

# The Great Lakes Environmental Law Center

*Protecting the world's greatest freshwater resource  
and the communities that depend upon it*

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May 29, 2009

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City of Ann Arbor  
Guy C. Larcom, Jr. Municipal Building  
100 N. Fifth Avenue  
Ann Arbor, MI 48104

CC: Mr. Jerold Lax, Bodman LLP

**Re: Resolution of Environmental Concerns Regarding  
Proposed S. Fifth Avenue Parking Structure Project**

City Attorney Postema:

The Great Lakes Environmental Law Center offers this letter to follow-up on our previous letter dated May 14, 2009. The May 14, 2009 letter, submitted on behalf of a coalition of environmental organizations and local residents, including the Natural Resources Defense Council, the Sierra Club, and the Germantown Neighborhood Association, expressed concern with the proposed S. Fifth Avenue Parking Structure Project's compliance with the Michigan Environmental Protection Act ("MEPA").<sup>1</sup>

The Great Lakes Environmental Law Center has reviewed additional public records and other public statements by City officials that, if verified, would address many of the concerns raised in the May 14, 2009 letter. For example, the Mayor and other city officials have publicly stated that the proposed new parking structure is merely replacing parking spaces that have already been or are anticipated to be lost at other downtown locations. If verified and implemented, this would significantly reduce the likelihood that the proposed new parking structure will cause additional vehicle miles traveled (VMT) in the City of Ann Arbor and subsequently generate increased greenhouse gas pollution.

Similarly, specific measures should be taken to reduce the likelihood of local environmental impacts and ensure that the proposed new parking structure is consistent with the City's adopted commitments to environmental protection. The measures, all of

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<sup>1</sup> M.C.L. 324.1701 *et seq.*

which can be accomplished without significant cost to the City's general fund budget and without delaying the proposed new parking structure, are as follows:

1. Working with the Ann Arbor Downtown Development Authority (DDA), identify and inventory all actual and anticipated changes in the City's public parking in the downtown area since the Ann Arbor Downtown Parking Study<sup>2</sup> was completed in 2007.<sup>3</sup> Using this data and the 2007 parking study as a baseline, verify and confirm that the proposed new parking structure will not add further parking spaces, but is exclusively replacing parking spaces that have already been or are anticipated to be lost at other downtown locations once the structure is completed in 2011. Prior to construction or within one year after completion of the proposed new parking structure, implement the permanent closing of those parking spaces previously identified. This does not preclude adding parking supply, but such new (rather than replacement) parking supply should be done consistent with measure #2 and the recommendations of the Ann Arbor Downtown Parking Study, outlined below.
2. Working with the DDA, implement a "formalized process for determining when new [parking] supply is needed" as recommended in the Ann Arbor Downtown Parking Study.<sup>4</sup> As detailed in the Ann Arbor Downtown Parking Study, this involves two general steps: First, "track conditions" – track the market, track utilization, and coordinate on economic development strategies.<sup>5</sup> Second, "determine when to build" using a market approach or an augmented market approach.<sup>6</sup>
3. Working with the DDA and its consultants (ideally Nelson\Nygaard given their expertise and previous work with Ann Arbor's downtown parking and transportation data and planning), conduct a preliminary study to predict if the proposed new parking structure will impact VMT in the City of Ann Arbor and southeast Michigan region.<sup>7</sup> This should be done with consultation from the City's Environmental Commission and completed prior to construction. Within two years after the proposed new parking structure is completed, conduct a follow-up study to determine if the structure has impacted VMT in the City of Ann Arbor and southeast Michigan region (again with consultation from the City's Environmental Commission). These studies will allow the City to determine if the parking structure affects greenhouse gas

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<sup>2</sup> The Ann Arbor Downtown Parking Study, produced by Nelson\Nygaard Consulting Associates, Phase I Final Report (January 2007) and Phase II Final Report (June 2007) are available at [http://www.a2dda.org/resources/data\\_reports/](http://www.a2dda.org/resources/data_reports/). For a summary of the 2007 DDA Parking Inventory, see the Ann Arbor Downtown Parking Study, Phase I Final Report, at page 3-5.

<sup>3</sup> Based on 2007 conditions, the Ann Arbor Downtown Parking Study concluded that: "**Overall parking supply is sufficient to meet existing demand.** The fact that utilization across the overall inventory fails to rise above 85% during peak periods indicates that overall supply is sufficient." [Boldface emphasis in original.] Ann Arbor Downtown Parking Study, Phase I Final Report, at page 3-41.

<sup>4</sup> Ann Arbor Downtown Parking Study, Phase II Final Report, at page 5-3.

<sup>5</sup> Ann Arbor Downtown Parking Study, Phase II Final Report, at page 5-4.

<sup>6</sup> Ann Arbor Downtown Parking Study, Phase II Final Report, at pages 5-4 to 5-5.

