

MINUTES

**ANN ARBOR CITY PLANNING COMMISSION**

BUSINESS MEETING

7:00 p.m. – June 5, 2007

Time: Chair Pratt called the meeting to order at 7:02 p.m.

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

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ROLL CALL

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Members Present: Borum, Bona, Carlberg, Emaus, Potts, Pratt, Westphal, Woods

Members Absent: None

Members Arriving: Lipson

Staff Present: Cheng, Foondle, Kahan, Lloyd, Thacher

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INTRODUCTIONS

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None.

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MINUTES OF PREVIOUS MEETING

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a. Minutes of April 17, 2007.

**Moved by Carlberg, seconded by Borum, to approve the minutes as presented.**

A vote on the motion showed:

YEAS: Borum, Bona, Carlberg, Emaus, Potts, Pratt, Westphal, Woods

NAYS: None

ABSENT: Lipson

**Motion carried.**

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APPROVAL OF AGENDA

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**Moved by Potts, seconded by Woods, to approve the agenda as presented.**

A vote on the motion showed:

YEAS: Borum, Bona, Carlberg, Emaus, Potts, Pratt, Westphal, Woods  
NAYS: None  
ABSENT: Lipson

**Motion carried.**

Enter Lipson.

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

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Bona stated that with regard to the DDA Partnerships Committee, the DDA put together a parking comparison for the City Hall site, the Library Lot site, and a couple of other sites in town. She said the parking comparison was being provided to City Council for discussion at a working session in June and that she would provide a copy of the comparison to Commission members.

Lipson stated that at the May 15 Commission meeting, the Planning Commission received the Allen Creek Greenway Task Force Report. Because the agenda for that meeting was so large, he said, Commission members did not have ample opportunity to comment on this document, which was a spectacular, well-done document containing thorough discussion and excellent graphics. He extended gratitude to the committee for the work done on this report and apologized for not providing this feedback at the previous meeting.

Potts reported that the Ordinance Revisions Committee did not yet have any scheduled meetings for June, but that she would be talking with Planning staff to discuss potential meeting dates.

Pratt reported that the Floodplain Subcommittee would hold its first meeting on June 11 at 3:00 p.m. at City Hall. He said Jerry Hancock and Paul Lippens, of the Systems Planning Services Unit, have been working on a draft ordinance that takes into account the resolution passed by the Planning Commission. He provided an update on the status of the Ann Arbor Discovering Downtown work effort and said the public could visit the City's website at [www.a2gov.org](http://www.a2gov.org) and then go to Discovering Downtown for up-to-date information.

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AUDIENCE PARTICIPATION

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None.

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PUBLIC HEARINGS SCHEDULED FOR NEXT MEETING

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Pratt announced the public hearings scheduled for the meeting of June 19, 2007.

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REGULAR BUSINESS

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a. Public Hearing and Action on Greenhills School (Science Renovations) Site Plan and Special Exception Use, 30.7 Acres, 850 Greenhills Drive. A proposal to construct additions totaling 11,037 square feet to the existing structure (postponed at 5/15/07 meeting) – Staff Recommendation: Approval

Cheng explained the proposal and showed photographs of the property.

Robert Saxon, of A3C, representing the petitioner, stated that the goal of this project was to bring science classrooms up to date, involve the students in what was being done with the LEED certification, and integrate the design of the project with the environment. He said he was available to answer questions.

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

**Moved by Lipson, seconded by Potts, 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 Greenhills School Revised Special Exception Use with a maximum capacity of 545 students, subject to approval of the corresponding site plan.**

**Moved by Lipson, seconded by Potts, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Greenhills School Site Plan and Development Agreement.**

Potts asked about the different phases of the project.

Saxon stated that they were still working out the timing of the phases. The utility work would be done this summer, he said, adding that the 11<sup>th</sup> grade addition would be one of the initial components of the project.

Carlberg stated that in the past, the City has heard concerns from neighbors about traffic. Since there were no neighbors present this evening expressing traffic concerns, she asked if it were correct that this project would not generate increased traffic.

Saxon replied that this was correct. As part of the LEED certification, he said, they would attempt to receive points for creating an alternative transportation plan and for using alternative transportation. One of the ideas was to create a high occupancy vehicle lane on the school site to be used by cars dropping off more than one student, he said.

Carlberg asked if the school was too far for most students to ride their bikes.

Saxon said they intended to investigate this further, but said many of the students came from long distances.

