

MINUTES

ANN ARBOR CITY PLANNING COMMISSION

REGULAR MEETING

7:00 p.m. – December 18, 2007

Time: Vice Chair Bona called the meeting to order at 7:04 p.m.

Place: Council Chamber, Second Floor, 100 North Fifth Avenue, Ann Arbor, Michigan.

ROLL CALL

Members Present: Bona, Carlberg, Emaus, Lowenstein, Mahler, Potts

Members Absent: Borum

Members Arriving: Pratt, Westphal

Staff Present: Cheng, DiLeo, Foondle, Lloyd, Pulcipher

INTRODUCTIONS

None.

MINUTES OF PREVIOUS MEETING

None.

APPROVAL OF AGENDA

Moved by Mahler, seconded by Emaus, to approve the agenda.

A vote on the motion showed:

YEAS: Bona, Carlberg, Emaus, Lowenstein, Mahler, Potts

NAYS: None

ABSENT: Borum, Pratt, Westphal

Motion carried.

Enter Westphal.

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

Potts reported that the Ordinance Revisions Committee would be meeting on January 8, 2008 to work on the A2D2 zoning amendments and design guidelines for the downtown.

Bona reported that the DDA Partnerships Committee responded to a Council resolution regarding the library lot parking structure at its last meeting. She said the committee would be meeting again tomorrow to continue discussing the same topic.

AUDIENCE PARTICIPATION

None.

PUBLIC HEARINGS SCHEDULED FOR NEXT MEETING

None.

REGULAR BUSINESS

a. Public Hearing and Action on Amendments to Chapter 55, Section 5:54(2)(b) to add an exception allowing refuse containers in the required front open space with administrative approval – Staff
Recommendation: Approval

DiLeo explained the proposed amendments.

Edward Vielmetti, 1210 Brooklyn, expressed concern that this ordinance amendment would provide license to tenants and landlords, and people in general, who do not take care of their trash containers and leave them in the front yard. He believed there were areas of town, especially closer to campus, where this ordinance change would not be positive. It was not good for the image of Ann Arbor, he said.

The maintenance supervisor of The Village Cooperative Homes stated that it was a hardship for residents in four or six-unit buildings at The Village to carry their mandated curb carts around to the back of the building. These residents did not have garages, carports or side yards, he said. He believed it was important to legitimize what people have been doing since the mandated curb carts went into effect.

Chris Crockett, a resident of the Old Fourth Ward Historic District, said she has watched as cars have taken over front yard spaces in her neighborhood, not to mention more and more backyard spaces. She appeared at a Council caucus meeting, she said, to talk about the ongoing problem of curb carts being left in the front yard spaces. Most of time they were just left on the curb for five or six days, she said, and she could imagine that there were those who would like to keep them in the front yard the entire time. She said many people work very hard to keep the downtown neighborhoods looking nice and the City was not well served by having these carts in the front or properties. She believed everything possible should be done to keep the carts in the backyards and the front of properties and buildings looking as clean as possible. It was difficult to encourage people who did not reside in the buildings they owned to keep them looking presentable, she said, and to allow these carts to be stored in front would be unreasonable. She urged the Planning Commission to consider the ramifications and do whatever possible to help residents keep their neighborhoods clean and tidy.

Nancy Stone, of the City's Public Services Area, working with solid waste issues, stated that the purpose of this ordinance amendment was to make Chapter 55 consistent with the whole curb cart program. She said use of the carts began in fiscal year 2004/05 as a way to keep trash contained within the City. What people would often do in the past was place trash bags at the curb, she said, but there were problems with overflow and animals getting into the bags. She stated that the carts were designed to move Ann Arbor toward a clean community. With regard to the concerns about carts being left in front yards, she said these situations needed to be raised with the City's Community Standards office so property owners/occupants could be ticketed and the carts restored to the side or back of the building.

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

Moved by Carlberg, seconded by Potts, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the amendment to Chapter 55 (Zoning Ordinance), Section 5:54, Required Open Space, addressing placement of refuse containers in the required front open space.

Potts stated that she supported this ordinance amendment, which would regulate the situation where people were unable to store their carts on the side or rear of their homes. She assumed that Chapter 26 contained the standards that would have to be followed by property owners requesting permission to locate their carts in the front open space.

Emaus did not want to see every condominium owner in The Village petition to have their cart stored in the front open space, so he was not sure if the purpose of this amendment was geared toward a neighborhood or a condominium association. He said it would be helpful if how this would be restricted could be outlined. He wondered how this would be implemented.

DiLeo said this proposed amendment came to the attention of Planning staff because there was consideration for having property owners apply for a variance from the Zoning Board of Appeals to allow storage of a cart in the front open space. Staff believed this to be a cumbersome process, she said, and a text amendment to the Zoning Ordinance was suggested as a more appropriate solution. She said administration of this would be handled through the Public Services Area, adding that she did not think any other developments in the City, other than The Village, would need this provision.

Stone was certain that The Village was the only known location in town that would use this amendment. She said the owners of The Village approached the City to work together on this. She envisioned a relatively minor administrative procedure.

Emaus stated that The Village may be the only development; however, this was basically advertising the provision to the entire City and there was always the chance that 500 applications could be submitted as a result.

Stone stated that the intent here was to allow this provision for those lots that did not have the ability to store the cart at the side or rear of the property. This provision was only for those lots where side or rear storage was not possible, she said.

A vote on the motion showed:

YEAS: Bona, Carlberg, Emaus, Lowenstein, Mahler, Potts, Westphal
NAYS: None
ABSENT: Borum, Pratt

Motion carried.

b. Public Hearing and Action on Boulevard Heights Alley Vacation, alley between South Maple Road on the west and Collingwood Drive on the east, and between Jackson Avenue to the north and Abbott Avenue to the south. A request to vacate the existing alley – Staff Recommendation

Pulcifer explained the proposal and showed photographs of the site.

