

Motion by Fattore, supported by Bilodeau, to approve the Sign Permit application for 314 Main Street – Flirty Fashions. Yes: Kingsepp, McGowan, Gassen, Alward, Bikson, Bilodeau, Cuthbertson, Fattore, Ketelsen. No: None. Absent: None. Motion carried.

CRITTENTON HOSPITAL – SITE PLAN – PARKING DECK – 1101 W. UNIVERSITY

Chairperson Kingsepp stated for Planning Commission consideration is the final Site Plan for a proposed parking structure expansion at 1101 W. University – Crittenton Hospital & Medical Center.

Chairperson Kingsepp stated we received a lot of material from the Planner and the residents. It was quite substantial and raises issues that are formative for this body. Customarily, there is not a hearing on this during site plan review. He wondered if the Planning Commission wanted to hear from the citizens and suspend the rules.

It was the consensus of the Planning Commission to allow residents to be heard this evening.

Mr. Oberlee, applicant on behalf of Crittenton, stated he just wants to clarify for the residents about the confusion on how Crittenton can build a parking deck on property owned by Rochester. This property is owned by Crittenton and happens to be located in Rochester. The City held a Public Hearing on this over a year ago. We proceeded with the design and engineering based on the outcome of that Public Hearing and Preliminary Site Plan review. When we heard concerns, we changed our plans. At this point, the proposed changes to the design have cost us \$100,000. The requests from the neighbors have been impossible to fully meet. We realize they have concerns. Our patients and employees also have high expectations. This is where our Master Plan will take us. Crittenton supports the community through service, charity and events. We also offer programs for education and screening to the community. Last week I checked on two separate occasions and there were less than 60 parking spaces available on site.

Mr. Birchler stated Crittenton Hospital has revised its site plan for the expansion of the parking structure and submitted it for final site plan approval. Our review of the plans we received indicated the following:

- 1) Section 2040 (h) permits parking decks in any zone except in an Office or Residential district. The property in question is zoned P-1 Parking and the Planning Commission has previously granted special exception approval, subject to final site plan and final engineering approval. The portion of the parking structure located in the City of Rochester Hills is zoned Special Purpose. I have confirmed with Rochester Hills Director of Planning, Ed Anzek, that the parking structure is a conditional use in the Special Purpose district with an allowable height of 8 stories, subject to special use approval.

- 2) *“Where a parking deck or structure is located on property immediately abutting a residential zone, it shall be set back from the common lot line a distance equal to the height of the structure.”*

The proposed structure is set back 61 feet from the common property line with the RT and R-1 districts along the west side of Alice Street. The height of the structure nearest to this line is approximately 24½ feet to the top of the parapet wall (which is 7 feet above the second level deck). Thirty feet back from this wall, the upper two levels of the structure reach a height of approximately 46½ feet to the top of the parapet wall. Stair tower 4 reaches a height of approximately 53½ feet and is 92 feet from the common lot line. Although a stair tower would be treated similar to a church steeple and would not be considered to reflect the height of the structure, the minimum setback point of 61 feet exceeds the ordinance standard for all three of the above-measured points on the parking structure.

- 3) *“The entire area between a parking deck or structure and an abutting residential zone shall be landscaped a depth of 15 feet from the common lot line.”*

The proposed enhancement of the existing landscaped berm and greenbelt, along the common property line, ranges in width from 30 to 35 feet. Twenty-eight existing pine trees are proposed to be preserved. These will be supplemented with: 19 deciduous trees in a mix of maples and lindens; 25 evergreen trees that include spruce, white pine, and hemlock; 54 deciduous shrubs that mix dogwood, holly, ninebark and viburnum; and 61 evergreen shrubs that include holly and dense yews. The planting plan arranges these trees and shrubs to provide shade, fall color, tall dense screening year-round, intermediate level color and year-round screening, and includes plants that are either native to Michigan or proven hardy. The site plan cover letter from Albert Kahn Associates indicates that this greenbelt will be implemented as a maintenance activity, regardless of whether the parking structure is built.

- 4) *“No equipment installed as a part of a parking deck or structure shall generate noise levels above 65 dBA at the lot line abutting a residential district or use.”*

There does not appear to be any equipment being installed in the portion of the structure located within the City of Rochester. A new elevator tower will be constructed approximately 100 feet east of the City Limits. Rochester’s current performance standards for sound in Section 2301 do not require a predictive noise study for the elevator equipment located beyond the City Limits.

- 5) *“The side of a parking deck or structure that faces a residential district shall have a finished appearance by the application of face brick or an equivalent material approved by the Planning Commission.”*

The East Elevation drawing demonstrates that the portion of the structure visible from Alice Street will be faced with pre-cast concrete spandrels and brick, with a pre-finished insulated metal panel on the stair and elevator towers. The entire east end of the structure has been designed without openings to prevent noise and lights from projecting toward the east. *The surface finish and color of the pre-cast panels, brick, and metal panel elements are not indicated on the site plan sheet.*

- 6) *“Lighting fixtures and equipment for a parking deck or structure shall be designed so as not to cause glare or otherwise illuminate an adjoining residential district.”*

The lighting fixtures and photometric plan indicate that: all perimeter fixtures will be wall-mounted, below the inside top of the parapet wall; pole-mounted fixtures will be limited to the central area of the upper level, on poles not exceeding 15 feet, with only four such fixtures on the Rochester side of the line; and the foot candle level on the east side of the structure will be zero from the upper level of the deck. *Crittenton should verify that the cut-off angle of the two easternmost fixtures will prevent light from being directed beyond the east parapet wall of the upper level of the deck.*

- 7) *“Where a parking deck or structure directly abuts a residential district, the Planning Commission may limit the hours of operation, where necessary to provide protection to nearby residences.”*

The Planning Commission has not previously found it necessary to address hours of operation. Crittenton should identify whether this structure will be open 24 hours. This can then be reviewed in the context of the access point that is approximately 125 feet from the common lot line, the east wall of the structure that has no openings, the lighting plan that is designed to result in zero foot candles at the east wall, and the 30 to 35-foot wide landscaped greenbelt and berm.

Mr. Birchler stated during the September meeting of the Planning Commission, a resident raised several questions regarding ordinance provisions and State law that may apply to this application. We have evaluated the materials submitted and prepared a response which is attached as an Addendum to this letter.

Mr. Birchler stated the following is our evaluation of ordinance and other provisions submitted by a Rochester resident who questioned their applicability to the proposed expansion of Crittenton Hospital’s parking structure. The materials submitted for our review have been organized by source and chronological order, to the best of our ability.