Woods said this looked like a great project and she was glad to see the LEED certification. She also appreciated the education the students would receive as they watched what happened with this project. She agreed that this was more of a regional school with students coming from all parts of Washtenaw County and beyond. She asked if there would be any change in the traffic plan, stating that dropping off and picking up children has always been a challenge. It appeared that the school's capacity was to be increased by 35 students, she said. She also asked if bicycle parking was required.

Cheng stated that a variance was granted in 1989 by the Zoning Board of Appeals to cap the number of Class C bicycle parking spaces to 40.

Lipson agreed that this was an exciting project and said the environmental and energy efficiency goals were excellent. He asked about energy standards for exterior lighting and what the current occupancy was of the 40 bicycle spaces.

Dave Stocks, a member of the Greenhills School board of trustees, stated that they have not heard any concerns about the lack of bicycle parking spaces. He added that the school was about to receive a dedicated memorial that would contain eight bicycle spaces. He believed the existing number of spaces was sufficient.

Saxon stated that with regard to lighting, one of the LEED requirements they were pursuing was light pollution reduction. They also were pursuing a LEED requirement for light power, he said, which would force them to use energy efficient lighting.

Lipson asked if the lighting system was zoned so lights could be turned down in areas where they were not needed as much.

Saxon said they expected the lighting to be on photo cells and that there would be times when the lighting would be turned off.

Potts stated that one of the traffic problems related with dropping off and picking up children from school was the stacking space. She asked if the school had difficulties with that or if stacking was being adequately handled.

Saxon stated that the pattern currently worked well and that they were not proposing any changes. It was their hope, he said, that their alternative transportation efforts would have a positive effect on this part of the traffic pattern. He said they also would be encouraging students to come up with alternative transportation ideas.

A vote on the motion showed:

YEAS: Borum, Bona, Carlberg, Emaus, Lipson, Potts, Pratt, Westphal, Woods  
NAYS: None

**Motion carried unanimously.**

b. Public Hearing and Action on Tierra on Ashley PUD Zoning District and PUD Site Plan, 0.11 Acre, 200 South Ashley Street. A request to rezone this site from C2A (Central Business District) to PUD (Planned Unit Development District) and a proposal to construct a 30,077-square foot, eight-story multiple-use (retail, office and residential units) building with seven parking spaces below grade (postponed at 5/15/07 meeting) – WITHDRAWN BY PETITIONER.

Noting no speakers, Pratt declared the public hearing closed.

c. Public Hearing and Action on Barton Green Planned Project Site Plan, 31.93 Acres, West Side of Pontiac Trail, North of Skydale. A proposal to construct 260 residential units in 20 buildings, a community building, and 586 parking spaces (tabled at 3/20/07 meeting) – Staff Recommendation: Approval

Lloyd described the proposal.

Scott Betzoldt, of Midwestern Consulting, representing the petitioner, stated that he was present this evening with one of the petitioners and the project architect. He provided background information on the project and described some of the changes that had been made. He was not aware of any wetlands being disturbed, so was not sure a wetland use permit was required. He explained some of the unique amenities of the project, such as architecture that has attempted to de-emphasize traditional townhome garages from front entry. The garages would become part of the façade, he said, rather than project out. He said there would be a variety of housing styles and underground parking would eliminate the need for 492 surface parking spaces. He said the proposal would allow for approximately 74 percent of open space. He was available to answer questions.

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

**Moved by Lipson, seconded by Emaus, that the Ann Arbor City Planning commission hereby recommends that the Mayor and City Council approve the Barton Green Planned Project Site Plan and Development Agreement, subject to required variances for the drive approach at the intersection of Barton Green Drive and Letitia Street.**

**Moved by Lipson, seconded by Emaus, that the Ann Arbor City Planning Commission hereby authorizes wetland use permits per Chapter 60 (Wetlands Preservation) to a) allow construction of storm water outlet structures in the wetland near Skydale Drive and b) for possible impacts to a wetland on the east side of Pontiac Trail as a result of construction activity related to boring a sanitary sewer main.**

Pratt asked for clarification of the wetland issue.

Kahan stated that there were two wetlands. One was a small wetland that would be disturbed by the access drive and possible construction related to the detention pond, he said. The other wetland, he said, was on the east side of Pontiac Trail. He stated that the petitioner was not currently proposing to disturb it; however, the petitioner proposed to bore a sanitary sewer main and staff was concerned that the staging for that construction activity might result in disturbance of the wetland. Because of this, he said, staff believed the possible disturbance should be addressed at this time.

