



City of Ann Arbor

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

Meeting Minutes City Planning Commission

Tuesday, March 15, 2011

7:00PM Main Street County Administration Bldg - Board Room

PLEASE NOTE NEW TEMPORARY LOCATION

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 734-794-6140 (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 5th 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).

1 CALL TO ORDER

Chairperson Mahler called the meeting to order at 7:00 PM.

2 ROLL CALL

Rampson called the roll.

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

3 APPROVAL OF AGENDA

A motion was made by Bona, seconded by Vice Chair Westphal, that the Agenda be Approved as presented. On a voice vote, the Chair declared the motion carried.

4 INTRODUCTIONS

None

5 MINUTES OF PREVIOUS MEETING

Approved as presented

- a [11-0242](#) City Planning Commission Meeting Minutes of January 20, 2011

Item withdrawn from Agenda.

- b [11-0336](#) City Planning Commission Meeting Minutes of February 8, 2011

Item withdrawn from agenda.

6 REPORTS FROM CITY ADMINISTRATION, CITY COUNCIL, PLANNING MANAGER, PLANNING COMMISSION OFFICERS AND COMMITTEES, WRITTEN COMMUNICATIONS AND PETITIONS

a City Administration

None

b City Council

Derezinski reported that at their Work Session last night, the City Council had discussed the letter of intent for a hotel/conference center on the Library Lot in downtown Ann Arbor. He explained that there were many different views presented and given the complexity of the project, there were concerns of risk and the overall feasibility, given the current economical situation. He noted that the Council felt there remains many unanswered questions, which they have asked the bidding company to respond to before the item moved forward for City Council action.

c Planning Manager

Rampson provided the Commission with an updated Meeting Calendar for March, and reviewed upcoming meetings. She reported that the Design Review Committee recently met to get oriented, and the draft ordinance is scheduled to come before the Commission on April 8.

d Planning Commission Officers and Committees

Mahler reported that the Library Lot Advisory Committee met last Tuesday and had voted to have the City Council review the letter of intent from the Roxbury Group. He clarified that the Committee had not requested City Council to approve such a letter. He reiterated the previously mentioned concerns mentioned by Commissioner Derezinski and added that the role of the Roxbury Group had also come up in the discussion. He noted that the Committee had discharged its duties at the current juncture.

e Written Communications and Petitions

- 7 [11-0338](#) Various Correspondence to the Planning Commission

Received and Filed

- 8 **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

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

- a [11-0342](#) Amendments to Chapter 8 (Organizations of Boards and Commissions) and Chapter 57 (Subdivision and Land Use Control) to establish a Design Review Board and Design Review Procedures for Certain Downtown Properties

Chairperson Mahler read the Public Hearing Notice as published in the newspaper.

Received and Filed

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

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

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

[11-0056](#)

Phi Kappa Psi Fraternity Special Exception Use and Site Plan for Planning Commission Approval - A request for Special Exception Permission to utilize the property at 630 Oxford Road as a fraternity house for 24 occupants and pave an existing parking lot in the rear. - Staff Recommendation: Approval.

Thacher presented the staff report and explained the petition.

Allan Lutes, 6921 Jackson Road, Ann Arbor, spoke as the representative for Phi Kappa Psi Fraternity. He thanked staff for their assistance in navigating the complex process in bringing the project forward. He said they had tried to preserve the trees

on the lot and limited lighting so as not to cause a detriment to the neighbors. He referenced the many letters of support from neighbors that had been forwarded to the Commission and stated that he felt the project met the intent of the zoning ordinance.

Noting no further speakers, Mahler declared the Public Hearing closed at 7:22 PM.

COMMISSION DISCUSSION:

Carlberg commented favorably on the proposed covered bicycle parking, as well as the petitioner's sensitivity to light issues for the neighbors. She questioned where the residents would recreate in good weather.

Lutes stated that he suspected residents would recreate in the area between the back of the house and the parking lot, noting that their intent is to keep social activities out of the front yard.

Carlberg asked if they would be having an adult resident manager or one of the residents managing the fraternity facility.

Lutes responded that the board's intent was to have a mature adult who has been out of school for a number of years as a resident manager.

Derezinski asked what the enrollment was for Phi Kappa Psi.

Lutes responded that the typical enrollment ranged between 60 to 100 men.

Derezinski asked if their request for a limit of 24 occupants will be adequate to meet the fraternity's needs.

Lutes answered that based on the immediate future, and current finances, the request is adequate, yet he couldn't speak to what might happen in the future if they were to receive donations to the fraternity.

