

City of Ann Arbor: Planning Department
Attn: Hank Kelley, AICP
301 E. Huron St.
Ann Arbor, MI 48107

To Ann Arbor Planning Department

We would like to submit the following changes to the conditional language for 1601 S. State Street project:

The adopted language:

D. The Property shall have no natural gas connections except for emergency back-up power,

will to be replaced with the following language;

D. The Property will demonstrate continuous microgrid operation at 60-75% less Carbon Intensity (CI) than electricity incumbent DTE.

This requested change meets the intent of the original language to limit carbon emissions and designing utility and building systems technologies to integrate renewable and sustainable energy solutions.

The format to functionally deliver on the zoning condition as stated above would include the following operations to include in the development agreement;

1. *For Period 1: SouthTown by 4M will power and operate its fuel cells as follows¹:*
 1. *With Renewable Natural Gas (RNG) produced specifically from agricultural emissions or via biodigestion, if commercially available. If this fuel type is not yet commercially available, then,*
 2. *With RNG commercially available through DTE.*
 3. *Using carbon capture technology as soon as it is available, with end-use of captured CO₂ either permanent sequestration or as offtake in the food-grade CO₂ market.*
2. *For Period 2: SouthTown by 4M will power and operate its fuel cells as follows:*
 1. *With green hydrogen, if commercially available. If this fuel type is not yet commercially available, then,*
 2. *With blue hydrogen, if commercially available. If this fuel type is not yet commercially available, then,*

3. *With Renewable Natural Gas (RNG) produced specifically from agricultural emissions or via biodigestion, if commercially available. If this fuel type is not yet commercially available, then,*
 4. *With RNG commercially available through DTE.*
 5. *Using carbon capture technology as soon as it is available, with end-use of captured CO₂ either permanent sequestration or as offtake in the food-grade CO₂ market.*
 3. *Notwithstanding Conditions 1 and 2 above, SouthTown by 4M will power, operate and plan MEA overhaul of its fuel cells such that it uses hydrogen fuel as soon as it becomes commercially available, and that it employs carbon capture technology (with end-use of captured CO₂ either permanent sequestration or as offtake in the food-grade CO₂ market) as soon as it is commercially available.*
 4. *Within 30 days of each calendar year-end, SouthTown by 4M will issue an annual sustainability performance report wherein:*
 1. *It will describe operations related to fuel type and carbon capture activity for the preceding year.*
 2. *It will provide Carbon Intensity calculations for the entirety of the preceding year. These calculations will include:*
 - i. *Evidence of green energy resources.*
 - ii. *The Business-As-Usual (BAU) CI of electricity incumbent DTE, which will be the point of comparison for the SouthTown by 4M microgrid performance.*
 3. *It will provide evidence that it has procured any carbon credit offsets necessary to maintain Carbon Intensity (CI) 60% lower than electricity incumbent DTE.*
 4. *Once the Southtown by 4M microgrid is being fueled by hydrogen (whether green or blue) and is operating with carbon capture, the requirement to offset with carbon credits will cease. Performance reporting will continue on an annual basis.*
 5. *The penalty for failure to comply with these conditions will be fines in the amount required for the City to purchase offsetting carbon credits. (calculation of which TBD)*

We look forward to working with you to meet the original intent while updating language to provide new innovations in utility and energy provisions to develop a sustainable and resilient project.

Thank you,

A handwritten signature in black ink, appearing to read 'Adam Smith', with a long horizontal line extending to the left.

Adam Smith, AIA
Director of Design

Southtown – 1601 S State St
Conditional Zoning Statement of Conditions

This Conditional Zoning Statement of Conditions (“Statement of Conditions”) is made and entered into this ___ day of _____, 2024, by and between the City of Ann Arbor (“City”), a Michigan municipal corporation, with offices located at 301 E. Huron St., Ann Arbor, Michigan 48107, and Southtown by 4M LLC (“Developer”), a Michigan limited liability company, with principal address at 2082 S. State Street, Ann Arbor, MI 48104.