Rochester Zoning Ordinance

- Section 1303. Special Exception Uses, Sub-section 3 c) – 24-hour operation of drive-thru facilities.*

This provision applies only to drive-in restaurants in the B-1 General Business District.

- ☑ *Section 1303. Special Exception Uses, Sub-section 4 c) and d) screening or trash storage and parking areas*

This provision applies only to Auto Service Stations in the B-1 General Business District.

- ☑ *Section 1703. Special Exception Uses, Sub-section 5 a) 2) regarding screening of parking areas*

This provision applies only to outdoor commercial recreation uses in the I-1 Industrial district.

- ☑ *Section 2003. RM-2 regarding 40 foot height limit and setbacks equal to the height of the building*

This provision applies only to multiple family apartment buildings in the RM-2 district

- ☑ *Section 2004. CBD, B-1 regarding maximum 40 foot height for parapet walls*

This provision applies only to buildings in the Central Business and General Business zoning districts

- ☑ *Section 2006 RP regarding building setbacks of 4 times the building height from a residential district*

This provision applies only to buildings in the Research Park zoning districts

- ☑ *Section 2403 parking requirements for hospitals, 3 spaces per bed*
This is the minimum parking standard for hospitals

- ☑ *Section 2403*

In addition to the above requirements for number of spaces, all uses in commercial, office and industrial districts shall design the off-street parking area so that the following objectives are met. Where the Planning Commission feels that the objectives listed below cannot be met, in their discretion they may require up to an additional twenty (20) percent parking spaces.

- a) *Minimizes the likelihood of parking interference affecting adjoining residential neighborhood.*
- b) *Limits traffic congestion and public inconvenience by providing ample parking on-site to meet all foreseeable daily needs.*
- c) *Reduces the potential for overflow conditions that might result in undesirable on-street parking.*

d) *Provide space on-site for future parking expansions.*

The above standards permit the Planning Commission to require 20% more parking than the minimum standard. Application of this standard would be based upon findings of fact and would result in a much larger parking structure.

- Section 2404 Sub-sections d) and e) regarding parking lot setbacks from residential districts*
These provisions enumerate the minimum required setback of parking from residential, which is only 3 feet.
- Section 2404 Sub-section h) standards for parking decks and j) standards for landscaping parking facilities*
These are covered in specific detail in our September 25, 2008 review of the site plan.

Rochester Hills Zoning Ordinance

All of the following ordinance section references are from the Rochester Hills Zoning Ordinance and cannot be used as the basis of a decision made by the Rochester Planning Commission:

- Sec. 138-1111 Schedule of regulations limiting height bulk, density and area by land use
- Sec. Unknown regarding height of structures in an O-1 district
- Sec. 138-1306 Special and conditional land uses; discretionary decisions
- Sec. 138-1337 Height limits for libraries and churches
- Sec. 138-1341 Days and hours of operation limits for construction activities in the City of Rochester Hills

Tall Structure Act, 259 of 1959

We have reviewed the copy of the above statute that was submitted. We understand that this act regulates building additions of 200 feet or taller that are within the flight path of an airport in Michigan, and buildings of 500 feet or taller that are within the flight path of an airport in Michigan. It also regulates any building that is more than 1,000 feet tall regardless of whether or not it is within the flight path of an airport in Michigan. We see no relevance to the application before the Rochester Planning Commission.

Chapter 6 Shadows

As best we can discern, this is a provision that applies in some fashion to the Bronx Terminal Market Area in New York. We see no relevance to the application before the Rochester Planning Commission.

Mr. Birchler stated based on our review of the plans submitted, we recommend approval of the site plan for the Crittenton Hospital parking structure expansion, subject to the following conditions:

- (1) Planning Commission review and acceptance of the finished appearance of the East Elevation's materials, colors and textures

- (2) Verification by Crittenton Hospital that the cut-off angle of the two easternmost pole-mounted fixtures will prevent light from being directed beyond the east parapet wall of the upper level of the deck
- (3) A finding by the Planning Commission that hours of operation do or do not require limitation in order to provide protection to nearby residences, based upon architectural design, lighting controls, and greenbelt screening, and
- (4) Final Engineering Approval.

Mr. Bilodeau stated from our last meeting, you indicated the finishes, appearances, colors and material would be those that now exist on the parking structure.

Mr. Oberlee stated that is correct, except on the east side we took off some of the face brick and put more precast concrete to lighten that view. It is the same colors.

Mr. Cuthbertson asked what the intent of hours of operation is.

Mr. Oberlee stated it would be virtually impossible to say that the parking structure would have certain hours of operation. When you think about the nature of our hospital business, people come in and park in the deck and may go in the building and may not come out for a couple of days. When they do come out, they may be discharged at different times. The same is true of our employees. We have people there right now that are working overtime, but they will have to get in their car tonight and drive away. It's a difficult thing to do. We have already considered the fact that when the new south tower would be built and the bridge would connect, we would focus patient parking in that zone of the parking deck. We have a tremendous amount of cars coming in every day. Many are out patient services. It would be virtually impossible to say we could control it. If we were an office building and everyone went home at 5:00 pm that would be different.

Mr. Bilodeau stated there is currently surface parking in that area, and the surface parking is used 24 hours.

Mr. Oberlee stated that is correct.

Mr. Bilodeau stated I would think it would be a little quieter with a deck.

Mr. Cuthbertson stated it is my understanding in terms of where we are in the process, Special Exception approval has been granted as to the use. I'm trying to interpret that. I wasn't on the Planning Commission when that was granted over a year ago. However, with the action required of the Planning Commission and the conditions of approval stated in Chapter 26 of our Ordinance dealing with Special Exception uses, it requires a number of findings relative to certain matters anywhere from ingress or egress from the property, environmental impact on

adjoining and nearby properties and population, and certain conditions of approval can be instituted. Some are designed to protect health, safety and welfare, as well as the social, economic well-being of those using the development, as well as those adjacent to the development. Were there particular findings as to those points made under Section 2603, and were any conditions of approval required at that time?

Mr. Birchler stated I don't believe there were any conditions attached. I believe the Commission cited that section of the Ordinance and indicated in their motion that they found the application was consistent with those statements. However, their motion for approval included one condition of Final Site Plan approval. In the past, that condition allowed us to visit certain issues, like an operational issue, if that Final Site Plan indicated some additional conditions would be necessary. I don't have the minutes before me, but I'm certain that motion left the door open to place a condition on the Special Exception if it was found necessary as a result of the Final Site Plan review.