Basil Lagos, owner of Arbor West Plaza, located along South Maple Road, said he had three tenants in the plaza who ran their businesses to support their families. These tenants have spent their life savings to run their businesses, he said. If the alley were to be closed, he said, it would be a hardship on the tenants because of the loss of access. He did not think it would be a good idea to close the alley, noting that it was very difficult to access this site from South Maple Road. The alley provided the easiest access, he said. He was concerned that closing the alley would force his tenants to go out of business, stating that small business was the backbone of this country.

John Lagos, representing property owners and tenants of Arbor West Plaza, submitted his statement, which he read to the Planning Commission (statement on file). He informed Commission members that this alley was used by the public on a daily basis for access to the businesses adjoining the alley. The alley was also used by the public for placement of dumpsters and other unsightly business effects, as well as for public utilities, he said. He expressed concern that a private developer has petitioned to have the alley vacated, when then alley was used by the public in many different ways. He noted that there was no site plan associated with the request, adding that he believed the alley vacation should only be considered as part of a site plan. He did not understand on what, if the Planning Commission were to recommend approval, an approval would be based. He stated that even the business owners along the alley who have expressed their support gave their support as long as a successful development were to replace it. He believed closing the alley would cause great harm and asked the Planning Commission to not allow the alley to be closed, especially without a site plan.

Marc Levy, 1419 Coler Road, stated that the snowstorm that occurred last Sunday was indicative of why the alley was not necessary for businesses to function, noting that the snow in the alley was not plowed by the City to maintain access. He questioned the importance of the alley. He stated that 14 months ago all of the property owners adjacent to the alley submitted letters in support of the alley vacation, with one of those owners withdrawing their support since then. He stated that this has been a very lengthy process, working four years to gather all of the necessary approvals. It was his hope that the Planning Commission would recommend approval of the alley vacation for the second time, and that he would soon be in front of the Planning Commission with a site plan for developing this property.

Enter Pratt.

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

Moved by Carlberg, seconded by Emaus, to rescind its motion of June 5, 2007 which recommended that the Mayor and City Council approve the Boulevard Heights Alley Vacation subject to the petitioner obtaining site plan approval for a redevelopment project on the site which would allow continued access between all neighboring properties on the block equivalent to that existing at the time of the vacation.

Moved by Carlberg, seconded by Emaus, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Boulevard Heights Alley Vacation, with the condition that easements are maintained for public utilities.

Potts stated that she was in favor of keeping the alley open because she believed in reasonable access for all properties. She stated that access for the small commercial plaza on Maple Road was either from the alley or from Maple, noting that the Maple Road ingress and egress was very difficult. She clarified that if the alley were vacated, the commercial plaza would receive the portion of the alley adjacent to the plaza, leaving that access intact.

Pulcipher stated that this was correct.

Potts stated that while it may not be Arbor West Plaza's favorite way of access, there would still be two access points. She was satisfied with vacating this alley.

Pratt said he had no real objection to vacating the alley as long as development were going to occur, but he did not see a significant need to vacate it now without a development proposal. He supported the first motion to rescind the previous vote, but said he would vote against the second motion.

Carlberg asked the impact on a proposed redevelopment on this site would be if the alley were not vacated.

Lloyd stated that based on earlier conversations with the representatives of the development, their desire was for the City to take action on the alley vacation in advance of their commitment to preparing a site plan. Based on that initial discussion, he said, they may not move forward without the alley vacation. However, he said, they may also be compelled to move forward with a site plan, which would be subject to vacation of the alley.

Lowenstein agreed that the two motions should be voted on separately. She was not certain that she wanted to go on record as saying that she categorically opposed vacating alleys, but said she was close to doing that because she has seen instances in town where there have been questions over the ownership of an alley, leading to private owners blackmailing others for paying for an access that should have been a public space. She agreed that if a site plan were to be submitted and the City believed it represented an overwhelming reason for vacating the alley, then it would make sense to address it. Or it would make sense to consider something where there would be an easement, she said. She believed there were a number of different scenarios that would accommodate development here without going to an extreme result of denying access to adjoining property owners.

Emaus said it was his impression that the City had no interest in either maintaining the public right-of-way or doing anything with it in the future. The parcels in question were underutilized and in disrepair, he said, and it would be beneficial to the City for the property to be redeveloped. Personally, he would never spend hundreds of thousands of dollars for a site plan without a final answer on the alley. He believed there has been enough evidence of desire on the part of the property owner to redevelop this site and all of the adjacent property owners, except for one, have voiced their support of the alley vacation. Cross easements for access would be created, he said, as well as a public utility easement. He saw no compelling reason for the City to keep maintaining ownership of a public alley to have a say about the site plan, as the City would have this when the site plan was formally submitted.

Carlberg thought it was compelling that the present owners of adjacent properties, except for one, were willing to vacate the alley. This area was ripe for redevelopment, she said. She noted that the one person objecting to the alley vacation would still have two access points to his property, thereby enabling him to maintain access to the existing businesses. She thought there was a financial consideration for anyone willing to develop this property because using part of the alley for the redevelopment was a significant impediment. Given the economic times, she said, she didn't know if it were in the City's best interest to make it difficult for someone to redevelop a site when it was in the City's best interest to see it developed.

Potts said she would be more comfortable with this is Commission had something to review that resembled a site plan. She was concerned about the City protecting itself and assumed that the ownership of all of the properties was researched. She questioned whether the City would be able to protect itself against a site plan with a building placed over the public utilities. She could understand why a developer would not want to pay too much as far as a detailed site plan was concerned, but suggested that perhaps there was a way to provide an area plan that showed where the buildings and parking would be located in order to see if they potentially could meet City standards. She normally believed in keeping alleys, as they had so many uses, but in this area, she said, if all of the adjacent properties had other means of access, she believed the alley could be vacated without an area or site plan.

