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March 18, 2013

The Honorable Mayor and City Council  
of the City of Ann Arbor  
301 East Huron Street  
Larcom City Hall, 1<sup>st</sup> Floor  
Ann Arbor, MI 48104

**Re: 413 E. Huron Street Site Plan**

Dear Mayor and Council:

If at your March 18 meeting you adopt the Moratorium on consideration of site plans in the Downtown, item DB-3 will have become moot. If, however, you do not adopt the moratorium, we request that you postpone consideration of the DB-3 Site Plan until you have given due consideration to steps to amend the Zoning Ordinance to bring it into compliance with the statutory requirements for a zoning ordinance, which we set forth below, and to the positions of Sloan Plaza and other neighbors and numerous public interest groups opposing the site plan now before you.

At such time as you take up consideration of the 413 E. Huron Site Plan, whether at your March 18 meeting or thereafter, we request that you accept the Planning Commission's denial of approval, for the reasons set forth in the numerous communications by Sloan Plaza and by the other neighbors and public interest groups, and, further, for the failure of the D1/D2 regulations to comply with the mandates of the Zoning Enabling Act set forth below.

We point your attention to the language of Sections 201(1) and 203(1) of the Zoning Enabling Act (the ZEA), MCL 125.3201(1) and MCL 125.3203(1), *which prescribe the requirements* for a zoning ordinance, and which we here set forth:

*Sec. 201 (1) A local unit of government may provide by zoning ordinance for the regulation of land development and the establishment of 1 or more districts within its zoning jurisdiction which regulate the use of land and structures to meet the needs of the state's citizens for food, fiber, energy, and other natural resources,*

*places of residence, recreation, industry, trade, service, and other uses of land, to ensure that use of the land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities, to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements, and to promote public health, safety, and welfare.*

*Sec. 203. (1) A zoning ordinance shall be based upon a plan designed to promote the public health, safety, and general welfare, to encourage the use of lands in accordance with their character and adaptability, to limit the improper use of land, to conserve natural resources and energy, to meet the needs of the state's residents for food, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to ensure that uses of the land shall be situated in appropriate locations and relationships, to avoid the overcrowding of population, to provide adequate light and air, to lessen congestion on the public roads and streets, to reduce hazards to life and property, to facilitate adequate provision for a system of transportation including, subject to subsection (5), public transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements, and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources, and properties. A zoning ordinance shall be made with reasonable consideration of the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building, and population development.*

*We submit that the provisions of the zoning ordinance relating to D1/D2 Regulations fail to comply with the requirement of Section 201(1) of the ZEA that the zoning ordinance ensure that use of land is situated in appropriate locations and relationships, and they fail to meet the requirements of Section 203(1) of the ZEA in that they discourage situation of uses of land in appropriate locations and relationships, and discourage use of lands in accordance with their character and adaptability, and fail to provide adequate light and air to neighboring properties. The provisions of the D1/D2 regulations also fail to comply with the requirement of Section 203(1) in that they have not been made with reasonable consideration of the character of each district, its particular suitability for particular uses, and the conservation of property values and*



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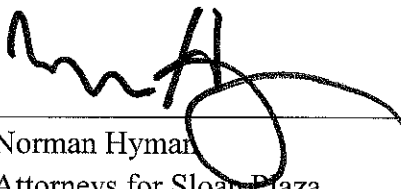
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resources of land, building and population development. The basic failure of the D1/D2 regulations to comply with the above requirements of Sections 201 and 203 of the ZEA stem from the failure of the D1/D2 regulations to make adherence to the design review guidelines standards to be considered in granting site plan approval and in calculating premiums for FAR which would ensure compliance with such sections of the ZEA.

Very Truly Yours,

STROBL & SHARP, P.C.

By:

  
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Norman Hyman  
Attorneys for Sloan Plaza

NH/kva

cc: Mayor and City Council Members (via e-mail)  
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Kevin McDonald, Esq. (via e-mail)  
Wendy Rampson, AICP (via e-mail)

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