Chairperson Kingsepp stated I was concerned about the maintenance of the greenbelt and I recall my observation as being one of the conditions I would want on final Site Plan approval because I was concerned about the intrusion on the neighbors.

Mr. Bilodeau stated I have a copy of those minutes. The maker of the motion specifically indicated that the development meets all the requirements of the Special Exception request outlined in Article 26. We addressed them. I was the Chairman at that particular time. I don't remember anyone appearing in opposition. We had one letter from Kay Johnson at the time from 137 N. Alice. She was inquiring about stormwater retention. Mr. Johnson, the City Manager at the time, indicated there was extensive work done down there and he didn't anticipate it would be a problem. Once we granted Special Exception, we moved on to Preliminary Site Plan review and discussed a number of things regarding landscaping, etc. It was a unanimous vote for Special Use Exception.

Mr. Cuthbertson asked about the maturity of the plan presented. Was it largely consistent of what we are seeing tonight regarding the setback and were we seeing clear drawings. I've tried to get myself acquainted with this but being a year down the road from actual Final Site Plan approval, I want to make sure the conditions and actions that were taken were based on information that is largely consistent with what we are seeing today.

Mr. Bilodeau stated my recollection is it was identical aside from the step back of the upper floors of the parking deck. There were refinements to the lighting and landscaping that were brought up as concerns.

Mr. Oberlee stated the only significant change from the early plan to this plan is not the footprint, it's the fact we put the entry into the lowest level of the deck further to the west to take it further away from the property line.

Mr. Birchler stated there was one other major change. There was to be some active vehicle circulation around the east side of building on the original plan that has now been eliminated by the circulation being moved 125' further to the west.

Mr. Cuthbertson stated so to summarize the conditions under which the Special Exception was granted, a necessary predicate for Site Plan approval, are largely consistent with what was presented before and the plan as presented tonight in terms of the Site Plan are within the use of the right and properly dimensioned as to one of the requirements of the underlying zoning.

Mr. Oberlee stated that is correct.

Chairperson Kingsepp stated regarding the limitations on the use of the new structure, you responded it would be impossible because of the nature and patient pattern to the facility to monitor that. My query is more on the lines of whether or not it is possible over a period of time to have some sort of evidence that it would be virtually impossible. Right now, it is based upon an assumption that might deal with existing parking both in front and in back of the existing structure, but we don't know what the history will be with the new one. It's a rhetorical question as to whether or not that could be a subject of monitoring once the structure is up for year in case there is a possibility to limit it.

Chairperson Kingsepp stated regarding the Kahn study on the landscaping on the east side, I recall from the last meeting there were concerns about the manner of care that was given. Now that you are putting in more vegetation and trees in order to shield the structure and the noise, can Albert Kahn develop a maintenance plan for that area? If there are trees that have died or are damaged from a storm, there will be a timeframe before they are replaced, and there may be other concerns with that greenbelt area, which is 30 – 35' wide. Should an action plan be in place? There is past history of trouble with that and a fear with what might happen with the expansion. In order to alleviate those concerns, I wondered if a maintenance plan could be developed for that area. This is a rhetorical question.

Mr. Cuthbertson stated based on what I have heard tonight, it seems to me unless there is some major piece of information we are not aware of, the Commission within the stricture of the Ordinance is largely required to approve this. I agree that something more could be done to soften the affect to the neighborhood, it seems to me we are at a position where it's really a formality rather than an area of discussion or negotiation.

Chairperson Kingsepp stated I don't read it that way. That's why I asked the questions I did. Even though I didn't receive an acknowledgement, that doesn't say that I wouldn't make those as

conditions. From the standpoint of the residents' observations that they don't want this, it is not our prerogative to make that determination. In fact, if we were to do so without any substantive basis, we would be accused of operating discriminatorily. That is not what this body has done in the past, but it doesn't mean we can't listen to the legitimate concerns of the residents and try to impose conditions that ameliorate some of those concerns. I think that is our purpose right now.

Mr. Cuthbertson stated in no way do I want to cut off any discussion. I just think maybe it is time to have fair recognition that whatever the Planning Commission will consider tonight will have to be in the broader context of this as permitted in our Zoning Ordinance. We have a duty to approve it. In my experience in getting in discussions with the folks who live in the neighborhood, I think more could have been done. I appreciate the steps that have been taken to accommodate them. I think more could have been done, and wish that were the case.

Mr. Oberlee stated I have talked with some of the residents about the fact that after all the work is done on the greenbelt and replanting that area, and we are putting in an irrigation system in that has never been there before. We were committed that if someone has a particular problem with the view from their own back yard and they get in touch with me, we can put a couple of trees or shrubs in their backyards to fill some of the voids. We have committed to doing that.

Mr. Gassen stated I don't remember everything about the Special Use hearing, but the condition of approval of the Final Site Plan reverts back to whether that approval for Special Use really stands. If we can't find that we all agree on a Site Plan, then that Special Use we approved would not be valid anymore. The reason we make those motions is for that very reason. If we can't come together with a good plan that works, then that Special Use that we approved would be on the table again.

Mr. Fattore stated you mentioned you will put irrigation in the berm. There was concern that the area abutting the east property line wasn't drained before. I walked that piece today and it looks like you don't have positive drainage, but it is my understanding that all the drains from the surface lot go into the retention basin. My concern is if you are going to put irrigation back there, are we going to create a burden or hazard.

Mr. Oberlee stated the plan to fix the rainwater problem that existed on that back corner of that area became a City of Rochester project. Crittenton's involvement in that was paying about \$800,000 and saying yes you can use more of the land we own for a retention pond. We let the City of Rochester have that project. We did not run that project. We did not design it. We had 6" of rain a few weeks ago and it worked very well. We took a lot of press about that problem existing, but we cooperated fully with the City of Rochester from start to finish. The entire berm was at risk. The plan was to put the pipe under the berm. It was during a meeting in this building that I suggested putting the pipe west of the berm and gave the City a bigger easement so we could save the berm. We didn't have a lot to say about the engineering.

Mr. Fattore stated that's not what I'm talking about. The old system is basically abandoned and not being used. There is fieldstone and cobbles with a swale. It appears that the elevation of the fieldstone is higher than the abutting property. You can't create positive drainage. If you are going to irrigate that, will you create a burden? There will not be any place for it to drain.

Mr. Oberlee stated I don't believe so. That area to the east of the berm was included in the engineering work that drains that area. That fell back to the City of Rochester who did that engineering. That was all put into the mix. That doesn't only drain Crittenton's property with that fix; it drains the water from the Rochester side as well.

