether the meeting they referenced was informational.

Moore responded that they had had a pre-application meeting.

Clein said, so even if we give you approval you will still have to get their approval.

Moore said that is correct.

Clein asked how high the retaining wall on the east side is above the adjacent properties.

Keinath said the wall varies from three to four feet and is in the same location as where the existing building walls are now. She said that came about from conversations with the neighbors, who love having the privacy provided by the building wall. She said they don't want to do a lot of grading over here because of the drain, so putting the retaining wall there is the best solution. Keinath added that there will be a privacy fence that is about six feet tall on top of the retaining wall.

Moore said the retaining wall is made out of modular blocks stabilized with geo fabric.

Clein asked about lighting on the site.

Keinath said they are not proposing streetlights and most of the lighting will be around the building and the garage and parking areas.

Clein said he had not seen the photometric plan but assumes there are no issues as he sees no comments from staff. He then asked staff about the conditions proposed for the rezoning and how they are recorded for posterity.

DiLeo said there is a conditional zoning statement of conditions, a document that formalizes the conditions that gets recorded in several places; it goes with the deed, the county, and in every planning file.

Clein said it is not a covenant on the land but it goes with the zoning.

DiLeo said yes and there is a copy in the packet of the conditional zoning statement of conditions.

Clein said if they were to sell the property, the zoning would go with the property.

DiLeo responded yes, the zoning runs with the land, unless a future owner petitioned to change the zoning or the city initiated it.

Bona said someone in the audience mentioned the inaccuracy of FEMA mapping. She asked how the edges of the floodway and the floodplain got

demarcated versus what is on the FEMA map.

DiLeo said she is not the best source to answer that question and would defer to Jerry Hancock, the Stormwater and Floodplain Programs Coordinator for the City, who has been going over this plan with a fine-toothed comb along with the County's Water Resources Commissioner because of their interest both in the Allen Creek drain as well as the stormwater management system. She stated that they would know the location of the floodplain and floodway best, or perhaps Keinath with the developer; she could certainly follow up to get the exact specifications if necessary. She noted that she had followed up with Hancock after each time this project has gone through Planning Commission and each time he said the elevations shown on the maps are correct.

Bona said she has seen the maps at the city which use a broad stroke approach, and asked the petitioner how they had located the floodplain and the floodway from those maps when they were in the field.

Keinath said the FEMA maps have gross inaccuracies, not just in Ann Arbor, but everywhere; it is a difficult job to map the floodplain on every street in America. She said through working with the City and County on the floodplain, they mapped it specifically to the site. She stated that they were able to use the cross-section given by FEMA to determine the elevation of floodwaters on the site. She explained that a cross-section is a specific location where FEMA will map various flood scenarios and then they generalize for the area in between cross-sections. Keinath said they took the two cross-sections on the site that FEMA had hard data for and remapped it so the elevations were site specific. She explained that they have to submit cross-sections throughout the site to the DEQ to show that they are not putting any net fill into the floodplain. She said they have gone through the County, the City, and the DEQ to ensure that the location of the floodplain is accurate.

Bona said they have done a survey to get accurate information.

Moore said yes, they have had surveying done by a licensed surveyor and received a certificate of elevation.

Bona thanked the audience members that came to speak about the floodplain and stated that she felt appreciative of the knowledge in the room that can help the Commission make their decisions. However, she said that site plan review is not the time for those interested in changing

the requirements for floodplains to try to affect change. She referenced a draft flood mitigation plan that was written several years ago that City Council never pushed forward; she encouraged audience members to speak with City Council about the Master Plan to change those requirements. Bona said the process to change those requirements would be long, requiring lots of public input, staffing, and funding, but was preferred to voicing concern at an ad hoc basis during site plan review at Commission meetings.

Clein shared the concerns of fellow commissioners about the R4D rezoning. He said the project does have some public benefits such as improving the flooding on site and removing contamination; however, he feels R4D is sort of like a D2 zoning without the mixed use. He would rather have the potential for mixed use on the site. He said the building at 260 feet and five stories is basically the same size as the City Hall complex, which feels too big for a single family neighborhood. Clein stated that the last time the petitioner came before the Commission he had asked them to break up the massing up the building aesthetically and they have not done so. He said he is reluctant to support this project because of its impact on the neighborhood, but it is not clear cut.