Westphal clarified that the vacation of this alley would not be tied to access for any of the adjacent properties.

Pulcifer replied that the easement noted in the motion would be for public utilities, not access.

Westphal asked if the alley vacation could be tied to a promise of access in the abstract.

Lloyd replied no. He stated that the access issues could be reviewed as part of a site plan. With regard to the alley vacation, he said, it was the Planning Commission's role to make a determination based on a finding of whether or not the alley was necessary for public access. He said this was what the Planning Commission needed to base its recommendation on.

Mahler stated that if this were a crowded commercial district on the fringe of or in the downtown, he would be inclined to vote against the vacation. However, he said, since it was on the edge of town and there were two curb cuts to the Arbor West Plaza, he was more comfortable with the vacation.

Bona stated that the size of the lots on this block was one of the main reasons why this alley ultimately might be important. If the redevelopment of this property did not move forward, she said, there would be several small sites with curb cuts located close to each other near the second busiest intersection in the City. Because of this, she would be uncomfortable vacating the alley without knowing what would happen with the redevelopment. It was possible she could be convinced otherwise, she said, with a site plan.

Carlberg stated that the diagram showed the middle of the block that was intended for redevelopment. That left only the corners of the block that would have a concern about access, she said. She said Midas Muffler was not here tonight asking the Planning Commission to do something about their access, nor were the owners at the other end of Collingwood. The only one before Commission expressing concern was Arbor West Plaza, she said, which clearly had two access points. She was not sure whose interest the Planning Commission was trying to anticipate considering. She thought the Planning Commission was off the mark trying to anticipate everything that would happen on this site, noting that the developer of the middle parcel would design the site with the best possible access for the development.

A vote on the motion to rescind the June 5, 2007 motion showed:

YEAS: Bona, Carlberg, Emaus, Lowenstein, Mahler, Potts, Pratt, Westphal
NAYS: None
ABSENT: Borum

Motion carried.

A vote on the motion to recommend approval of the alley vacation showed:

YEAS: Carlberg, Emaus, Mahler, Potts
NAYS: Bona, Lowenstein, Pratt, Westphal
ABSENT: Borum

Motion failed.

c. Public Hearing and Action on AVL North American Powertrain Parking Lot Expansion Site Plan for Planning Commission Approval, 6.19 acres, 1801 Ellsworth Road. A proposal to add 122 new parking spaces to the existing site – Staff Recommendation: Approval

Kahan explained the proposal and showed photographs of the site.

Jim Maher, of Maher Construction Company, representing the petitioner, provided background information about AVL North American Powertrain. He stated that the reason for the proposed expansion of the parking lot was because of the added growth at the facility, noting that AVL intended on adding 30 more engineers to the staff and to shift operations in Plymouth to this location. The additional parking was intended to accommodate the anticipated growth, he said. He was available to answer questions.

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

Moved by Bona, seconded by Carlberg, that the Ann Arbor City Planning Commission hereby approves the AVL Site Plan for Planning Commission Approval, subject to providing all necessary easements and to obtaining a Michigan Department of Environmental Quality (MDEQ) permit for work within the floodplain.

Potts asked how the retention ponds on the site related to the large wetland off the site to the north. She also inquired into the type of work done in this facility, noting that the existing M1 zoning designation did not permit certain kinds of uses.

Brad Thompson, representing the petitioner, stated that there was an existing detention basin at the northwest corner of the property that served this parcel and the development to the east. In this proposal,

he said, the petitioner worked with the Washtenaw County Drain Commissioner's Office, who agreed that the existing basin adequately handled the current water flow and that AVL Powertrain would have to accommodate a new detention basin for the new parking lot, which has been done. He said they also added a stone berm in the existing detention basin area that would create a sediment forebay. Also at the request of the County Drain Commissioner, he said, was adding an outlet structure to the existing basin, as currently there was just a pipe that jutted straight out into the creek. He said they would design and construct a standard three-stage outlet structure to capture sedimentation, slow water flow into Mallets Creek, and further minimize the potential damage for flooding.

Kahan added that staff believed the proposed storm water system would be a significant improvement over existing conditions.

Maher explained the function of the AVL facility. He said it specialized in engine testing and some research and development. He stated that no manufacturing or assembly would occur on this site.

Emaus stated that the direction from the east was downhill, with water coming up against the building and along the back. He said the diagram showed a variable width drainage easement and asked for an explanation of this.

Thompson concurred that on the east side of the building there was a portion of property that drained onto AVL's site, which necessitated the installation of the existing catch basins. He said the direction of flow from these catch basins was to the north and then to the west.

Emaus asked if the parking at the rear of the site was used.

Maher replied yes.

Emaus asked if the parking at the rear would be used as much if all of the parking were provided at the front.

Maher replied yes, it would still be used.

Carlberg asked if there were any parts of the parking area that had soil appropriate for infiltration.

Thompson said there was fox sandy loam and some silty loam and, while these types of soil were acceptable for drainage, they were not the most favorable. He said these types of soil accommodated a certain amount of percolation, but said they were not proposing porous pavement. AVL Powertrain preferred conventional pavement at this time, he said. He said they have attempted to maximize the amount of green space and minimize the amount of enclosed storm drainage so water could be absorbed as it ran through the swales and back into the ground.

Carlberg mentioned deferring some of the parking, since it was not required at this time. She asked where a future building addition would go on the site.

Thompson said it would be situated south of the proposed parking area and north of the berm area. He said a future expansion was only a concept at this time, but noted that the proposed storm water management was designed to accommodate the proposed parking lot and a potential future building.

Carlberg asked if the petitioner were willing to defer some of the parking until a building expansion took place.