Carlberg asked the petitioner to explain the materials that would be used.

Brad Moore, of J. Bradley Moore Architects, representing the petitioner, stated that the materials would be a combination of four-inch based brick and cement composite siding that have the appearance of shingles. He said this was part of the site plan.

Carlberg stated that she had been reviewing the new definition of usable open space and was checking to see if there were enough flat area around the buildings to meet what would be the standard of roughly 72,000 square feet. She was trying to assess how much open space there would be for activities like picnics, playing ball, etc.

Kahan stated that there were a number of opportunities shown on the site plan for both public and private open space. One of them was the area adjoining the common building near Pontiac Trail, he said, adding that many of the units would also have balconies or patios. He stated that the petitioner was proposing to preserve the westernmost portion of the site in the form of open space and provide an access trail.

Carlberg wondered about flat space around the exterior of the flat buildings.

Betzoldt replied that because of the existing grade and the fact that they were utilizing that grade to allow for underground parking, the buildings would be graded like a walkout home. He said it was a hilly site and they tried not to obliterate the terrain with mass grading.

Carlberg asked if the townhouses all had patios or balconies.

David Kwan, petitioner, stated that every unit would have outdoor space.

Betzoldt added that most of the steep terrain was located on the north side of the building.

Bona stated that she was not particularly supportive of wide driveways and asked for an explanation of the proposed variances.

Kahan stated that there were three elements to the variance request. He said there was somewhat of a unique situation on the east side of the site because a portion of the access drive was proposed to be public right-of-way and the remainder of the drives in the development were private streets. With regard to the first element of the variance request (T-intersection), he said, if it were an intersection of public streets, no variance would be required. He stated that the second element of the variance request was that the curb cut width exceeded the maximum of 60 feet by a few feet. The third element was that the turning radius at the pavement edge exceeded the maximum of 15 feet. He said staff supported all three variances because staff had recommended the T-intersection.

Bona stated that this cleared up the issue of the variances. She raised a concern about the petitioner potentially selling land to the City for parkland but still using that land in the calculations for density and open space. She said the petitioner had requested planned project site plan approval based on additional open space, yet the petitioner intended to sell that open space to the City. Other than this concern, she was pleased with the changes that had been made to the site plan.

Pratt asked the petitioner to respond to the issue of selling parkland to the City.

Kwan stated that they currently were waiting for feedback from the Parks Acquisition Committee. He stated that the fees involved in moving this project forward were over \$2 million, which was why they were open to negotiation. He stated that development today was a not-for-profit industry and any consideration would be appreciated.

Bona said she had a concern with the petitioner using the land proposed to be sold to the City to meet the 65 percent open space requirement if the petitioner were using that open space to obtain additional building height as part of a planned project. She said she had two issues regarding the parkland concern: one was that 65 percent open space was required if there were no planned project involved and the other had to do with density. She stated that if the petitioner were to develop this site to capacity, 323 units would be allowed. Since 260 units were proposed, she thought it would be acceptable if the parkland required for the amount of density not being used was the amount of land sold to the City.

Lipson agreed with this sentiment. He recalled a conversation the last time the Planning Commission considered this proposal where it was suggested that if the petitioner eliminated the roundabout, then additional density was appropriate and parkland could be donated to the City. He said the roundabout was eliminated and the number of units was increased, yet the petitioner was still suggesting that the nine acres of open space be sold to the City as parkland. He noted that those nine acres of excess minimum open space were the single justification for the planned project. He understood that development costs were high, but since the density was increased, he believed some of the open space should be donated, not sold, to the City. He expressed appreciation for the parking under the buildings, which reduced impermeable surface, and for restoring the woodland that was inadvertently cut down.

Kahan stated that this proposal met a number of elements of the planned project standards, such as setbacks were in excess of minimum requirements, the design was pedestrian and transit friendly, and it was an energy conserving design.

Emaus asked why Parks and Recreation staff recommended that three of the nine acres be dedicated to the City.

Kahan replied that a formula contained in the Park, Recreation and Open Space Plan was used based on the number of dwelling units in the proposal.

Emaus stated that if the petitioner were going to donate approximately three acres as parkland, six acres of open space would remain. He asked how access to that open space would be arranged.

Kahan stated that there would be a public access easement from Pontiac Trail to the public open space. He said the development agreement contained two options for access, based on whether the open space remained in private ownership or if it were to become public parkland.

Emaus asked where the three acres, if donated, were located.