<sup>7</sup> The Ann Arbor Downtown Parking Study indicated that downtown parkers drive an average of 13.7 miles to get downtown. Ann Arbor Downtown Parking Study, Phase I Final Report, at page 3-52.

emissions from the Ann Arbor community through increased or decreased VMT, taking into account improvements in vehicle mileage and pollution controls, consistent with the City's commitment to reduce greenhouse gas emissions 20% from 2000 levels by 2015.<sup>8</sup> In consultation with the City's Environmental Commission, identify measures that will be taken to offset and reduce greenhouse gas emissions to ensure compliance with the City's commitment to reduce greenhouse gas emissions.

4. Allocate an additional \$1.5 million per year for the next 5 fiscal years from the DDA's parking revenues for alternative transportation and transportation demand management measures, to implement "toolbox" recommendations from the 2007 parking study.<sup>9</sup> These additional funds should not be used to replace existing or planned funding commitments for alternative transportation programs. This will ensure that resources saved by the reduced size and cost of the proposed structure, as approved by City Council on February 17, 2009, will be used consistent with the stated intent of City Council members to preserve DDA resources for innovative alternative transportation and transportation demand management measures.
5. Working with the DDA, mitigate to the extent feasible pollution and other environmental impacts during construction using measures that include the use of low sulfur fuels and particulate traps on diesel equipment, storm water management, and dust suppression. To minimize the impact of additional traffic to and from the proposed new parking structure in nearby residential neighborhoods, construction traffic should be allowed to utilize only designated routes. If adjacent and nearby residential and commercial properties and tenants are significantly affected, provide temporary compensation and/or relocation expenses.
6. To partially address the impact of increased traffic to and from the proposed new parking structure and the impact of significant new parking availability at this location on the environment and character of the nearby Germantown neighborhood, adopt a resolution establishing the Germantown Historic District Study Committee and declaring an emergency moratorium on activities described in Exhibit A (see attached).

Taken together, these measures will help ensure that the proposed new parking structure is constructed in a manner consistent with the Michigan Environmental Protection Act and the City's environmental policies. This will also allow the broadly supported Fifth and Division streetscape improvements to move forward without delay. Further, none of these measures will have a significant cost to the City's general fund budget (and the bonding for the project will provide the City with a one-time payment of approximately \$1.4 million). The first five measures identified above could even be committed to and implemented by the DDA independent of the City.

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<sup>8</sup> R-172-5-06, "Resolution to Set Renewable Energy Goals for Ann Arbor" (May 1, 2006).

<sup>9</sup> Ann Arbor Downtown Parking Study, Phase II Final Report, at pages 5-5 to 5-23.

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These measures are by no means intended to be exhaustive or exclusive, as a continuing public discussion would likely identify additional cost-effective opportunities for the City of Ann Arbor to reduce vehicle miles traveled and greenhouse gas emissions from transportation. The City of Ann Arbor prides itself on its environmental leadership and record of innovative policies and programs for environmental protection. As the federal government considers new limitations on greenhouse gas emissions and makes increased investments in alternative transportation, these measures will position the City of Ann Arbor and the DDA as leaders in meeting the challenge of climate change and reducing dependence on automobiles.

Respectfully Submitted,



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Exhibit A

Revision to prior resolution (12/15/08) to establish Germantown Historic District

**Title:**

Resolution Establishing Germantown Historic District Study Committee

**Body:**

Whereas, The City is interested in protecting and preserving historic properties in the City;

Whereas, The Germantown District includes properties that are architecturally, historically, and culturally significant to the City;

Whereas, There is public interest in the future development of this area; and

Whereas, According to Michigan law and the Ann Arbor Code, Chapter 103, Section 8:408, the City must receive a report from a historic district study committee before establishing a historic district;

RESOLVED, That the Ann Arbor City Council hereby establish the Germantown Historic District Study committee;

RESOLVED, That the area to be examined by this committee ("Study Area") be generally the area between Fourth Avenue and Division Street, south of the East William Historic District, bounded by William Street and Madison Street;

RESOLVED, That this study committee consist of seven members that are consistent with Section 8:408 of City Code, to be appointed by the City Council;

RESOLVED, That the charge of the study committee be those duties set forth in Sections 8:408 and 8:410 of Chapter 103 of the Ann Arbor City Code; and

RESOLVED, That the term of this study committee be one year and it report its findings and recommendations to the City Council no later than July, 2010.

RESOLVED, That pursuant to the Ann Arbor Code, Section 103, Section 8:411, the Ann Arbor City Council hereby determines that pending work proposed at 407-437 S. Fifth Avenue will cause irreparable harm to resources within the proposed Germantown Historic District because the proposed work includes demolishing seven homes, and the City hereby declares an emergency moratorium of all such work within the Study Area for a 6-month period from the date of adoption of this resolution.