Derezinski referenced the Citizen Participation Ordinance report, asking if they had heard back from the neighbor participant who was to take their project plan back to the Oxbridge Neighborhood Association Group.

Lutes responded no.

Derezinski asked about the history of the house, noting that he believed that Wilber Cohen, who had been the Secretary of Education, had resided in the house. He stated that given the number of fraternities in the area, he felt that it seemed to be a good fit for the project.

Briggs asked where the trash is currently kept at the facility.

Lutes said that the trash is kept in a similar location as to what is shown on the proposed site plan, which is against the building. He explained that due to the difficulty in accessing the area in the winter, the Solid Waste department preferred carts to be used.

Briggs commented that the current sidewalk is very narrow and would leave little space for carts.

Lutes stated that he believed the sidewalk will be widened to 3 feet wide so it should be capable of handling the carts.

Commissioner Bona asked what the storm water capacity was for the dry well as presented on the site plan.

John Adams, engineer for the project, responded that they will be meeting the requirements for the first flush storm flow that would occur on the entire site and in taking that volume, they devise a way of containing the water. Adams explained that they have proposed the water go into dry wells or pits which are underground. He said the tanks have holes in them which allows the water to flow out into the gravel surrounding the wells. Adams noted that when the tank fills, the spillover continues to the designed run-off areas.

Woods asked what the building capacity was during parties. She asked if anyone had checked with the Fire Department on the enquiry.

Lutes said he wasn't familiar with their codes and didn't have more information to offer on building capacity. He believed City staff was to look into the issue further.

Lutes explained that since the fraternity was a member of the Inter-Fraternity Council they had an internal policing system where they monitor and place limits on party sizes. He noted that their monitoring wouldn't be the same as the Fire Marshall's or Police. He stated that they currently manage 14 facilities on campus, and he can't remember having the Fire or Police inspect the facility and post notices, similar to what one would find at restaurants limiting the amount of persons allowed in specific rooms.

Woods asked if they receive many noise complaints from the facilities that they manage.

Lutes responded that on average they receive 2 after-hours complaints per month from the facilities themselves, which are usually related to general maintenance or false fire alarms.

Rampson noted that these are residential facilities and therefore not treated like restaurants or other facilities where there are occupancy loads. She said they would verify with the Fire Department and if there are any suggestions they will pass those along for guidance to the petitioner before they close out the file.

Moved by Pratt, Seconded by Carlberg 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), and, therefore, approves the Phi Kappa Psi Special Exception Use for a fraternity with not more than 24 occupants, and

The Ann Arbor City Planning Commission hereby approves the Phi Kappa Psi Site Plan, subject to satisfaction of all code requirements prior to issuance of building permits. On a roll call, the vote was as follows with the Chair declaring the motion carried.

Special Exception Use passed by Planning Commission and the Site Plan moved on to City Council.

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

Nays: 0

11-0332

Resolution to Approve the Mill Creek Property Annexation, 1.17 Acres, East Side of Stone School Road North and South of Birch Hollow Drive (CPC Recommendation: Approval - 9 Yeas and 0 Nays)

Kahan presented the staff report and explained the petition.

Noting no further speakers, Mahler declared the Public Hearing closed at 7:41PM.

COMMISSION DISCUSSION:

Bona asked what the petitioner's motivation was in annexing a vacant parcel.

Kahan responded that the petitioner felt it would make sense to consolidate the parcels and only receive one tax bill from one jurisdiction.

Bona asked if the lot would be consolidated with the adjoining Millcreek property.

Kahan answered, yes.

Rampson added that the department was still researching if Birch Hollow Drive had been dedicated to the City as right-of-way. She said the property owner has expressed willingness to work with the City in this regards.

A motion was made by Derezinski, seconded by Carlberg, that the Resolution/Public Hearing be Recommended for Approval to the City Council. 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

11-0333

Resolution to Approve 215 North Fifth Avenue Site Plan, 215 North Fifth Avenue (CPC Recommendation: Approval - 9 Yeas and 0 Nays)

Thacher presented the staff report and explained the petition.

Dick Mitchell, of Mitchell and Moaut architect for the project, spoke on behalf of the petitioners. He referenced aerial photos and discussed design decisions.

Noting no further speakers, Mahler declared the Public Hearing closed at 7: 58PM.

COMMISSION DISCUSSION:

Giannola asked why no windows had been included on the south upper story, facing the Armory.