Mr. Kingsepp stated does this open the door that if all the remediation is done in that area and a drainage problem does occur, whose problem is it from the standpoint of correction?

Mr. Oberlee stated I don't know. I would have to call that a rhetorical question as well.

Mr. Kingsepp stated if there is an issue raised, that leads to the question what if there is a problem. How does it get corrected? The residents will potentially have the burden of it. They will look to you or the City to make a correction and if there is nothing to handle that appropriately, then it becomes a problem.

Mr. Oberlee stated it is not a problem. We spent a great deal of money and a lot of engineering and we fixed the problem. The pipe that fixed it was not close to Crittenton's property. That really has been fixed. If irrigation can put that much water in a ditch, we should have had a lot bigger problem when we had a 6" rain. I don't believe that is an issue.

Mr. Birchler stated the important thing to remember here is we are not increasing the impervious surface with this project. It's going on property that is already completely impervious. In theory, there is no increase in the amount of water that runs off the site or the speed in which it runs off the site as a result of this project. Would an irrigation system add a little bit to a 50 year rain? Yes, if the system was on during the rain storm, but I don't think it could add enough to a 6" rain like we got a few weeks ago to cause that system to fail.

Chairperson Kingsepp asked if any resident wished to speak.

Ann Peterson, 233 N. Alice, there are a lot of issues going on now that have been spoken out of turn about how the residents are concerned about what is going on at Crittenton. We don't have ill feelings towards them for what they do as a business. There are many issues we have. We started a petition and have gotten signatures from residents and neighbors in the City of Rochester to stop the construction of a 4 story parking structure, which will also lead to a 5-8 story tower in our back yard. She submitted the petitions for the record. Regarding the flooding issue, it has been said that the residents of Alice Street did not thank Crittenton for fixing the problem. Now we find out it was the City of Rochester that fixed it. It also has not been stated

that the Rochester residents fought for 6 years to get that under control because it kept going back and forth to who is responsible. Actually, we all thank you very much because our lands aren't being flooded. The problem and reason for all of this is because that whole area floods and will continue to flood because it is on a federally regulated wetland. That one section is noted from the EPA's website. That is why it floods. She distributed a copy of the picture of what that looks like. Also, the City of Rochester's Master Plan for the land use listed as West University Corridor, Focus Area 10, states, "There are many attractive older homes in this area, which helps to maintain Rochester's small town character, and they should be preserved whenever feasible." She displayed a rendering of the site.

Ms. Peterson stated I called the Environmental Protection Agency today and spoke to the Wetland Department who is filing an information request to find out whether any permit is to be required for any building in that area so close to the wetland. In speaking with residents and getting signatures on the petition to correct errors like that, we have found some residents have had more flooding issues that the City of Rochester had to pay for. That's because of the flooding when they redid the McGregor School and it flooded basements. That whole corridor is actually wet plains; a wetland area leading out to where the 100 year flood issue is located. Was a permit needed to keep building on a piece of land that is all wetland? How is it going to impact those homes and those Condominiums? I walked that area. You have the same type of vegetation that grows without help because it's all wetland vegetation. Are the trees that will be put there be habitable to an environment that is not made that way? It is a designated wetland area.

Ms. Peterson stated also included is information about adverse health affects on noise. I appreciate the time taken to go over all the ordinances I presented during the last meeting, but there was a lot of things brought up again in that report that I did not say or implicate as being part of my evidence towards the reasoning behind the ordinances. I understand other people's ordinances did not apply and I stuck to ours, which I presented to you.

Ms. Peterson stated we have many water course protection acts in place here because our area is so concentrated with wetland areas. We had Sergeant Creek that just had approvals to correct that area. In the long and short of it, I have enough information here to make you go blind, but the DEQ and the US Army Corps of Engineers is going to look into how much building can be done on a wetland area there without impacting the environment. So as far as conditions of approval go for Special Exception Uses, there is a huge impact. All we hear about is how much it will cost to fix it. We are trying to make a point that there is something being overlooked at how detrimental this type of building is next to a residential area. We don't want irrigation back there. We are a swampy area. Historically, if you look on the EPA's website, you will see that entire section from University through the entire Crittenton Parking Lot and across to Avon Towers and down was a swamp at one time. We really want you to take note there are

issues here detrimental to our homes and our property values. This whole area has a lot of questionable concerns. Can you keep adding to an area that has wetland without hurting the area around it?

Ms. Peterson stated because of the height restriction we were told about Rochester Hills having an 8 story height restriction. If that's the case, they denied Volkswagen and Audi from coming to Rochester Hills because their building height was too high. If you go over on Adams road, those buildings are not any taller than the 4 story building we are going to have. We know the property is owned by Crittenton. It was not submitted properly for approval with the City of Rochester because both Parcel ID Numbers are not listed on the notice. The Parcel ID for the parking P-1 issue was not listed.

Ms. Peterson stated people are aware of this issue being the flooding issue. No one wants this to impact our lives anymore.

Chairperson Kingsepp stated to summarize the salient point of what you are arguing is because the residential area is traditionally located in a wetlands area and has had problems in the past of basement and street flooding, the construction of this site would either enhance the flooding or water problems in the residential area and is a construction project in which there should be consideration given to the environmental impact and permitting process that might be required because of its location near or on an underground water site. Therefore, we should somehow take that into consideration in connection with the approval or disapproval for action we take tonight.

Ms. Peterson stated yes that is a fair statement. In the overall picture, we know that anywhere else hospitals are be built and expanding and it's supposed to be good for the neighborhoods. Their elevations are different. They are not sitting on wetlands. If you look on wetland maps, we have wetland areas and that hospital sits on the wetland.

Steve Ciraulo, 245 N. Alice, stated there was a meeting over a year ago. How were the residents notified?

Chairperson Kingsepp stated they were notified by the regular procedure. All residents living within 300' of the proposed structure.

Mr. Ciraulo stated if you were to ask for a raise of hands, we didn't.

Chairperson Kingsepp stated we operate on an assumption and the Administration told us notices were sent out.

Mr. Ciraulo stated I don't think anyone was notified. That's why only 1 person showed up and that's why we have this group here today.

Mr. Ciraulo stated Mr. Oberlee stated he tried to approach the neighborhood. As a neighborhood we have done a lot of talking, but we haven't met with Mr. Oberlee. How many cars a day did he say come in and out of Crittenton?

Chairperson Kingsepp stated I don't think he said that.