Maher said they have been working on this project for over a year and a half and have seriously considered deferring the parking. He said they had a parking deficiency for current employees and the parking proposed this evening would address that deficiency, as well as the parking that would be needed for the anticipated number of additional employees. He also stated that AVL had a substantial amount of clientele who regularly visited the facility, so adequate parking for visitors was also necessary. Sometimes, he said, a group of engineers as large as 30 or 40 would come for a day or for a week, which created a significant impact on the parking. In the past, he said, they have had to use the vacant lot next door for excess parking.

Carlberg asked how many employees currently worked at AVL.

Thompson did not have the employee count.

Carlberg said it sounded as though there was more of a need for additional parking in the future and said she would be interested in seeing some of the parking deferred at this time.

Bona liked the fact that a future building was planned at the front of the site. She wondered how many parking spaces would be needed for the future building, which could then be deferred, and offered the suggestion of parking underneath the building if all of it were needed. She asked the petitioner to consider deferring the parking spaces along the southern and western edges, where there would be the least impact.

Pratt said he would like to help the Planning Commission address the concern about parking deferral, yet have it not impact the petitioner's schedule. He asked about the status of permit application, noting that the Planning Commission action this evening was the final action.

Maher said they would like to secure approval of the site plan this evening. He said they were working on final calculations and dollar amounts and did not yet have a schedule for permit application.

Carlberg did not see a sidewalk on either side of the driveway and asked how someone would get from the sidewalk along Ellsworth to the building.

Thompson said they do not have many walk-ins to the facility and initially had not shown a sidewalk along the driveway. He said they could add a sidewalk up to the front of the building if necessary.

Moved by Carlberg, seconded by Bona, to amend the main motion by adding the following language, "...subject to deferring the south and west parking lanes, as well as one lane of parking on the westerly aisle."

Emaus suggested deferring the parking along the north and leaving the double-loaded parking along the south, as it was more efficient.

Pratt said it appeared as though the parking to the north was needed for drainage.

Maher stated that from an engineering and construction standpoint, he supported the idea of deferring parking at the south and west.

A vote on the amendment showed:

YEAS: Bona, Carlberg, Lowenstein, Mahler, Potts, Pratt, Westphal
NAYS: Emaus
ABSENT: Borum

Motion carried.

Bona said she would like to see an amendment to the motion to require a sidewalk connection from the Ellsworth Road sidewalk to the building.

Thompson said they would try and place the sidewalk close to the bike rack, depending on existing landscaping.

Moved by Bona, seconded by Lowenstein, to amend the main motion by adding the following language, "...and subject to adding a sidewalk from Ellsworth Road to the building."

A vote on the amendment showed:

YEAS: Bona, Carlberg, Emaus, Lowenstein, Mahler, Potts, Pratt, Westphal
NAYS: None
ABSENT: Borum

Motion carried.

Emaus was not sure that this was a well-functioning detention pond and asked that staff see to it that it was working properly before work was started on the parking lot or detention basins.

Kahan stated that staff would take care of this.

A vote on the main motion, as amended, showed:

YEAS: Bona, Carlberg, Emaus, Lowenstein, Mahler, Potts, Pratt, Westphal
NAYS: None
ABSENT: Borum

Motion carried, reads as follows:

Moved by Bona, seconded by Carlberg, that the Ann Arbor City Planning Commission hereby approves the AVL Site Plan for Planning Commission Approval, subject to providing all necessary easements; to obtaining a Michigan Department of Environmental Quality (MDEQ) permit for work within the floodplain; to deferring the south and west parking lanes, as well as one lane of parking on the westerly aisle; and to adding a sidewalk from Ellsworth Road to the building."

Moved by Potts, seconded by Lowenstein, to consider Item 8e (Lower Burns Park Neighborhood Rezoning) next.

A vote on the motion showed:

YEAS: Bona, Carlberg, Emaus, Lowenstein, Potts, Pratt, Westphal
NAYS: Mahler
ABSENT: Borum

Motion carried.

e. Public Hearing and Action on Lower Burns Park Neighborhood Rezoning, area bounded by Dewey on the north, Packard on the east, Stadium on the south and State on the west. A City-initiated rezoning from R2A (Two-Family Dwelling District) and R4C (Multiple-Family Dwelling District) to R1D (Single-Family Dwelling District) – Staff Recommendation: Approval

DiLeo explained the proposal.

Nancy Leff, 1022 Granger, chair of the Lower Burns Park Neighborhood Association, stated that there was a large number of people present this evening supporting this rezoning. Many were unable to attend, she said, so the number would be much higher if everyone were available. She noted that the Lower Burns Park Neighborhood created a petition and obtained signatures of neighborhood residents who supported the rezoning of Golden Avenue and a few surrounding properties from R4C to R1D. She pointed out that 1992 Central Area Plan recommended that Golden Avenue be rezoned for lower density residential use in order to preserve the character of the neighborhood. The single-family residents loved the diversity of the neighborhood, she said, living happily with neighbors in apartments and duplexes. They also loved the proximity of the neighborhood to the University's central campus and the downtown, she said, and would be seriously disappointed if the City were not able to sustain these single-family neighborhoods in such close proximity. She stated that the encroachment of student housing was spreading and it was their goal to rezone the R4C-zoned properties on Golden Avenue to preserve the single-family neighborhood.

Ryan DeLoof, 1438 White Street, stated that he was not a member of the neighborhood association. He believed the proposed rezoning change as originally intended to preserve the character and low density of the neighborhood would undermine the character it served to protect. The rezoning would prevent future development of affordable duplexes and townhouses in this neighborhood, he said, noting that more people were needed in order to achieve an increase in affordable housing. If his property and others in the neighborhood were already zoned R1D, he said, he would not be here. He said he moved into a large three-bedroom apartment house and came to love the diversity and character of the neighborhood, which was why he purchased his home here. He stated that the proposed rezoning would undermine the type of community he would like to see in his neighborhood.