Mitchell responded that the Armory casts a shadow on that side, and with the interior placement of bathrooms, closets and mechanical room, they didn't need to have windows on the upper south side.

Westphal asked staff what would trigger soil testing on a site before redevelopment, given that this location had been an auto repair facility in the past.

Thacher answered that the City didn't have any trigger mechanism for soil testing for these types of residential projects, and she believed that since they would be building on a slab, there wouldn't be as much soil disturbance.

Mitchell commented that SME Engineering has done Phase I and Phase II testing and found the soil to be clean.

Westphal asked if the Historic District Commission had discussed the proposed entrance location.

Thacher responded, yes, and they had approved the proposed site plan as it was presented to the Planning Commission.

Pratt asked if the owners understood that the property to the north could be developed in the future, which would diminish the current views.

Mitchell acknowledged that they were well aware of the possibility and said such development would first have to pass the Old Fourth Ward Historic District.

Derezinski questioned if the fireplace would be functional.

Mitchell responded, yes.

Briggs commented that while the building might be inwardly focused, she voiced her frustration that the design lacked pedestrian orientation, and that there were “no eyes” on the street from the residence.

Mahler stated that he was glad to see that the project had met the D2 zoning requirements and had received the HDC Certificate of Appropriateness. He was also glad to see a new residential proposal in this district that is in keeping with the conceptual goal of density for the downtown area.

A motion was made by Pratt, seconded by Derezinski, that the Resolution/Public Hearing be Recommended for Approval to the City Council. 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

11-0334

Resolution to Approve Packard Square Site Plan and Development Agreement, 2502-2568 Packard Street (CPC Recommendation: Approval - 9 Yeas and 0 Nays)

Kahan presented the staff report and explained the petition.

Mary Kasan, 1471 King George Blvd, Ann Arbor, representative from the Georgetown Neighborhood Association, spoke about concerns with the added storm water drainage and sanitary flow into the existing infrastructure. She asked if studies had been conducted on the added volume and how that would affect the residents on King George Boulevard, as well as on Page Avenue.

Richard Dokas, 1243 Marlborough Drive, Ann Arbor, representative of the Kensington Marlborough Neighborhood Association, spoke about; 1) concerns with storm water drainage during heavy rainfall given that the soil is clay; 2) the proposed egress onto Page Avenue which could potentially bring the addition of 230 people passing through their neighborhood; 3) trash pick-up which would need to be picked up more than once a week with such a high density;) future maintenance, since the petitioner has shown no regard to upkeep of the property in the past.

Jenna Jordan, 1553 King George Blvd. Ann Arbor spoke about concerns with a

four-story building being built 80 feet from her property, which would result in loss of privacy to her, and added noise and possible trash removal issues. She asked for the Commission to consider storm water run-off, deliveries with commercial vehicles, and moving the proposed four-story part of the building to the north side and making the south side only two-story. She added that she is aware that she will have the privilege of raised taxes with having to listen to students partying.

Matthew Williams, 1530 King George Court, Ann Arbor, spoke about concerns with added traffic. He suggested that a Hawk signal be installed to encourage pedestrian crossings on Packard Blvd. and that traffic calming humps be installed on Page Avenue, as has been installed on the northbound side of King George Boulevard.

Robert Baxstresser, 2971 Pebble Creek, Ann Arbor, questioned how the elimination of Brownfield tax credits from the State might affect the proposed project, and if the developer or the City was lobbying to restore the tax credits. He also asked if staff or the Commission endorse projects regardless of available financing.

Mahler answered that the financing isn't within the Commission's purview when considering recommending approval of projects, and the issue of Brownfield tax credits has no bearing on their recommendation.

Noting no further speakers, Mahler declared the Public Hearing closed at 8:26 PM.

COMMISSION DISCUSSION:

Bona noted that the floor area ratio allows for 150% density on the site, and she asked the petitioner why they hadn't taken advantage of it, but settled with a floor area ratio of only 126%.

Craig Shubiner, with Harbor Georgetown, LLC. 1900 S. Telegraph Rd. # 200, Bloomfield Hills, responded that they had conducted a market study, which showed them the best feasibility for this location was 230 small apartment units as well as approximately 20% retail. He explained that when they went to HUD, they had been offered an invitation for financing based on 230 apartment units as well. Shubiner said they have invested a fortune in the process so far and have taken into consideration the feedback of those involved as they want to get the project financed and built.