Recitals

- A. The Michigan Zoning Enabling Act (P.A. 110 of 2006, as amended) allows for conditional zoning of land when the City is amending its zoning map, or a conditional zoning of land when the City is zoning property in MCL 125.3405.
- B. The City of Ann Arbor recognizes that there are certain instances where it would be in the best interest of the City, as well as advantageous to the Developer, for certain conditions to be proposed as part of a request for rezoning or a request for an amendment to the zoning map.
- C. On November 28, 2022, the Developer applied for an amendment to the City zoning map for land in the City of Ann Arbor to be site planned as South Town, as more fully described in the attached **Exhibit A** (the “Property”).
- D. On November 28, 2022, the Developer voluntarily offered in writing conditions regarding the use and development of the land to be incorporated into the zoning of the Property.
- E. On June 21, 2023, the Planning Commission, after public hearing, recommended approval to rezone the Property to C1A/R (Campus Business Residential District) with Conditions. The Developer also submitted a Site Plan showing the specific proposed use and site design of the property.
- F. On September 5, 2023, the Ann Arbor City Council approved rezoning the Property to C1A/R With Conditions, adopting and incorporating the South Town Conditional Zoning Statement of Conditions, as Ordinance ORD-23-24.

- G. On April 1, 2024, the Developer voluntarily offered in writing to amend a condition in the South Town Conditional Zoning Statement of Conditions, adopted and incorporated by Ordinance ORD-23-24, regarding the limitations on natural gas connections and retain all other conditions as previously offered. More specifically, the Developer offered to change the condition from “the Property shall have no natural gas connections except for emergency back-up power,” to “the Property will demonstrate continuous microgrid at 60-75% less carbon intensity (CI) than electricity incumbent DTE.”
- H. Based on the specific facts and circumstances regarding this property, the City has decided to accept the Developer’s offer of amend the conditional zoning.
- I. By executing this Statement of Conditions, the City and the Developer desire to set forth and confirm the conditions under which the City grants conditional zoning of this Property.

NOW, THEREFORE, Developer and City agree:

- 1. Conditions Running with the Property. This Statement of Conditions covers the Property described in the attached **Exhibit A**. The Statement of Conditions is incorporated into the zoning of the Property and shall be binding upon and inure to the benefit of the Developer and the City, and their heirs, successors and assigns, and shall run with the Property.
- 2. List of Conditions. The conditional zoning was granted to the Developer based on conditions that were voluntarily offered by the Developer. The City and Developer agree that restrictions on the use and development of the land are necessary for consistency and conformance to the Comprehensive Plan. The conditions which form the basis of the City’s grant of the conditional zoning are as follows:
 - a. The maximum height limit for this Property shall be 100 feet.
 - b. The maximum number of vehicle parking spaces for residential use on the Property shall be 0.25 per dwelling unit.
 - c. The principal use of the Property shall be multiple-family residential and no more than 30% of the dwelling units may be short-term rentals.
 - d. The Property will demonstrate continuous microgrid operation at 60-75% less Carbon Intensity (CI) than electricity incumbent DTE.
- 3. Developer Acknowledgment. Developer acknowledges that it voluntarily offered and consented to all of the provisions contained in this Statement of Conditions. Developer agrees that the conditions contained herein are fair, reasonable and equitable requirements and conditions; agrees that the

Statement of Conditions does not constitute a taking of property for any purpose or a violation of any constitutional right; and agrees to be bound by each and every provision of this Statement of Conditions. Furthermore, it is agreed and acknowledged that any improvements and undertakings described herein are necessary and roughly proportional to the burden imposed by the conditional zoning, and are necessary to ensure capability with adjacent and surrounding uses of land; to promote use of the Property in a socially and economically manner; and to achieve other legitimate objectives of the City authorized by law.