Kahan stated that the three acres likely would be those closest to the dwelling units on the eastern side of the open space area. He said the natural features on this site that were of the highest quality and about which the City was most concerned abutted the units on the eastern side toward the north. It was likely that the City would want control over that portion, he said.

Pratt confirmed that this would not landlock the remaining open space.

Kahan replied that this was correct.

Emaus asked about the size of that forest fragment.

Kahan replied that it was about two acres in size.

Emaus wondered if there were any hesitation on the part of the petitioner to donate those three acres to the City, stating that he wanted to be sure the City received a donation of at least three acres based on the number of proposed dwelling units.

Kwan said the park donation was a voluntary contribution, stating that they were willing to do what was reasonable. Based on what they were paying to acquire this property, he said, the cost of the three acres was substantially more than what a cash contribution in lieu of parkland would be. He noted that they were waiting to receive feedback from the City's Parks Acquisition Committee.

Craig Welch, of Wexford Homes, petitioner, stated that they were interested in being cooperative and working with the City. It was not their intent to seek a certain amount of density based on the size of the property and then sell some of that same land back to the City. He said they were agreeable to making the land available to preserve the woodland and allow the City to finish the parks system. They would like the value of the land recognized, he said, and to move forward in a cooperative manner.

Potts could see the hesitation on the part of the petitioner, as the most valuable piece of land was quite close to the dwellings, and the petitioner would be interested in the impression that this land belonged to the development and was for the use of the residents of this development only. Also, she said, the access from Pontiac Trail to this open space was circuitous, with no direct route. She did not think land specified for public parkland should be counted as open space. This was an awkward situation, she said.

Pratt said the petitioners have stated this evening that they were willing to work with the City to address the issue of open space. Although Commission had a desire to exceed the 65 percent open space minimum, which was a qualifier in the planned project ordinance, he stated that exceeding this minimum requirement technically could be 65.1 percent. If this space were permanently preserved by virtue of this development, he said, the issue of whether the open space was controlled by the City or designated for the development only would need to be decided.

Carlberg noted that there was nothing in the development agreement referencing the woodland remediation plan.

Kahan stated that the woodland restoration plan was a comprehensive plan that was part of the site plan. He said it could be added to the development agreement.

Carlberg said it should be conveyed to Parks and Recreation staff that this issue should be dealt with carefully because there was an obligation on the part of this petitioner to provide the requisite amount, and then some, of the open space. It was not just a simple matter of the City deciding to buy all of the open space, she said. She believed there was an obligation on the part of this petitioner to keep control of 100 percent of the open space that was used to obtain the planned project.

Pratt thought the issue could be looked at both ways, as there would be more assurance that the open space would be properly maintained, etc. under the City's ownership.

Bona appreciated staff's list of other benefits of this project that might meet the planned project standards, but she noted that none of those were listed in the staff report as justification for planned project approval. She said the staff report indicated that the petitioner was requesting additional building height based on the extra open space being provided. The other standards listed in the staff report all said "not applicable," she said. Because these were not contained in the staff report as justification for the planned project, she was unable to give them proper review prior to this evening's meeting.

Lipson acknowledged that the Planning Commission received a list at the last meeting and tonight containing names of residents who were concerned about increasing the amount of traffic in the adjacent neighborhood to the south if the Skydale connector were put in. He understood this concern, but said he considered what property owners' expectations were when purchasing a home in a neighborhood where the street ended in a stub. He said this gave the expectation that there would be a connection in the future. He stated that a goal of the Northeast Area Plan was connectivity between neighborhoods, adding that it was poor public safety planning to have a single access into a development. Because of the way this proposal was planned, he did not think there would be an excess amount of traffic generated since the easiest route to Pontiac Trail was through the roadways within the development. He supported the proposed connection, stating that he did not think it would be a burden on the adjacent neighborhood and that it would be a benefit to the community.

Potts agreed with the expectation of a future connection since the stub street already existed. She believed the zig zag pattern of the streets within the development and the placement of most of the residences closer to Pontiac Trail would create the desire for people to use the streets within the development for access to Pontiac Trail. She did not think many people would use the connection as a shortcut. She expressed concern about this proposed development and the adjacent single-family neighborhood being two very different types of development with different density and population. Because of the two different types of developments, she could understand the anxiety of the current residents to the south and their concerns about how their quality of life might be affected.

Emaus asked if there would be any restriction on people who wanted to drive from the neighborhood to the south through the private streets of the Barton Green development.

Pratt stated that public ingress and egress would be allowed and asked staff to make sure that this was contained in the development agreement.