Bona expressed her concerns on the massing of the building, mentioning that with the recent zoning amendments made to the Area, Height, and Placement requirements, the proposed design of the building triggers concern. She said the massing was a simple box design, which made it efficient to build but in elevation it was all basically at the same height. Bona stated that it was unfortunate that the design wasn't more interesting and architecturally supportive of the neighborhood, with the retail areas distinctly different from residential. She said the project was a huge improvement over what was currently on the site and, while the amount of added housing might be of concern to neighbors, she believed those units would make the retail as well as the pedestrian flow work for that site.

Derezinski asked about the parking requirements required for the project, as well as the location of bus stops in proximity to the site.

Shubiner answered that he believed they were above the required number of parking spots per the ordinance, since they have 454 proposed vehicular parking spots for the residential units when only 230 spaces are required plus the additional 90 spaces for the retail use. He noted that potentially residents will ride the bus or walk, but they felt they were providing a safe number of available parking spots.

It was agreed that the bus stops are located right by the site.

Carlberg noted that the site slopes a lot, and she said it wasn't clear from the drawings what the level of the front of the buildings was in relationship to Packard Road. She asked if they would be at the same height as the current buildings or if they were proposing to elevate that part of the site.

Shubiner responded that it's different than the current building, which sits much further back on the site. He said they would be bringing in some fill on the front of the site but they would still be 5-6 feet below Packard Road. He said the driveway approaches would be less steep than they currently are, but the site would still slope downward toward Page.

Andrew Wiseman, engineer for the project, stated that there was approximately 30 feet in slope from Packard Road to Page Avenue. He said they would use some of the dirt from the back of the site to raise the front elevations approximately 2 feet from the existing Kroger store elevation. He said the retail area will be relatively flat with 2-3% slope and along the residential, parking garage area, and onto Page Avenue, it will be approximately a 4-5% slope.

Carlberg asked about the stormwater provisions on the site and how they would be meeting the City code for their project.

Wiseman responded that there is an existing swale they will be improving to direct stormwater into the system so it won't be running onto the King George properties. He explained they have a stormwater system that wraps around the entire U-shape and ends just east of Page Avenue with an underground detention facility which will handle approximately 108% of the required detention for the site. He said that for this site, the 100-year storm event storage requirement is 67,000 cubic feet, and they will be providing 71,000 cubic feet.

Wiseman explained that water will be detained in the underground storage facility and released at a controlled rate into the existing storm sewer system. He said there would be perforated pipe, which would allow for some groundwater recharging as well.

Carlberg asked how they would be assessing the sanitary system with the added density of residents on the proposed site.

Wiseman said that the sanitary sewer system requirements are based on the number of residential units, and retail units. He said the City is currently performing a study to determine whether there are any improvements that might be necessary downstream. Wiseman added that, if the City deems that changes are necessary to meet the demand, then they will be incorporated into the development agreement.

Giannola asked staff if the traffic study that had been conducted showed there would be higher volumes with the new development than when the site housed the Kroger store.

Kahan responded that the traffic study indicted there would be different traffic patterns given the residential component, noting that the existing intersections are functioning at acceptable levels, and are not anticipated to change.

Giannola said since she lives in that area and having used the Kroger store parking lot often, she expressed that is very hard to turn left out of the driveway because of

the hill and she was concerned for potential traffic accidents without traffic signals.

Kahan said that the City is looking at extending the 3-lane conversation on Packard for that area, however the data from the study won't be available until another 1-2 years.

Shubiner added that the traffic study showed that the counts would not be much greater than when they had a fully-occupied center at that site.

Giannola reiterated that her concern was the difficulty in exiting the site onto Packard because of the slope and decreased visibility.

Shubiner responded that he believed it would be better with the increased elevation of the driveway.

Woods asked the petitioner to respond to some of the citizen's concerns regarding truck deliveries to the site and trash pick-up.

Shubiner responded that they would be having approximately half of the retail square footage they had previously had, which would seem that they would be having half the trash they had before plus the added residential units.

Shubiner said they hadn't done a trash study but they were willing to work with the trash collectors and the neighbors to make sure pickup and deliveries occurred during regular business hours so not to disturb the neighbors.

Woods asked for clarification on the proposed design of the balconies and how they were intended for use in regards to the possible loss of privacy for the neighbors.

Shubiner said almost all the residential units will have balconies. He stressed they will be adding a lot of landscaping such as evergreens along the parking lot between the homes on King George Boulevard and they believed, with time, their trajectory would block out the view of the first 2-3 stories of the balconies.

Woods suggested that it might be helpful as they move the project along to have drawings available which would show what the trajectory will look like to address the privacy concerns raised by the public.