Mr. Ciraulo asked if there was a traffic study done. Now he is talking about doubling capacity, and they are dumping out onto a 2 lane road. What's going to happen?

Mr. Ciraulo asked if there was a noise or lighting study done by somebody independent outside of Crittenton.

Chairperson Kingsepp stated they are working on the lighting.

Mr. Ciraulo asked if the City checked into that.

Chairperson Kingsepp stated the City has not checked into that.

Mr. Ciraulo asked if the City checked into a traffic study.

Chairperson Kingsepp stated the City has not checked into that.

Mr. Ciraulo stated shouldn't the City be looking out for the neighborhoods.

Chairperson Kingsepp stated the City is looking out for the neighborhoods.

Mr. Ciraulo stated well I would like to see something done with the lighting, the traffic, and the noise.

Mr. Ciraulo stated if this parking structure is \$10 million that helps the tax base for the City, true?

Chairperson Kingsepp stated I can't answer that. Why would that be important from our consideration?

Mr. Ciraulo stated its extra taxes for the City.

Chairperson Kingsepp stated that's not an issue we would even consider for a site plan. Traditionally and characteristically, what the revenue a project will bring to the City is never a consideration and is not important to the site plan approval.

Mr. Ciraulo stated the water run-off you were talking about earlier, it's a parking deck of 4 floors and the water hits the top level. Doesn't it go into a gutter system? What happens when the water goes into a gutter system and where does it go. Earlier, we asked the City to protect the neighbors. I would like the City to do a Traffic Study and Noise Study. The infrastructure is terrible in Rochester Hills. I would like to see something done about that to.

Mr. Birchler stated the City does not typically conduct impact studies of a proposed development. It is the applicant's responsibility if required by the City to conduct those types of impact studies. The City then has their experts review those for competency. If there were going to be a traffic study, it would be done by Crittenton's traffic consultant and my traffic engineer, Bill Stimpson would review that study for its competency. The same would be true of a noise study. I think with regard to a noise study, it should be clear that we do not have the authority under our current ordinance to require a predictive noise analysis, which is an analysis that tries to estimate what the noise might be from a proposed land use. We have standards for enforcing maximum noise limits at adjoining property lines. Regarding the lighting, there has been a study done, and I reviewed that lighting study when we received the photometric plan and the only question I raised was whether the cut-off angle for the 2 easternmost fixtures on the top of that structure was sufficiently sharp enough that the light would not project beyond the parapet wall. If it is at a sufficiently sharp angle, the lighting they are adding to this structure will produce 0 foot candles on that side of the building.

Mr. Bilodeau stated if our approval requires them not to have anymore than 1/2' or 1' candle at the property line and their angles are wrong and they do produce more than 1/2' or 1' candle that is grounds to have them rectify the situation.

Mr. Birchler stated you would probably require them to put shields on them.

Mr. Birchler stated regarding the question about the amount of traffic, Mr. Oberlee gave us a figure that the hospital services on average about 2000 patients per day and 750,000 patients per year, which does not include the visitors that come to see the patients in the hospital. He was not suggesting that was a traffic figure.

Mr. Oberlee stated correct. I was not suggesting that as a traffic figure. It was to give you an idea of how many folks come in. It also didn't include the 43,000 educational folks or the 13,000 screening folks either. It also didn't include the portion of 1,600 employees that are on site every day. The path we are on is to provide parking so the Ordinance requirements are met as we move forward with our Master Plan. I don't think that 1 space for each hospital bed is adequate anymore. That is a legitimate concern brought up by Mr. Birchler. When we strive to meet those standards by Ordinance, those become the minimum. We are basing our plans on trying to meet something that is close to the minimum expectations of what we would like to see on the site. We are not adding a lot of excess parking. There were 2 days last week, where there were 50 spaces available at 10:30 a.m. and one day there were 60 spaces available. The truth is we are

getting close now. There are times in the front where cars are parking in the parking lot in the hatched off areas.

Mr. Cuthbertson stated we are told the parking garage is a necessary predicate to the tower. The parking garage in and of itself may not create additional traffic, but it is required to further grow the facility. At what point would a traffic study be appropriate and to the extent that this garage is part of the overall plan?

Mr. Birchler stated traffic studies are required for development that produces traffic. The parking structure is not the generator here. The hospital is the generator. Until such time the hospital was proposing an expansion that would increase the capacity in some way, we would have no reason to require them to provide a traffic study of their existing operations because we can literally see the existing operations. I would clarify one point. Mr. Ciraulo suggested there is only a 2 lane road serving this hospital. In reality there is a 5 lane highway on one side of it and a 4 lane boulevard highway on the other side. It is not a 2 lane road serving the hospital.

Mr. Gassen asked if the proposed future tower is in the City of Rochester.

Mr. Oberlee stated it will be in the City of Rochester Hills. Our plans right now place it adjacent to the existing building in the area where the current receiving dock is.

Mr. Gassen asked is the ingress and egress for the site in Rochester or Rochester Hills.

Mr. Oberlee stated they are technically both in Rochester Hills.

Motion by Bilodeau, supported by McGowan, to approve the revised Site Plan for a proposed parking deck for Crittenton Hospital located at 1101 W. University with a finding that the appearance and finishes are consistent with the existing finishes subject to the lighting being no greater than a 1' candle of light at the property line; there will be no limit on the hours of operation; and subject to Final Engineering approval.

Mr. Alward stated I am a property owner in this area. I was notified. I do not see any conflict of interest but if you do, I will abstain from this vote.

Chairperson Kingsepp stated you have disclosed it. It is your option to vote or not.

Mr. Gassen stated the question regarding floodplain and wetland. Is that something the design team has taken into consideration in the way they approached this plan.

Mr. Oberlee stated there is a designated wetland on the west side of the retention pond at the back. Actually, the wetland is pretty significantly in Rochester Hills, not in Rochester. It is designated. We have gone through all the due process for that wetland as we move forward with

any of our plans. In fact, the last time that was reviewed significantly was the retention pond work we did with Rochester.

Mr. Fattore asked if we can amend the motion to include maintenance for the berm.

Mr. Bilodeau asked what you would like to see in the Motion.

Chairperson Kingsepp stated that we include a maintenance plan for the greenbelt.

Mr. Bilodeau asked if they have to come back to us.

Chairperson Kingsepp stated all they would have to do is provide a maintenance plan so the residents know what they plan to do with that area.

AMENDED MOTION

Motion by Bilodeau, supported by McGowan, to approve the revised Site Plan for a proposed parking deck for Crittenton Hospital located at 1101 W. University with a finding that the appearance and finishes are consistent with the existing finishes; the proposed lighting will be no greater than 1' candle at the property line; a maintenance plan for the proposed greenbelt is to be provided; there will be no limit on the hours of operation; and subject to Final Engineering approval.