Emaus expressed his support for the access connection to Skydale. He said the Barton Green development would provide the residents of that neighborhood access to the open space being proposed, as well as the Barton Green residents having access to the public park in the Skydale neighborhood. There were many benefits of cross connections, he said.

**Moved by Bona, seconded by Emaus, to amend the main motion by adding the following language, "and including a contribution of parkland of no less than 3.16 acres within the western open space and an area mutually agreeable by the Parks & Recreation Services Unit and the petitioner."**

Bona clarified that if the petitioner included the 3.16 acres, the density requirement would be more than met. It was her intent that Parks and Recreation be included in the decision making in order to obtain the woodland area in which the City was interested.

Welch thought this was acceptable, but noted two issues: 1) that they would still desire access to the western portion of open space that was not included in the 3.16-acre parcel, and 2) that the property being contributed to the City would still be allowed to count toward the density calculations.

Lipson agreed that any land contribution would count toward the open space requirements.

A vote on the amendment showed:

YEAS: Borum, Bona, Carlberg, Emaus, Lipson, Potts, Pratt, Westphal, Woods  
NAYS: None

**Motion carried unanimously.**

Woods believed this project had many positive features, such as the increased density and the open space. She acknowledged the concerns the residents to the south had vocalized about the access road between the two sites, stating that this made it a difficult decision. She understood the benefits of such a road, especially regarding emergency access and interconnectedness between neighborhoods, and asked if the petitioner had any meetings with the residents to explain and discuss the access.

Kwan stated that two organized meetings were held and neither meeting was attended by anywhere near the 58 people listed on the petition. He said they also provided mailings to most everyone in that neighborhood. He stated that it likely would be five to seven years before the rear of this site was developed and that they suggested to the neighbors that they, during this time, contact the City to conduct traffic counts and discuss the possibility of traffic calming. He said they intended to market the development from the front to the rear and that the infrastructure timeframe had not yet been finalized.

Woods hoped that any of the neighbors who signed this petition were listening this evening. She stated that this kind of development could be welcoming and that it could be ideal if both developments felt as one neighborhood.

Pratt stated that the Planning Commission has discussed the issue of interconnectivity between neighborhoods at great length. He reiterated that the Northeast Area Plan showed neighborhood connections on both sides of Pontiac Trail and recommended the density that was proposed here. He said this was all considered in determining that the connection was reasonable. During the Northeast Area Transportation Plan process, he said, it was determined that the Huron Parkway connection to Barton Drive was no longer a viable option, so no connections through the Skydale neighborhood all the way to Barton Drive would occur. This was a relevant point to make, he said, because of the valid concern people had about what the proposed access this evening might lead to in the future.

Lipson asked about lighting and energy efficiency of the buildings.

Kwan stated that they would have energy star certified lighting, outside walls would be six inches thick, an efficient appliance package would be offered, and they would have efficient heating and cooling systems. He said exterior lighting would meet the minimum standards and that they would look for low cost, high efficiency lighting.

Potts said she believed in connecting neighborhoods; however, she said, connections by car should not be the only type of connection assumed. If the car connection here were eliminated, she said, she would be much happier with this. She thought a pedestrian connection would be more appropriate.

A vote on the main motions as amended showed:

YEAS: Borum, Bona, Carlberg, Emaus, Lipson, Pratt, Westphal, Woods  
NAYS: Potts

**Motions carried, read as follows:**

**Moved by Lipson, seconded by Emaus, that the Ann Arbor City Planning commission hereby recommends that the Mayor and City**

**Council approve the Barton Green Planned Project Site Plan and Development Agreement, subject to required variances for the drive approach at the intersection of Barton Green Drive and Letitia Street, and including a contribution of parkland of no less than 3.16 acres within the western open space and an area mutually agreeable by the Parks & Recreation Services Unit and the petitioner.**

**Moved by Lipson, seconded by Emaus, that the Ann Arbor City Planning Commission hereby authorizes wetland use permits per Chapter 60 (Wetlands Preservation) to a) allow construction of storm water outlet structures in the wetland near Skydale Drive and b) for possible impacts to a wetland on the east side of Pontiac Trail as a result of construction activity related to boring a sanitary sewer main.**

d. 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 (tabled at 1/18/07 meeting) – Staff Recommendation: Approval

Thacher explained the proposal and showed photographs of the property.