John Teeter, 1231 Olivia, stated that he owned the house at 1510 Golden Avenue and he opposed the rezoning. He noted that a number of multiple-family properties were built when this neighborhood was originally developed and he believed this rezoning would change the character of that. He believed the rezoning would decrease the number of affordable housing units in the City, making housing even less affordable in Ann Arbor. He stated that Ann Arbor needed to promote density in developed areas if it wanted to decrease sprawl. While staff has suggested that multiple-family development could take place along Golden Avenue with PUD zoning, he noted that based on experience, the PUD process has not always been the most advantageous. He thought this appeared to be a "NIMBY" attitude of residents not wanting student housing and other rentals in the neighborhood. If there were a problem with specific properties, he said, it should be enforced through ordinance enforcement, not through rezoning, which would end up pushing rental properties out of the neighborhood.

Edward Vielmetti, 1210 Brooklyn, stated that this neighborhood was characterized by streets that were blocked off in the summer for parties and by people knowing their neighbors. He was encouraged by staff's recommendation of the 1963 view of how the neighborhood might be built and he welcomed the R1D zoning, which was appropriate for the density and character of the neighborhood.

Jeff Lewis, owner of the properties at 1301 South State Street and 702 and 706 Dewey, stated that he was not a resident in this area and only found out about this rezoning about eight days ago. One notice a resident received was addressed to an owner from four years ago, he said, and he was concerned that actual taxpayers were not notified. He knew at the time he purchased his properties how they were zoned and the zoning was one of the reasons for purchasing them. He saw no benefit to rezone to R1D the properties on South State or Dewey. He was concerned that if the zoning went through, it would force owners to make decisions that did not comply with the ordinance. He found it difficult to see how the City would enforce this when they were already behind in other enforcement activities. He recommended tabling action to make sure everyone was notified about this rezoning proposal.

Richard Fisher, owner of 936 Dewey, spoke to the loss of equity for landlords. He said some of the houses in the R4C-zoned area were rented to four occupants and, if rezoned to R1D, the value of the property would be immediately reduced because they would no longer be able to rent to a maximum of six, which was the current regulation. He thought there should be some method for grandfathering these properties or compensating landlords for the loss. He was not necessarily against the rezoning proposal, but he was against what he considered a taking of property value. If the rezoning were to happen, he said rules should be added for R4C properties such that they could be adequately grandfathered no matter what happened to the property.

David Rossiter, 1427 Golden, believed the current R4C zoning on Golden Avenue was inconsistent with the area and he appreciated staff's recommendation that it be rezoned. He said there was a concern about student housing coming in this direction, noting that the student housing areas were like a war zone with illegal drinking and a wide variety of activities. He was concerned that retaining R4C zoning here would open this area up to that possibility. He would rather see Golden Avenue rezoned so it was consistent with the areas to the east and west.

Jackie Beyers, 1125 Granger, said she bought her home here in 1999 and has invested considerably in it. She said some of the more egregious problems they have experienced have been settled by communicating directly with the landlord. She suggested the initial Council recommendation of rezoning the R2A-zoned properties to R1D also.

John Snodgrass, 1527 Golden, said his was one of the few structures that would become nonconforming with the rezoning. He thought the rezoning to R1D for the Golden Avenue properties was clearly evident, with their location between R1D properties on either side. He thought grandfathering meant continuing a use in perpetuity. He noted that this was not just an economic issue for landlords, but also for single-family homeowners with regard to property value. He expressed support for the south side of Granger to also be zoned R1D, noting that some unfortunate events have taken place on Granger recently that have lowered the property values. He stated that he was speaking against his own economic interest because his property would become nonconforming, but he felt very strongly about the single-family character of the neighborhood.

Ann Bergren, 1420 Golden, said she has lived here since 1967 and would very much appreciate having this portion of the neighborhood rezoned for single-family dwellings. She stated that there were new developments in the campus area closer to the downtown for student housing and perhaps students would not need or want to live in this neighborhood with options closer to the University. She would like the character of the neighborhood preserved.

Grady Krakone, 1502 Golden, expressed support for the rezoning, stating that there was a decision to be made about a family atmosphere while maintaining student housing and rental properties. He stated that when a single-family home is suddenly converted to a six-bedroom rental unit with a paved backyard, it is a significant change to the neighborhood. He noted that it seemed the only properties not shoveled after the recent snowstorm were those of the rental properties. There were also many rental properties within this neighborhood that had couches and lounge chairs either sitting on the front lawn or the front porch. This would adversely impact the neighborhood if it continued to increase, he said.

A member of the Zen Buddhist Temple on Packard and on Dewey stated that there were many interests to consider here. She did not have a very strong prejudice in any one direction, she said, except that there needed to be a safe community. She said parties are held and students, when the police arrive, run through the temple property and cause damage and compromise the safety of its residents. She did not know how much the Planning Commission could do about this, except to perhaps make a recommendation to whoever it was who provided guidelines for leasing provisions and behavior of tenants.

Matt Buck, 1302 Packard, supported staff's recommendation that the areas surrounding Golden Avenue not be rezoned, as he believed it would be inappropriate for many of those properties to be zoned for single-family use. One property had a small strip shopping center on one side and an office center on the other, he said, and it seemed impossible that a family would ever live there.

Francis Clark, of Wilson White Management, stated that they owned a three-unit building here and have had families who were not able to purchase a house live here, enabling them to live in a family neighborhood. The same zoning map has existed for this neighborhood for 45 years, he said, and it seemed odd that those who wanted it rezoned knew the property was zoned R4C when they first bought their homes. The lots were always small, he said, adding that they created a sense of community to a much greater degree than when there is less density.