Mr. Gassen stated I would like to add another friendly amendment regarding subject to Final Engineering as it has to do with the wetland issue brought up this evening.

Mr. Bilodeau asked if Final Engineering would cover making sure it is a buildable site for the wetland.

Chairperson Kingsepp stated yes, but we could add a note that Final Engineering will cover making sure it is a buildable site because of the wetland

Motion by Bilodeau, supported by McGowan, to approve the revised Site Plan for a proposed parking deck for Crittenton Hospital located at 1101 W. University with a finding that the appearance and finishes are consistent with the existing finishes; the proposed lighting will be no greater than 1' candle at the property line; a maintenance plan for the proposed greenbelt is to be provided; there will be no limit on the hours of operation; and subject to Final Engineering Approval that will make sure the site is a buildable site because of the wetland area.

Mr. Bikson stated Crittenton does a great job in the community. I have to agree with an earlier statement that I don't have any issue that they meet parking. I have no problem with them having parking. We asked last time that you look at something to help out the neighbor and I guess you chose not to do that. I don't think any of us would want to look at this.

Mr. Bilodeau stated Mr. Ketelsen and I thought they had amended the plan substantially to ameliorate the problem of height in the neighborhood.

Mr. Bikson stated the change did not change the distance from the neighbor's yards. It changed the height but it hasn't changed the distance from the neighbors' yards. That is the entire issue. I don't think any of us would want that by our houses. I understand the people live next to a hospital, and it has been there a long time. There are issues that have to be accepted because you live next to a facility like that, but I think something could have been done to alleviate the neighbors' problems. I have no issue with Crittenton Hospital having more parking. I have no issue with their business plan and Master Plan and improving the operation for all of us. I just think they could have done more to make this less onerous to the neighbors. These neighbors have to live there. Again, would we want that next to our house? The answer is no. I think that is incumbent upon us to take that into consideration. We are not saying they can't build a parking structure, but I asked if they could help the neighbors out by moving it a little further away. Crittenton Hospital chose not to do that, which is their right. I think we should be taking a little more thought onto what is good for the neighbors. The neighbors are the ones where, as an elected City Official, I need to think about. With all that said, I will not support this motion.

Chairperson Kingsepp stated I thought at the last meeting, there was a question asked about a construction schedule or format to minimize noise, dust, etc. Am I incorrect or am I thinking of some other development. If I am correct, is it possible to add that as a condition that at least during the construction process there is some consideration of that.

Mr. Bilodeau asked what format that should be?

Chairperson Kingsepp stated maybe just an acknowledgement from the applicant that there will be controls in place to minimize the noise, the construction activity, the traffic.

Mr. Bilodeau stated I have lived in a dust bowl for the better part of this summer. It doesn't appear to be abating. I don't know how you ameliorate construction when you are building a building. I do not know what you are asking of the applicant that is within the realm of our Site Plan approval. Construction is a mess. The quicker they get in and get done, the better. We already have hours of construction regulated and the days of construction are regulated.

Chairperson Kingsepp stated I was just raising it as a subject of discussion.

Mr. Ketelsen stated the construction is in Rochester Hills.

Mr. Bilodeau stated they are building on land in our City, so I would assume our enforcement would cover those weekend days and hours of operation.

Mr. Cuthbertson stated I echo some of the Mayor's comments. I think more can be done with this to help out the neighbors. What I'm struggling with is we have a set of Ordinances. We have conditions for Special Exception Use. I was told tonight that findings were made at the time of approval. At that point, with the plan that was presented, this project was largely cast. Tonight, from what I'm sensing is that this fall squarely within the authority granted to a property owner within our City. As such, I can reach no other conclusion than having to vote for it because our Ordinance allows it. If I voted against it, I would be voting to take away a right of a property owner that is vested in our Ordinance. I don't like the decision. I'm not comfortable with this. I do not like what residents will experience, but this is a decision based on the rules in the Zoning Ordinance. If that doesn't mean something, we will be sending a message on development in this community. That is not something that gives the residents any relief. I'm frustrated with it. I don't understand why in the Research Park Zone, we have a more stringent requirement for the height of a building that is 4 times the height of a building abutting residential district and we don't have that for a parking garage. Those are the rules today. We have an applicant here with a conforming plan with a Special Exception granted a year ago. This is a decision I don't want to make, but I have to make one.

Mr. Gassen stated I have a question for the Planner. Is it correct we do have a choice to approve this site plan, which was set as a condition of the Special Use approval that if the Site Plan didn't meet our expectations based on what we were approving as a Special Use, we could deny the site plan approval even though it fits within our Ordinance? Specifically, it is set back from the property line 60', which meets the Ordinance criteria abutting a residential zone. However, there are other issues we are talking about, i.e., the berm, the landscape area that are elements making us feel it is far enough away, but we can believe independently that it is not far enough away. What the Commission is saying is not cut in stone, but we could be within our Ordinance and say no to the Site Plan even though it is within the setback requirement from the property line. When I look at this, there are conditions we talked about a month ago that I didn't receive a response for today. I want to be sympathetic to the residents and the development team, but 60' away is from me to the front door. This is a four story building. That distance away from me is a single story house, not a four story building. I'm looking for a way to satisfy your needs and the things we talked about last month and that the residents talked about.

Mr. Bilodeau stated perhaps I should read the motion that approved the Special Use Exception. The motion is quite simple and approved the Special Use Exception without condition. Then we considered the Site Plan. I think we have approved the Special Exception request.

Mr. Gassen stated I just want to understand that what I believe was presented and what we have been presented and have to make a choice on is the case.

Mr. Birchler stated, no, you can not disapprove the Site Plan but you could approve it with conditions you have the power to apply during the Special Exception process. I ask you to consider that 60' setback you mentioned being the distance between the rear lot line and the 4

story building is actually the distance between the rear lot line and the 2 story portion of the building. The 4 story portion is 90' away so it does step up, but it is not the closest structure to the lot line.

Mr. Kragt, City Attorney, stated Section 2705 where it talks about Special Exception Approval, it says a Site Plan shall be approved if it contains the information required by the Zoning Ordinance and is in compliance with the Zoning Ordinance and the conditions imposed. If you believe that it is meeting the Zoning Ordinances and any conditions you have imposed, then you "shall approve." With that being said, some of the criteria for approval are not all objective. Mr. Birchler went through the objective approval criteria. It does say, "Shall approve."