John Lagos, representing a group of two owners and three tenants of Arbor West Plaza, located on Maple Road south of the alley, distributed photographs of delivery trucks servicing the plaza. He also distributed the first page of an easement proposed to them by the petitioner, stating that it did not mention the provision of rights to cross over the land. He said he has heard conflicting statements that the alley was not used, but then statements were made about the property owner allowing people to traverse his property for access to the alley. He said both the owners and tenants of the Arbor West Plaza would be harmed considerably if this alley were vacated and they lost the existing access. He noted that the alley was a key feature in the decision to purchase and place a considerable investment in the property. He believed the alley was a key feature to help facilitate commerce and that the owners' and tenants' rights would be taken away without any recourse if the alley were vacated. He suggested that the petitioners explore other options for utilizing their property. It was clear from pictures and testimony that the alley was in use and greatly valued, he said. He asked that the Planning Commission not vacate this alley.

Harry Cross, managing member of the Cross Family LLC, which owned neighboring property at the east end of the block, said this matter was initially scheduled for consideration by the Planning Commission in January, but there was a surprise move by the owners of the Arbor West Plaza reversing their previous agreement to vacate the alley. He said this reversal was delivered to Planning and Development Services staff three hours before the Planning Commission meeting. This has muddied the waters and delayed the Walgreen's proposal for over three months, he said. He believed that Arbor West Plaza owners have created their own de facto alley vacation by paving the portion of the alley adjacent to their property and then painting yellow lines to indicate parking spaces. He believed actions spoke louder than words and that Arbor West Plaza's de facto alley vacation was the strongest endorsement they could make of having the City formally approve the vacation.

Marc Levy, owner of property in question, said it was suggested at the January 18 Planning Commission meeting that he meet with the Arbor West Plaza owners to discuss their concerns about the alley vacation. He met with Mr. Lagos on February 4 for three hours and said they were unable to come to an agreement. He said Mr. Lagos' solution was for him [Levy] to give him a portion of his [Levy's] property

and that he [Lagos] would then agree to the alley vacation. He said Mr. Lagos said he would agree to an easement. He stated that Mr. Cross then met with Mr. Lagos to present him with an easement agreement and that, to date, they have not heard back from Mr. Lagos. He would have appreciated Mr. Lagos discussing his comments about the easement prior to the Planning Commission meeting, he said, but noted that communication was very limited. He stated that his family has owned this property for 50 years and they understood the importance of all of the property owners to have adequate access. In reality, he said, traffic circulation worked best through the properties and not through the alley itself.

Bradley Cross, a business owner in one of the buildings that would be taken over by the Walgreens development, stated that service trucks would still be able to use the alley. He noted that access would not be affected by this alley vacation.

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

**Moved by Carlberg, seconded by Borum, that the Ann Arbor City Planning Commission hereby recommends 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.**

Carlberg wondered what would happen to the alley once redevelopment occurred. It sounded as though access through the alley would still be available, she said.

Dave Prueter, of Agree Realty, indicated the location of where the redevelopment would occur. He stated that the east and west end components of the alley would remain. There were no plans to redevelop or close those portions of the alley, he said. Vehicles could still access the alley from Collingwood, he said, meander through the Walgreens site and then exit on the other side.

Carlberg asked if service trucks, such as the one shown in the photographs provided this evening, could go from Maple Road to Collingwood once the site was redeveloped.

Prueter replied yes, although it would not make much sense when trucks could use Abbott, Stadium or Jackson.

Carlberg asked what route trucks servicing the Arbor West Plaza would use.

Prueter stated that the most logical access would be from Stadium or Abbott. He noted that Arbor West Plaza's deliveries were made at the front of the site.

Carlberg noted that the Quizno's service truck was parked in the alley.

Pratt was not entirely sure that the alley was built for semi-trailer trucks.

Levy stated that semi-trailer trucks could not go from the side of the Arbor West Plaza all the way to Collingwood. He said they turned into the vacant Schlotzky's site and then out to Jackson Road. He said the access easement he had with Midas Muffler allowed trucks to use the Schlotzky's site and he would not have a problem with allowing Arbor West Plaza to do the same.

Pratt asked if the petitioner intended to provide access through the future redeveloped site, with adequate turning radius for semi-trailer trucks.

Levy replied yes, adding that the situation would be enhanced with the redevelopment.

Pratt stated that the way the motion was worded meant that the alley vacation was subject to a site plan being approved for the redevelopment site. If a site plan did not get approved, he said, the vacation would be in limbo. He wondered if the language should be changed to indicate that final approval of the alley vacation would take place at the time of site plan approval.