Briere said from her perspective, this is a D2 residential only building. She stated that she has spent her time looking through the guidelines for a planned project; it is a D2 building with an R4 zoning with conditions. She said she is not fond of planned unit developments; she said at least establishing a planned unit development in the downtown we understand the rules and know they have the opportunity to establish civic and community benefits. Briere stated that she appreciates the access to the potential Allen Creek Greenway, the attention paid to alternative transportation, and the care given to mitigating flooding on the site, but she still feels the project is more suitable for the D2 district. She said from her understanding the reason they are not asking for a rezoning to D2 is so as to not expand the downtown boundary, which would be difficult politically, but she does not agree with R4D in a neighborhood that is primarily residential without the possibility of mixed uses.

Clein echoed the sentiments of Briere. He stated that approving this project could set a precedent that could be dangerous.

Briere affirmed that she understands the position of those who say anything would be better than what currently sits on the site and stated that they are right; this project is better for stormwater mitigation, for residential use, for enlivening an area of time, but thinks the use is too

intensive, and not varied enough. She said she would have been happier seeing a live-work situation, space for shops, or something that fed into the feel of the reclaimed building across the street on Felch.

Franciscus agreed with Briere and said she believes replacing small businesses with all residential feels like something is missing. She said it makes the neighborhood feel out of balance. She stated that the building is larger than one would expect based on the scale of the surrounding area but she is okay with that; the thing that bothers her is how it is just one thing, it feels disturbing to the area around it. She asked if one were to prescribe a zoning district that is more fitting what would that be.

Clein responded that Briere had mentioned a PUD, or another option is R4C, which allows greater density but less height.

DiLeo explained that they had gone through other potential zoning districts in previous staff reports, comparing the current M1 to R4C, R4D, and D2. She stated that in the area there is office, which allows residential; there is also C1, which allows residential. She said the C1 district is 100 percent FAR; this proposed development is at 101 percent FAR.

Carlisle stated that the first thing that is done when considering a rezoning is to look at the Master Plan; the Master Plan calls for industrial on this site but we can all agree that that is not appropriate. He said they had a lot of internal dialogue with staff and the applicant to determine possibilities for this rezoning and they came up with three options: R4C, R4D, PUD, and D2. Carlisle said they relayed all of the pros and cons for these options. He noted that the applicant decided to pursue R4D after having conversations with staff and understanding existing staff concerns.

Bona said she appreciated that those on the Commission who are uncomfortable with the project are uncomfortable for different reasons. She said from her perspective, the density does not concern her, one of the reasons being that if this will be a greenway, we will need eyes on it, whether it is R4D with conditions or D2, density is fine. She noted that in the Master Plan when they talk about not expanding downtown, they talk about replacing residential for downtown uses, which is not the case here. She cited the Central Area Plan, which has been around since the 1980s, which says not to expand downtown into the residential districts. Bona said she is absolutely opposed to rezoning residential property to D1 or D2, but that is not the case here.

Clein thanked Bona for the history and her institutional knowledge.

Gibb-Randall said she is confused about why it is not a PUD, as it is asking for so many special things bundled into it. She stated that it may be easier for the Commission to get behind a PUD in terms of precedent.

Moore said in their talks with staff, they learned that one of the key principles of the PUD is to accommodate a use that is not otherwise accommodated by the zoning code; their project can be accommodated by the zoning code. He said this project does not meet that condition.

Gibb-Randall asked if that is because of the industrial use on the site.

Moore responded no that they are proposing a development that can already be accommodated by an existing district.

Gibb-Randall said, yes but there are so many conditions attached to it. She asked DiLeo to explain why a PUD would not fit.

DiLeo explained that a PUD is a very powerful tool, it is a customizable zoning district where the uses as well as the area, height, and placement, landscaping, and off-street parking requirements can be customized, but in exchange for great flexibility of customized zoning, one must demonstrate a significant public benefit. She stated that that is a high threshold to achieve. She added that in addition, when one is proposing to build above what is recommended in the Master Plan, one has to provide affordable housing. DiLeo said that conditional zoning is another great tool most effective and only used when you would be limiting the zoning parameters. A PUD is for going beyond the baseline with something unique and original that cannot be done within the existing zoning districts, she explained; conditional zoning is for when you want to limit or reduce the possibilities. She added that the applicant has stated as a planning philosophy that they should not have to do a PUD when they are proposing something so typical, a residential development. She explained that from the applicant's perspective, the zoning code is not ideal, so they are proposing R4D, purely residential, and they are limiting it to alleviate staff concerns about extra height, et cetera.

**On a voice vote, the Vice Chair declared the motion denied. VOTE:
5-3**

Yeas: 5 - Jeremy Peters, Sofia Franciscus, Sarah Mills, Alex Milshteyn, and Shannan Gibb-Randall

Nays: 3 - Kenneth Clein, Sabra Briere, and Bonnie Bona

Absent: 1 - Wendy Woods