Mr. Cuthbertson stated for my edification, did I hear Mr. Bilodeau say that we approved the Special Land Use without criteria before we considered even the preliminary site plan.

Mr. Bilodeau stated that is the way it appears in the minutes. There was a motion by Lewis, supported by Gassen, to approve the Special Exception request by Crittenton Hospital to expand their existing parking deck in the City of Rochester Hills easterly into the existing surface parking lot of the City of Rochester because the development meets the requirements of the Special Exception request outlined in Article 26, Section 2603 and 2604 of the Zoning Ordinance. The yeas were Gassen, Bikson, Briskin, Johnson, Kingsepp, Lewis and I.

Mr. Birchler stated from a literal reading of the minutes it would appear as though the Special Exception is typically approved in Rochester before the Preliminary Site Plan is considered, but it is important to remember that the Preliminary Site Plan is a requirement of the Special Exception application process and it is what the Commission looks at to determine that 2603 has been satisfied. It's sort of chronologically improper to approve the Preliminary Site Plan first and then the land use. You have to approve the land use first and then the Preliminary Site Plan or do them concurrently. We have debated over the past 25 years if we should just do these concurrently. Typically, the Commission has determined they wanted to take those issues separately and address conformance to the standards of Section 2603 before they took up the formal approval of the Preliminary Site Plan and move it to final Site Plan approval.

Chairperson Kingsepp stated so the practice at that time was no different then it had been in the past.

Mr. Birchler stated for the 25 years I have served you, it has always been done like that.

Mr. Bilodeau stated the Preliminary Site Plan acted as the factual basis for the Special Use Exception.

Mr. Cuthbertson stated am I to understand that we passed it at that point in time subject to Final Site Plan review.

Mr. Bilodeau stated we passed the Special Land Use Exception and then we moved on to Preliminary Site Plan approval.

Mr. Cuthbertson stated did we preserve Final Site Plan approval as a condition of the Special Land Use Exception.

Mr. Bilodeau stated the motion for the Site Plan was as follows reading from the minutes of August 6, 2007: “Motion by Gassen, supported by Kingsepp, to issue Preliminary Approval of the Site Plan for Crittenton Hospital to expand their parking deck into the City of Rochester Hills easterly into an existing surface parking lot in the City of Rochester subject to receipt of lighting and landscaping plans that include details on the actual locations of the tree plantings and the lighting plan showing the locations and details of the proposed lighting.”

Mr. Bilodeau stated then there was a restated motion. The restated motion was as follows: “Motion by Gassen, supported by Kingsepp, to issue Preliminary Approval of the Site Plan for Crittenton Hospital to expand their parking deck in the City of Rochester Hills easterly into an existing surface parking lot in the City of Rochester subject to receipt of lighting and landscaping plans that include details on the actual locations of the tree plantings, including provisions that any tree or shrub that die within 5 years will be replaced and the lighting plan showing the locations and details of the proposed lighting.”

Mr. Bilodeau stated Mr. Briskin asked in this type of approval between two cities, do we get a copy of Rochester Hills approval. Manager Johnson stated the process is they would go to Rochester Hills for final approval and they would come back here after they receive approval from Rochester Hills if there are any changes on the Rochester Hills side that might affect us. The Planning Commission would then see those changes. If those changes affect what we have approved, we would be provided with details of those changes. At least Rochester Hills will know our community is satisfied with the plan, but it would have to come back here after approval by Rochester Hills. Mr. Gassen then asked if the petitioner was aware of any security issues in the current garage. Mr. Wheaton stated he was not aware of any. There is a security camera system throughout the garage. I asked if there was a security system in the new garage and Mr. Wheaton said yes. I asked if they were providing limited access or will it be an open deck. Mr. Wheaton said it would be open. I called for a roll and that carried with the same people voting in the affirmative. That is the Motion and the discussion of the Motion.

Mr. Cuthbertson stated I would like to ask the City Attorney and Planner to assist me. It sounds to me that we are here on Final Site Plan approval and no terms of Special Exception Use are applicable for reconsideration this evening. Having heard the motion, have any of the Special Exception Use criteria been preserved for consideration tonight or are we here to simply consider Final Site Plan approval.

Mr. Kragt stated you are here as noticed for Final Site Plan approval. If you want to reconsider the previous approval of the Special Land Use that would have been a different process. This is

the last step of the approval process of the Site Plan.

Mr. Cuthbertson stated then in your opinion based on the reading the 2705 that if we are satisfied of the conditions of the Zoning Ordinance are met, we “shall” approve.

Mr. Kragt stated the Zoning Ordinance says it “shall” be approved if it meets the criteria required by the Zoning Ordinance and is in compliance with the Zoning Ordinance and the conditions imposed, if any. There are objective standards and subjective standards. It’s up to this Board to determine if the Site Plan approval criteria have been met. If you find those are met, then it is a “shall” approve.

Mr. Birchler stated I think Mr. Kragt has given the correct legal answer. I would just say that from my experience from sitting with you for 25 years and reviewing Special Exception Uses that if the Commission was not satisfied that a Final Site Plan addressed all the standards of 2603 that they saw on the Preliminary Site and expected to see reflected in the Final Site Plan, they always reserve the right to put any necessary condition on the approval. That doesn’t mean disapproval. The statute is very clear in this regard. Special Land Use is not a disapproval process, it is an approval process and you have the ability to apply conditions in order to make that approval fit within the neighborhoods and area. If you believe there is a condition you need to apply on the Site Plan approval, I think you have the authority to do that.

Chairperson Kingsepp stated so you are saying that if any member of this Planning Commission believes that under 2603 some of the conditions therein might be required to be met in connection with this Site Plan, they can make the appropriate motion.

Mr. Birchler stated we already have a motion and the motion is very clear, but if the maker of the motion felt a condition was necessary in order to grant that approval, I believe they have the authority to put a condition on the final site plan approval.

Chairperson Kingsepp stated why I said that is someone might feel if those conditions aren’t met in 2603, there might be a motion to table because of that. That’s why I asked for clarification that at this time, the conditions of 2603 are met and if any member feels they are not met and should be discussed further, can they make a motion to table.

Mr. Birchler stated you would have to see failure of the current motion to make another motion.

Mr. Bilodeau stated could you tell me which of those conditions you feel we haven’t met.

Chairperson Kingsepp stated I am asking a rhetorical question. That’s all I do is ask rhetorical questions.