Prueter thought it was appropriate that the final step before pulling permits and starting construction was vacation of the alley.

Pratt stated that an access easement would be needed for each end of the alley, but he did not think property owners were in a position to grant an easement at this time because they would not own the portion of alley adjacent to their property until the vacation was officially approved. He said staff would need to make sure that the easement documents were in place.

Potts said it was her understanding that when a street or alley was vacated, the land was divided and ownership reverted to the properties along both sides of the right-of-way. If the property owners would grant access over the property that reverts to them, she questioned why a vacation was needed in the first place.

Pratt said one of the intentions was to allow public access through a future development and that this public access would be provided when the property was site planned.

Potts stated that if the alley were developed, then it would not be open for access.

Levy stated that curb cuts through the various commercial businesses adjacent to the alley provided traffic flow. He said the alley was not used for main access.

Pratt asked if there were a way to keep the west end of the alley open, which would respond to one of the speaker's concerns tonight about not having a dedicated easement on the west end.

Levy stated that they had an agreement for access with Ann Arbor Muffler, which was the property immediately east of the proposed development site. He believed they also would have an agreement with the Cross' property. He said the Midas Muffler property did not want an easement because they blocked the alley adjacent to their property.

Pratt stated that the petitioner has represented that the public would be able to travel from Maple Road through the development site and out the other end of the alley. He asked if it were possible for access to the west to cease for the development site if there were no agreement with the property owner.

Levy stated that if the owners of Arbor West Plaza did not wish to sign a legal access agreement, his property would still function with no access problems.

Lagos stated that there would be a very large building in the middle of the alley and access at each end of the building would not be sufficient. He could envision the large delivery trucks having to travel through the Walgreens parking lot and said there would be a significant loss with this alley vacation.

Lipson stated that the Planning Commission, in recommending approval of an alley vacation, needed to make sure that no one was isolated by having to drive out onto the street and then back onto another site for access. Currently, he said, there was interaction between delivery vehicles and pedestrians, stating

that there were engineering functions to allow for safety. He suggested that the motion be amended to add language assuring that there would be access for all properties.

**Moved by Lipson, seconded by Potts, to amend the main motion by adding the following language, “and shall allow continued access between all neighboring properties on the block equivalent to that existing at the time of the vacation.”**

Potts did not think equivalent access could be reached if it meant using someone’s private property to get back and forth.

Woods thought this alley vacation was premature. She has heard talk about a Walgreens being developed, but said she has not seen anything on it yet. There still seemed to be many questions, she said, and questioned whether this was ready for Planning Commission action.

Pratt believed the intent was that the alley vacation would be subject to the petitioner obtaining site plan approval for the Walgreens site. He wondered whether the motion could be worded so the alley vacation was tied to the physical construction of the building, rather than site plan approval, noting that a site plan could be approved and construction might not occur right away.

Carlberg thought it would be helpful for this petitioner to know whether the Planning Commission would approve an alley vacation as a concept. She believed there were two phases involved with this vacation: access and other issues from the time a site plan is approved until the vacation takes place, and the legal access easement that must be in place when the Walgreens was constructed. She saw these as two different issues. She questioned how the vacation could be approved without understanding of the other things that had to take place.

Pratt suggested that the vacation be done as part of the site plan.

Lloyd said the motion this evening indicated that the vacation would be subject to site plan approval, so only after the site plan was approved would the City vacate the alley. He said the issues of access, ownership, etc. would be resolved through that process. He said the petitioner was looking to the City for indication as to whether the alley vacation would be approved once they obtained site plan approval.

Bona questioned how assurance could be provided if the alley vacation were subject to site plan approval. She thought the petitioner actually was not being assured of the alley vacation if approved at this time.

Emaus did not see a need for the proposed amendment, stating that the motion clearly indicated that the alley vacation was subject to site plan approval. During the site plan stage, he said, the access arrangements would be reviewed.

Carlberg disagreed, stating that unless there was firm commitment at this time for access for everyone who was a neighbor on this block, the petitioner could end up having access, but not the others. She thought the alley vacation needed to tie in the access for all of those on this block.

Potts did not think the motion clarified that the alley vacation was tied to the site plan, only that it would not take place until there was an approved site plan. She would like to see the vacation tied to the actual site plan.

Prueter stated that they have committed to keeping the redevelopment site open on both ends to allow continued access. All of the property owners along the alley, with the exception of the owner of the Arbor West Plaza, have agreed to mutual access.

Pratt confirmed that the petitioner would provide access through the petitioner's private property.