Woods asked what the process would be for the Hawk system to be installed at the mentioned location near the project site.

Kahan said he encouraged anyone interested in the installation of a Hawk system near the proposed site to contact him directly for more details.

Rampson added that staff could follow-up on the issue, but she cautioned the placement of a Hawk system in between two closely-placed intersections would not likely be approved.

Carlberg said she was very familiar with the neighborhood since she lived nearby. She said that there is a crossing at Pine Valley that allows people to cross with a pedestrian light as well as three busses per hour that stop on Packard Road in front of the site. She commented that there are several amenities that make the site ideal for multi-family housing.

Carlberg added she believed one could exit left or right onto Page Avenue, which would lead you to safe traffic lights that access Packard Road. She stated that she

felt it would be unnecessary to add an additional pedestrian crossing with the existing one at Pine Valley, which was only a 2-minute walk away from the site.

Derezinski asked how those walking or biking to and from the site have been accommodated given the grade issue as well as the vehicle traffic.

Kahan reviewed the sidewalk connections to the site, noting there were four access sidewalks.

Pratt asked if the pavement would be marked for pedestrians.

Shubiner responded that the pavements would be concrete.

Pratt said it would be helpful to have traffic volume comparisons of the proposed project to the previous development, showing the numbers at all times and not specifically during peak times. He noted that if numbers would be provided, it would be much easier to quantify the expected traffic impact on the neighboring streets, specifically on Page Avenue.

Shubiner said that comparisons are included in the traffic study.

Pratt asked if those numbers were currently available to the public to help address concerns.

Bruce Measom, representative of the petitioner, said they had made the traffic study available to the City as well as the neighborhood groups in the area. He said that after the study had been completed and circulated, they realized that the consultant hadn't built in the growth factor for the center, noting that the existing center has been closed for a couple of years.

Pratt asked if they could quantify the proposed increase or decrease of impervious area on the site.

Measom answered that the impervious area would be the same, but with a new added underground detention system in place.

Pratt asked if the Brownfield credits are eliminated, will that kill the project.

Shubiner said that he hoped not, but will know more after the project has been competitively bid. He said they are also working on getting Tax Increment Financing [TIF], and a credit and grant from the DEQ which would greatly assist them.

Pratt asked if all the on-site drainage would be going into the detention system.

Wiseman responded yes, the drainage that is now directed to Page Avenue will be captured in the detention facility.

Pratt asked if the petitioner was willing to include time restrictions for trash pick-up in the Development Agreement with the City.

Shubiner responded, yes, they would be happy to work with the neighbors and City on this issue and include it in the agreement.

Briggs stated that it was concerning to her to hear that current conditions on the site may get worse, since she felt the current issues should be addressed by the City. She encouraged proactive thinking on the pedestrian crossing.

Briggs asked where trash was currently located on the site.

Shubiner said that currently they are located on both sides and with the new development, it would be unreasonable to expect residents to haul their trash from one side of the site to the other.

Rampson asked the petitioner to show the location of the carports and if they might be screening the view of the trash.

Joe Burnell, architect for the project, explained the location of the carports, noting that they would act as screening.

Briggs asked petitioner to speak about their maintenance plan for the site.

Shubiner said the site has been difficult to maintain because it has been vacant property since the various anchor stores moved out. He explained they have had on-site meetings and have been working with the City and neighbors. They also have a maintenance person who has been collecting trash on the site.

Shubiner said the apartment complex will have on-site maintenance and they won't have the same issues as with a vacant building.

Briggs encouraged pedestrian pavement markings to be of contrast with the rest of the pavement.

Briggs asked staff how the setback requirements work with parking lots in front.

Kahan explained that the Area, Height, and Placement requirement's intent was to get a portion of the building close to the sidewalk. He said the petitioner is meeting those requirements on the north and south side.

Westphal asked how the center addresses the Packard frontage. He said the plaza up front could be an amenity instead of having a concrete "balancing beam" of sorts surrounded by parking, which isn't very appealing. He asked if they had considered a design more like a "Woonerf" where cars are guests of the plaza.

Westphal asked how the tenant parking will be assigned.

Shubiner responded that tenants will be charged for covered parking, with the open air parking being free of charge.

Westphal asked the petitioner to consider a 'cash-out parking' option in order to give non-car owners a break on their rent, noting that the City would like to encourage alternative transportation whenever possible.

Shubiner said they were willing to consider such options.