Doug Spaly, owner of a six-unit apartment building on Packard, appreciated staff's recommendation to not rezone the properties along Packard, but he expressed concern about the precedent that could be set here. He appreciated the neighbors' concerns about rentals, but he thought it was broad-sweeping discrimination against students. He pointed out that there were City ordinances that regulated noise and trash. He thought this was an extreme reaction to a small problem.

Pam Hoffer, 1217 Brooklyn, said she has heard concerns about density and the impact of living close together. She believed this neighborhood was so desirable because of the density and the homes being close together. She stated that many good things have come from this neighborhood, such as Project Grow, multiple cooking co-ops, and a neighborhood inventory through a chat group. She did not think the rezoning of Golden Avenue would threaten the diversity. She thought the critical mass of permanence was important to consider.

Suzanne Goodrich, 1431 East Park Place, stated that she has owned her home here since 1954 and was very familiar with annual events, such as football Saturdays. She said someone implied that residents fled the neighborhood when this occurred, but she said they did not. She said they lived with it, they invited students to block parties. She was not against renters or students, she said, adding that they welcomed these events as part of the diversity of the neighborhood.

Jeffrey Starmin, owner and manager of several properties in this area, expressed concern about this being a case of choosing one private need over another private need without measuring the public good. He echoed a previous speaker about discrimination against students, which was age-based and inappropriate, he said. He noted that there were numerous renters in this area who were not students

and that caution was needed when talking about who and who could not live here. He stated that everyone who has purchased a home in this neighborhood relied on the zoning that was in place at the time of the purchase. He asked for clarification about how many unrelated people could live in a house if it were rezoned to R1D. He also wondered if the City would be grandfathering the use of the single-family house distinctive from its zoning. He asked that everything be addressed before action was taken on the rezoning.

Bernard Elkhart, owner of properties on State Street, Dewey and Packard, expressed his opposition to the rezoning. He questioned why the rezoning was even being discussed based on comments from residents that they loved the students, loved the diversity of the neighborhood, and were generally happy with their neighbors. He was concerned that the rezoning would be a taking of one's property.

Pearlene Sullivan, 933 Woodlawn, stated that it was continually impossible to find a parking space on her street because of the at least 40 cars that were already parked there for the houses along the street. She expressed concern about her street being known as "Party Row" and the police having to be called regularly.

Van Hunsberger, 1525 Golden, stated that as an architect, part of his job was to analyze a site and determine its appropriate use. It was clear, he said, from looking at the zoning map that R4C was inappropriate zoning for this neighborhood. He wondered who would have a greater sense of participation in the community, questioning if it would be a renter, an absentee landlord, or families who lived here, people who walked throughout the neighborhood, people who cared about each other. He thought the Planning Commission should take that into consideration.

Jeff Ellis, 1332 Sheehan, said he had a unique perspective because he was the City's inspection supervisor. For every three rental units, he said, there was one single-family unit. He was opposed to this rezoning. He said he has lived here for almost 30 years and has witnessed the transition the neighborhood has made. He said the vast majority of the houses here were rental houses and he believed it would continue to be.

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

Moved by Bona, seconded by Mahler, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Lower Burns Park Neighborhood Rezoning as shown on the attached parcel and zoning map from R4C (Multiple-Family Dwelling District) and R2A (Two-Family Dwelling District) to R1D (Single-Family Dwelling District).

Pratt asked Commission members to keep discussion to the recommended rezoning of the properties along Golden and Brooklyn. He said the recommendation was to rezone the R4C properties on Golden and the three R4C properties on Brooklyn.

Potts expressed her opposition to discussing only this area for rezoning.

Pratt stated that it has been the practice of Planning Commission to discuss the motion put on the table, and the rezoning of Golden Avenue and the three lots on Brooklyn was what was contained in the motion. If someone wanted to discuss rezoning the other streets, he said, it would need to be done by making a motion. Otherwise, he did not see the value in discussing something that was not in front of the Planning Commission.

Potts moved to make a substitute motion to include the entire area of the Lower Burns Park Neighborhood in the rezoning request.

There was no support for this motion.

Bona clarified that the only properties being recommended for rezoning were zoned R4C, that none of them were zoned R2A. She stated that the R2A portion of the motion should be removed.

Moved by Bona, seconded by Lowenstein, to amend the main motion by removing the following language, “and R2A (Two-Family Dwelling District).”

A vote on the motion showed:

YEAS: Bona, Carlberg, Emaus, Lowenstein, Mahler, Pratt, Westphal
NAYS: Potts
ABSENT: Borum

Motion carried.

Mahler said there has been discussion about “takings,” stating that this very precise legal term has been used loosely. He clarified that this rezoning did not meet the legal standard of a taking because redevelopment could still occur. He thought it was dangerous to speculate about the nature of rental properties and inappropriate to discuss the forecasting issue. He could appreciate the uniqueness of Golden Avenue being zoned R4C, but he thought the best interest for having consistency in this area outweighed that uniqueness. He stated that the Central Area Plan was a carefully deliberated plan and he supported the recommendation contained in the plan. He supported this rezoning.

Pratt asked staff to comment on the property rights of those who currently have six renters and what would or would not be allowed in the future.

DiLeo stated that if a use were legal, but through rezoning it became a nonconforming use, it would be classified as a legal nonconforming use. However, she said, the intent was that these legal nonconforming uses be phased out over time. She stated that if the number of dwelling units of a multiple-family use were to ever decrease, the higher number of units would no longer be allowed. If the entire structure were gone, she said, only what was allowed in the current zoning would be allowed to replace it. With regard to occupancy, she stated that multiple-family units could have up to six unrelated people living in them. Because the intent of nonconforming uses was to phase them out over time, she said, if a nonconforming use had six tenants and that number were to ever decrease, the maximum number allowed would then be four unrelated persons, which was what was allowed in the single-family zoning.