Prueter replied that this was correct.

Westphal asked if this were considered a deed restriction.

Pratt said it would be a permanent access easement that would be recorded with the County and then show up on title searches for any future transactions that involved the property. He said there may be some limitations for someone going from the southeast to the northwest, as the drive would not be wide enough for two vehicles.

Lagos said it was true that everyone had agreed to vacate the alley, but said not everyone had agreed to provide an easement over their property.

Pratt stated that no one could agree to do that until the alley was actually vacated, which would happen upon site plan approval.

Woods stated that there was the issue of vacating the alley so a particular development could take place, and there was the issue of access. In looking at what all of the adjacent parcels would be like if there were never an alley here, she said, would mean there would be no issue of access, as each property would have access from the road upon which it fronted. She stated that trying to maintain this historical alley access may be creating more problems. She did not know if a document saying that equivalent access to what existed as of this date would be legally binding.

Potts asked if the word "equivalent" could be defined.

Lipson believed this would have to be defined by staff in the future. He thought it was a good, general term and not so much a legal issue than it was a planning issue. He stated that some type of agreement needed to be created that provided access equivalent to what everyone currently had.

A vote on the amendment showed:

YEAS: Bona, Borum, Carlberg, Lipson, Pratt, Westphal  
NAYS: Emaus, Potts, Woods

**Motion carried.**

Pratt stated that during the site plan stage, cross easements and maintenance agreements on the neighboring properties would need to be shown.

**Moved by Potts, seconded by Lipson, to propose a substitute motion, as follows: "That the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Boulevard Heights Alley Vacation as part of the development site plan."**

Carlberg did not think this was necessary because the current main motion clearly stated that there would be an alley vacation as long as there was an approved site plan. If the site plan were not approved, she said, there would be no alley vacation, he said.

Lloyd stated that no action would be taken to vacate the alley until there was a site plan to approve.

Pratt stated that the vacation was, in some ways, part of the site plan because the technical issues required for a vacation had to be reviewed during a site plan and the vacation would not be recorded until site plan approval.

Potts stated that this was the outcome she was trying to achieve with her proposed substitute motion.

A vote on the proposed substitute motion showed:

YEAS: Emaus, Potts, Woods  
NAYS: Bona, Borum, Carlberg, Lipson, Pratt, Westphal

**Motion failed.**

Bona stated that this was a difficult decision for her. One of the major advantages of alleys was to allow the elimination of curb cuts, she said. The fact that the Midas Muffler Shop had two curb cuts so close to the busy intersection meant that she would like to see some interconnection between these sites to reduce the use of the two curb cuts. On the other hand, she said, the alley was too narrow for two-way traffic. She thought the amendment that Commission passed would get her as close to comfortable with the proposal as possible. She said she needed proof that interconnecting these sites could happen, adding that she would like to see the new development have fewer curb cuts than what currently existed.

Woods stated that the paragraph under the Staff Recommendation portion of the staff report summed up how she felt about the vacation and the contingencies involved. She agreed that the alley served a purpose. She was hopeful there would be a site plan that made sense in terms of what would happen with access in lieu of the alley.

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

YEAS: Borum, Bona, Carlberg, Emaus, Lipson, Pratt, Westphal, Woods  
NAYS: Potts

**Motion carried, reads as follows:**

**Moved by Carlberg, seconded by Borum, that the Ann Arbor City Planning Commission hereby recommends 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, and that continued access between all neighboring properties on the block shall be allowed equivalent to that existing at the time of the vacation.**

Jim Mogenson, 3780 Greenbrier, commented about the notice for the master plan review. He said the memorandum provided to Commission explained the process of how the City would combine its various area plans into one master plan. He said basically it would involve reformatting the existing plans into one plan and that there would be no substantial changes. Based on the discussion that occurred this evening on the Boulevard Heights Alley Vacation, where an hour and a half was spent discussing the redevelopment of this west side of town, he did not think the City, as a region, was asking the appropriate questions about what the impact of future growth would be. These impacts should not be dealt with on a site plan by site plan basis, he said, which he saw was what was happening. He stated that the purpose of area planning was to think through all of these issues.

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COMMISSION PROPOSED BUSINESS

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None.

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ADJOURNMENT

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Pratt declared the meeting adjourned at 10:41 p.m.

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Mark Lloyd, Manager  
Planning and Development Services

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Bonnie Bona, Secretary

Prepared by Laurie Foondle  
Management Assistant  
Planning and Development Services