Mr. Cuthbertson I would like to ask a direct question. I’m not here trying to parse a legal question. What I understand is that the criteria in Section 2603 were met, and we have a

substantially similar plan put in front of us tonight which meets the underlying zoning requirements, and we have another provision that requires that if our Zoning Ordinances are met, we shall approve. Can we lawfully, if we thought there was something under 2603 that needed to be addressed, even do so at this point? I have not heard an answer I'm comfortable with.

Chairperson Kingsepp stated your question has been answered by the City Attorney and the Planner. You may not feel comfortable with it, but they have answered the question.

Mr. Cuthbertson stated are we at Final Site Plan approval with the idea that all the criteria have been met or can we open this up for additional criteria.

Mr. Birchler stated you are at Final Site Plan approval, but you have authority to place conditions on that approval.

Mr. Cuthbertson asked under what authority we can place conditions.

Mr. Bilodeau stated if I'm following this reasoning, the one area that was not in the Preliminary Site Plan that we thought was a condition was mentioned by Mr. Kingsepp. That was a 5 year replacement policy for shrubbery. That was the only thing we covered as part of that Preliminary Site Plan review that raises to the level of conditional impact in the area and I'm prepared to indicate that the Maintenance Plan that is part of the present motion would include a 5 year replacement policy for the shrubbery. Then we have meant everything that this body back then was concerned about.

Mr. Cuthbertson stated we have heard basically discussion about what exactly the approval entailed over a year ago and what this body may or may not consider as part of Site Plan approval tonight. I would feel better in a vote knowing what exactly was taken off the table a year ago when we approved the Special Exception Use and are the sorts of items in that motion, the only criteria we could apply to Final Site Plan approval.

Mr. Ketelsen asked is that a motion.

Chairperson Kingsepp stated no. That is a contradictory motion to the main Motion on the floor as amended.

Mr. Bilodeau stated I thought the question was about conditions that might be relative to the Special Use to impose on the Site Plan. It's pretty clear from the minutes, the biggest issue of real concern was the landscaping that was being presented and he suggested it have a 5 year replacement policy. Short of that, I believe we acted appropriately. I share your same concern. I don't think I can legally vote not to approve.

Chairperson Kingsepp stated it is my understanding based upon the discussion that has gone on that if any member of this body felt like doing so, there is a motion on the floor. However, if any

member felt that now is the opportune time to consider some of the other conditions under 2603, they could make whatever motion is appropriate to include those for consideration. Is that a fair statement of your early comments?

Mr. Kragt stated a motion to table is not contradictory.

Chairperson Kingsepp stated if that interpretation is true, then you can now look at 2603 conditions to the final Site Plan approval that is before this body over and above the conditions in the amended motion, and that it would have to be done by a motion to table.

Mr. Kragt stated the Ordinance language may assume there are conditions imposed.

Chairperson Kingsepp stated so it could be in the Special Exception provision. That's how I interpreted that. It's not a limited type of language. It is not language of limitation. It's general. That means 2603 could conceivably come into play.

Mr. Birchler stated if there is going to be a condition of that sort, doesn't the Commission have to make some sort of finding. If we are talking about a condition that requires the structure to be another 40 feet further away from the residential lot line and if that is the condition, doesn't that have to be based on some finding that 40' is what it takes to eliminate some impact that has been identified? I don't think we have identified any adverse impact from that structure other than a general feeling that it's too close as expressed by the residents. The Commission has to find there is something that requires modification by way of a condition based on a finding of fact. I was not suggesting you should condition your approval. I was only saying I think you have that authority if you made some substantive finding as a result of the review of the Final Site Plan. I have heard 2 Commissioners have reservations about the Ordinance language forcing them to approve this as submitted, but there was no discussion of what it is that's wrong or why it's wrong and on what basis there is for making that determination.

Chairperson Kingsepp stated I'm not an advocate of it, but it's come out and we have a right to have a clear discussion about it. As an example, tonight we had an observation that this is wetlands and there might be problems and there might be DEQ requirements. I do not accept that as something that has to be done. It is an observation made by a resident. I look at 2603 and on Item No. 9, Environmental Impact on adjoining and nearby properties and populations future as well as present. Would that not fall within that and provide a basis for a motion to table? It doesn't mean it would be used as a condition because there is no fact basis to substantiate that.

Mr. Birchler stated certainly if the Commission felt there was a concern there, they would want their City Engineer to give them a report on the potential impact of this development on the wetlands. Since we are not going to increase the amount of runoff from the site, it seems to me whatever current impact of the wetland is, is what the future impact on the wetland will be because we are not talking about developing a wetland. We are talking about redeveloping existing 100% impervious property.

Chairperson Kingsepp stated I'm just pointing out the general language.

Mr. Birchler stated I don't think that one gets us there. If the proposal included paving of a wetland, I would say yes.

Mr. Bilodeau stated we have already agreed that final engineering would include looking into this.

Mr. Cuthbertson stated that is a condition of Final Site Plan approval. We are talking about backing up and opening up Special Exception Use. Mr. Bilodeau stated if we were to make a finding that someone has a concern to the Special Exception criteria, we would be backing up in time. We are here for Final Site Plan approval. I don't see how I can throw in conditions at this point that relate to approval granted by this body a year ago. I'm at a loss as to which tract to analyze this under.

Mr. Bikson stated it's a complicated discussion. It sounds like some of the attorneys here feel they have no choice and have to vote for this. I would like to say to Crittenton that you have at least 3 people here uncomfortable with this. I guess you can push this through tonight, but like I asked you last time, come back with something that makes us feel more comfortable. It's clear people are uncomfortable.

Chairperson Kingsepp called for a vote on the Motion that is on the floor.

Yes: Kingsepp, McGowan, Alward, Bilodeau, Fattore, Ketelsen. No: Gassen, Bikson, Cuthbertson. Absent: None. Motion carried.

Chairperson Kingsepp adjourned the meeting at 9:30 p.m. for a 10 minute break.

Chairperson Kingsepp called the meeting to order 9:40 p.m.

PROPOSED TEXT AMENDMENT – SECTION 2301 – SOUND.

Chairperson Kingsepp stated for Planning Commission consideration is a proposed text amendment to Section 2301, SOUND. This is the second "draft" of the proposed amendment, which was prepared by David Birchler. The proposed amendment utilizes the findings and recommendations of the Sound Study prepared by Kolano and Saha.

Mr. Birchler stated a number of questions were raised during the meeting of September 3, 2008. We have discussed the matter with Darren Brown at Kolano & Saha Engineers and have provided responses to the questions raised, as well as including revising the draft ordinance amendment.