Pratt clarified that if these properties were rezoned to R1D and a property owner had to tear down and reconstruct a house for whatever reason, a maximum of four unrelated residents would be allowed.

DiLeo replied that this was correct.

Potts stated that her main concern and main interest in this whole area had to do with stability. She said she lived for 25 years in a neighborhood very much like this close to campus and when there was R2 and R4 zoning, there was a great deal of nonconforming structures. Stability was difficult to achieve, she said, and changing the zoning to single-family would reduce the number of nonconforming structures and

help to increase stability. She said this neighborhood seemed to think that rezoning the R4C properties on Golden Avenue would be beneficial and it was her belief that the original intent of City Council, which was to rezone the whole neighborhood to R1D, was needed.

Bona agreed that the rest of the neighborhood should be looked at and, while she was concerned about the density of the whole area, she was agreeable to restricting discussion this evening to just the rezoning of the properties along Golden and Brooklyn. She did not support reducing density in the central area, stating that she did not think added density in the downtown was meant to reduce density in the surrounding areas. She spoke to the inappropriateness of residential districts for the downtown neighborhoods, stating that they were created during a time when the intent was to tear houses down and build new, larger buildings. She thought character was based on the size and scale of buildings, not on the number of dwelling units. She said a lot zoned for two-family use could have one home behind the other, or on top of the other, and still have the same character of a single-family neighborhood without anything to do with density. She referred to the proposed new zoning district she drafted and provided to Commission members, stating that this was not a direct proposal for this evening. She said it was a new duplex zoning district with a smaller lot size. She was not categorically opposed to R1D zoning on Golden Avenue, but she was opposed to the rezoning outside of the context of the rest of the neighborhood and the central area. She said she would like City Council to ask that this area be looked at more closely and see if something more appropriate with regard to zoning districts could be achieved.

Carlberg assumed that the neighbors who were most concerned about Golden Avenue wanted the R4C zoning changed because of a fear that the lots could be aggregated and much larger buildings constructed on them. This was why R1D zoning was the most logical, she said. She did not think anyone wanted these lots to change into big buildings and said the zoning change was needed to prohibit that. She was willing to consider the new zoning district, but was reluctant to leave the properties zoned R4C in the meantime.

Pratt stated that he did not know who signed the original petition to have the properties along Golden rezoned, but one thing he did not want to set was a precedent where a property owner or owners could petition to have other owners' properties rezoned. He thought people had the right to ask that their own property be rezoned, but not others.

Emaus said he supported considering alternative zoning districts for downtown areas, stating that this was not the only example of areas of issue. From the Zoning Board of Appeals point of view, he said, these nonconforming sites were a constant issue and he thought creating a new zoning district that addressed the character of a neighborhood while still allowing the use would go a long way toward motivating people to improve their property. Currently, there was a great deal of impediment to that, he said. With so many nonconforming lots, he said, it would be good to come up with strategies and use this particular Golden Avenue situation as a case study. He said he would support considering other alternatives.

Potts stated that in looking at the chart, there are 106 nonconforming buildings with the R4C zoning. Changing the zoning to R1D would result in 37 nonconforming buildings, she said, which she believed was a compelling argument for a change in the zoning.

Lowenstein said it was highly unlikely the Council would entertain waiting years to come up with a new and unique zoning district for this area. She believed it was more likely that Council would approve what the people who actually live on this street want to do, which was the rezoning to R1D. This was what Council wanted to do originally and thought what Commission should recommend, she said.

Westphal said he would be hesitant to second-guess the public process that was involved in the Central Area Plan's recommendation to downzone the Golden Avenue area. In the interest of forestalling any negative development or assembly of lots along Golden Avenue, he said he would like to move forward with this rezoning and then look closely at other alternatives.

Pratt said it might be helpful for Council to understand the difficulty with this issue Citywide. He recognized that staff time was limited and having Council give direction for this to be investigated might have it done sooner.

Bona said she was on the fence about the R1D zoning, stating that she was subconsciously hoping it would help put energy behind dealing with the R4C and R2A large lot minimums. To clarify on how far off even the R1D zoning would be from the existing lot sizes, 22 percent of the lots on Golden would still be nonconforming. However, with her proposed new R2C zoning district, there would only be one lot that was nonconforming. Even R1D zoning did not match the neighborhood, she said. She said she would like to see some encouragement from Council to pursue a new R2C zoning district, as it was too large of a project for the Planning Commission to do without direction from Council. She did not think she would oppose the R1D zoning, but suggested that Commission send Council a memo about this issue.

Emaus asked if consideration could be given to redrawing the boundary lines for this rezoning.

Pratt did not see a need to vary the area, stating that staying with the one street seemed more straightforward.

Emaus stated that one of his concerns was that there would be at least five single-family lots adjacent to R2A-zoned property, next to which families might not want to live.

A vote on the main motion, as amended, showed:

YEAS: Bona, Carlberg, Lowenstein, Mahler, Potts, Pratt, Westphal
NAYS: Emaus
ABSENT: Borum, Pratt

Motion carried, reads as follows:

Moved by Bona, seconded by Mahler, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Lower Burns Park Neighborhood Rezoning as shown on the attached parcel and zoning map from R4C (Multiple-Family Dwelling District) to R1D (Single-Family Dwelling District).

Moved by Emaus, seconded by Mahler, to continue the meeting past 11:00 p.m.

A vote on the motion showed:

YEAS: Bona, Carlberg, Emaus, Lowenstein, Mahler, Potts, Pratt, Westphal
NAYS: None
ABSENT: Borum

Motion carried.

d. Public Hearing and Action on Huron Valley Professional Center Phase 2 Site Plan, 2.46 acres, 2080-2084 South Main Street. A proposal to construct a one-story, 5,107-square foot office building – Staff Recommendation: Approval

Cheng explained the proposal and showed photographs of the site.