Westphal asked staff about possible available recourse if the Development Agreement, items (P-17) "To remove all discarded building material and rubbish from the development at least each month during construction of the development improvements, and within one month after completion or abandonment of construction"; and (P-20) "Failure to construct, repair and/or maintain the site pursuant to the approved site plan and/or failure to comply with any of this approved development agreement's terms and conditions..." were not followed.

Rampson responded many communities have cash bonds for developments, whereas the City doesn't use cash bonds but has had success with holding off on certificates of occupancy for site compliance.

Westphal asked about the timeline of the development agreement.

Rampson said that as soon as the agreement is signed and recorded it is binding and stays with the land. She noted that the Packard Square site plan, if approved, would be valid for 3 years.

Westphal asked if the development agreement would cover the clean-up of the existing site.

Rampson responded, no, the development only covers the proposed development.

Derezinski asked what the timeline for the beginning and completion of the project was.

Shubiner said ideally they would start in August 2011 and finish late 2012 or early 2013.

Briggs commented that the site would be a great experiment for a plaza in the front with less parking if the petitioner had any interest in exploring the idea.

Shubiner explained their concept of design for the site, stressing that they planned a square with open space available outside the retail spaces.

Mahler echoed the concerns of the massing and the lack of imagination with the design. He stated the project is a massive one, and he asked the petitioners not to try to undersell it to the public, the Commission, or the City Council.

Mahler referenced item 34 in the Citizen Participation Report, asking if the petitioner was willing to commit the project to LEED silver certification by including such in the development agreement.

Shubiner said their architects have gone through the checklist, noting that they have enough points to qualify for silver, with the exception of the HVAC system which wouldn't comply but is cost prohibitive on this project.

Mahler asked if they have provided the documentation to staff.

Shubiner responded that they have provided the checklists to the Brownfield Committee, but wasn't sure if staff had received copies as well.

Mahler said a great improvement on the site was the added landscaping. He had concerns regarding privacy and light containment on the site.

Burnell explained they have done a photometric study, which is included in their submittal. He said they are proposing fixtures with light cut-off shields that will be facing the property with very little spillover off the site.

Pratt reiterated Woods' request for the petitioner to provide drawings to City Council showing line of sight from neighbors.

Bona added comments on the front parking area, noting that she realized that parking was critical to retail survival of the project. She had concerns regarding proposed

width of sidewalks. She asked if the vehicle's bumpers would be overlapping the sidewalk and if so, they would be losing two feet of sidewalk. She said in the downtown area, the minimum sidewalk width is 12 feet. She wasn't sure that they would have enough space for tables and chairs and pedestrians if car bumpers would be overlapping that same space.

Bona echoed Westphal's comments regarding the importance to consider cars in pedestrian zones vs. pedestrians in car zones. She said it was important to make sure the texture of the pedestrian zone is different from the parking area.

Bona asked staff to look into the possibility of having a vehicular connection from the proposed site to the office building to the north of the site.

Burnell responded that with the grade difference it wouldn't be possible.

Woods asked staff about the Brownfield review that was on-going and how that affects the Planning Commission's review.

Kahan said that the Brownfield Committee, which consists of City staff, City Council members, and County staff, is reviewing the formal petition submitted and will take action on the project in April. He explained that the Committee can recommend to Council to approve an authority for this particular site, which is a financing tool allowing the developer to pick up the initial cost of the remediation of the contamination and is later repaid using taxes collected from the site.

Woods asked if we can be sure that the contamination has not formed a plume and if it would affect Malletts Creek.

Kahan explained that the petitioner hired a certified environmental firm to do the analysis, which determined the contamination is stable, localized and is basically sitting on a ledge of clay which hinders it from percolating into the groundwater. He said that they believe the remediation process would successfully remove the contamination and thereby not affect Malletts Creek.

Woods asked how the park contribution can to be distributed to the two proposed parks.

Kahan responded that they are two parks in the vicinity of the project, and the City's PROS Plan requires that funds be donated to nearby parks to help improve the facilities for the benefit of the neighborhood.

A motion was made by Carlberg, seconded by Giannola, that the Resolution/Public Hearing be Recommended for Approval to the City Council. On a roll call, the vote was as follows with the Chair declaring the motion carried.

Unanimously passed: 9-0 – Moved on to City Council

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

Nays: 0

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

None

12 COMMISSION PROPOSED BUSINESS

None

13 ADJOURNMENT

Meeting was unanimously adjourned at 9:45 PM.

Eric Mahler, Chair
mg