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

Moved by Bona, seconded by Emaus, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Huron Valley Professional Center Phase 2 Site Plan and Development Agreement, subject to Washtenaw County Drain Commissioner preliminary approval prior to City Council consideration.

Emaus asked if a condition should be added to the motion for the utility easement.

Cheng replied no, as it was shown on the site plan, which was acceptable to the City engineering staff.

Emaus asked if this project would add to or be using the 100-year storm detention system.

Cheng replied that these were existing ponds.

Emaus asked that staff check to make sure the existing storm water retention system was functioning properly before this development moved forward. It would be good to have the system certified as functioning properly during construction.

Pratt asked about the soils on the site and if there were likely any infiltration to occur so water drainage might function a little better.

Ophoff stated that the site contained a lot of heavy clay, which was not very favorable for infiltration.

Westphal asked about the conflicting land use buffer to be provided.

Cheng stated that a 30-foot rear setback would be provided to the west, as well as a 15-foot conflicting land use buffer.

Carlberg asked if some of the shrubs in the 15-foot conflicting land use buffer would be maintained.

Ophoff stated that they were installing a water main along the north and taking the existing plants in that location and moving them to various locations on the site. He said they also would be maintaining existing and installing new plantings.

Carlberg asked if a tall buffer would exist along the north to screen future residential use.

Ophoff replied yes, stating that a combination of evergreen trees and shrubs would exist.

A vote on the motion showed:

YEAS: Bona, Carlberg, Emaus, Lowenstein, Mahler, Potts, Pratt, Westphal
NAYS: None
ABSENT: Borum

Motion carried.

e. Public Hearing and Action on West Towne Condominiums Revisions to Approved Natural Features Protection Plan, 7.85 acres, northwest corner of Liberty Street and South Maple Road. A proposal to modify the approved natural features protection plan to show revised location of retaining wall three feet within the buffer area – Staff Recommendation: Approval

DiLeo explained the proposal.

Mike Concannon, of Liberty Maple LLC, petitioner, clarified that the disturbance was in the buffer around the wetland, not in the wetland. He was available to answer questions.

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

Moved by Carlberg, seconded by Bona, that the Ann Arbor City Planning Commission hereby approves the West Towne Site Plan for Planning Commission Approval and authorizes disturbance of the 25-foot natural features open space, per Chapter 55 (Zoning Ordinance), Section 5:51(5) and (6).

Potts did not remember a retaining wall on the previous site plan. What she recalled was discussing the buildings along the wetland and then a natural features buffer, which would be a benefit as green space. Now, she said, it seemed compressed with the building right up against the water and a retaining wall.

DiLeo stated that a retaining wall was part of the original plan and showed the area it was to be located.

Carlberg asked for an explanation about why the retaining wall had to be extended.

Concannon stated that they would not have intentionally built the retaining wall longer than necessary because of the cost involved. He said the pattern of the wall varied from way it was originally staked, because the original staking had it going along the buffer line. When the footings were poured, he said, they appeared to be in the right place and the wall was built. He said they had always intended to build the lineal length of the wall, but they should not have gone further into the buffer, which was where the mistake was made.

Carlberg stated that this was discussed in great detail when it was originally approved, looking at natural features values and trying to ensure that the natural features would be protected. She said it was determined that the buildings looking over the wetland would be a benefit to the residents. She said a lot of invasive species had to be removed to create the appropriate vegetation on this site and she thought this trade-off seemed appropriate. She asked how this configuration would change the appearance of the wall for someone walking toward Maple Road.

Concannon stated that there currently was a sign, a lot of scrub trees and fairly unattractive vegetation at the corner of Maple and Liberty. He said this would be a dramatic improvement because the unattractive scrub trees and vegetation would be removed and specific flowering seed, as specified by the City, would be planted in the area as an additional buffer. He said a clear, open visual would be created, increasing visibility around the corner.

Carlberg asked to what extent the wall protruded above the buffer, wondering if it were visible.

Concannon replied yes, it was visible. He said it was designed that way because of the variation in the topography and it was built per the site plan.

Pratt believed the BOCA building code required a handrail along a sidewalk where there was a drop in topography within two feet. He asked staff to look into this.

Concannon stated that the grade along the sidewalk at Liberty and Maple was a gentle slope and did not require a handrail. However, he said, where the sidewalk was adjacent to the retaining wall, there would be a handrail.

Potts acknowledged that this may have been done in error and that it was difficult to require something to be torn down and redone. She said Commission has okayed these types of situations after the fact and she did not know if this was in the best interest of the public. She stated that a great deal of money was being spent on this project and it surprised her that it was not more closely supervised.

A vote on the motion showed:

YEAS: Bona, Carlberg, Emaus, Lowenstein, Mahler, Pratt, Westphal
NAYS: Potts
ABSENT: Borum

Motion carried.

f. Adoption of 2008 City Planning Commission Work Program.

Moved by Carlberg, seconded by Westphal, that the Ann Arbor City Planning Commission hereby adopts the December 5, 2007 City Planning Commission Work Program for 2008.

Carlberg asked that the Floodplain Ordinance be moved to the Ordinance Revisions section.

A vote on the motion showed:

YEAS: Bona, Carlberg, Emaus, Lowenstein, Mahler, Potts, Pratt, Westphal
NAYS: None
ABSENT: Borum

Motion carried.

ADJOURNMENT

Pratt declared the meeting adjourned at 11:39 p.m.

Mark Lloyd, Manager
Planning and Development Services

Jean Carlberg, Secretary

Prepared by Laurie Foondle
Management Assistant
Planning and Development Services