4. Authority to Execute. This Statement of Conditions has been authorized by all necessary action of Developer, and Developer acknowledges that it is the owner of the Property or has been authorized by the owner to conditionally zone this Property. Furthermore, the signatory for Developer acknowledges they are authorized to enter and execute this Statement of Conditions on behalf of Developer, and bind the Developer to its terms.
5. City Approval. The Statement of Conditions and the City's approval of these conditions is based on the particular facts and circumstances presented, as well as the surrounding land uses and other characteristics regarding this property, and approval of these conditions for this Property may not be relied on as precedent by any other property owner seeking a conditional zoning.
6. Obligation to Obtain Other Approvals. Developer acknowledges that any use or development approved by this conditional zoning that may require a special land use permit, a variance, or site plan approval under the terms of Ann Arbor City Code, may only be commenced if such special land use permit, variance, and/or site plan approval is ultimately granted in accordance with the terms of Ann Arbor City Code.
7. Amendment. This Statement of Conditions may only be amended in the same manner as prescribed for a rezoning of property under the terms of Ann Arbor City Code.
8. Compliance with Statement of Conditions. Developer shall continuously operate and maintain the development and/or use of the Property in full compliance with all of the conditions set forth in this Statement of Conditions. Any failure to comply fully with the conditions contained with the Statement of Conditions shall constitute a violation of the Zoning Ordinance of Ann Arbor City Code, and shall be punished accordingly. Any such violation shall be deemed a nuisance per se and subject to judicial abatement, or any other remedy as provided by law.
9. Rezoning. Developer acknowledges that nothing in this Statement of Conditions shall prohibit the City from exercising its right to rezone the property at any time as allowed by law. The City acknowledges that nothing

in this Statement of Conditions shall prohibit the Developer from requesting a rezoning of the Property at any time.

CITY OF ANN ARBOR
a Michigan municipal corporation

By: _____
Christopher Taylor, Mayor

By: _____
Jackie Beaudry, City Clerk

STATE OF MICHIGAN)
) ss
COUNTY OF WASHTENAW)

The foregoing Agreement was acknowledged before me this ____ day of _____, 2024 by Christopher Taylor and Jacqueline Beaudry, the Mayor and City Clerk respectively of the City of Ann Arbor, a Michigan municipal corporation, on behalf of the corporation.

_____, Notary Public
Acting in the County of Washtenaw
My Commission Expires: _____

SOUTHTOWN BY 4M LLC,
A Michigan limited liability company

Its: _____

STATE OF MICHIGAN)
) ss
COUNTY OF WASHTENAW)

The foregoing Agreement was acknowledged before me this ____ day of _____,
2024 by _____, of _____, a _____,
on behalf of the company.

_____, Notary Public
Acting in the County of Washtenaw
My Commission Expires:_____

Reviewed by and after recording return to:
Kevin McDonald (P-61761)
Office of the City Attorney
City of Ann Arbor
City of Ann Arbor
P.O. Box 8647
Ann Arbor, MI 48107-8647

Exhibit A

LEGAL DESCRIPTION OF PARCELS OF LAND:

Lots 1, 2, 3, and 4, Stimson Subdivision, as recorded in Liber 5, Page 30, Washtenaw County Records, and Lots 9, 10, 19, 20 and part of Lots 8 and 18, and the vacated alley adjacent to said Lots 9, 10, 19, and 20, and the vacated alley adjacent to said parts of Lots 8 and 18, Block 3, Hamilton, Rose and Sheehan's Addition, as recorded in Liber 1, Page 24, being part of the Southwest 1/4 of Section 33, Town 2 South, Range 6 East, City of Ann Arbor, Washtenaw County, Michigan, described as: Commencing at the Southwest corner of said Lot 1 and the Point of Beginning; thence N01°17'27"W 273.32 feet along the East right-of-way line of South State Street; thence N87°04'31"E 263.92 feet along the South right-of-way line of Henry Street; thence S01°21'25"E 273.31 feet along the West right-of-way line of White Street; thence S87°04'31"W 264.23 feet along the North line of Stimson Street to the Point of Beginning. Contains 1.66 acres.

Conditional Zoning Statement of Conditions

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- B. The City of Ann Arbor recognizes that there are certain instances where it would be in the best interest of the City, as well as advantageous to the Developer, for certain conditions to be proposed as part of a request for rezoning or a request for an amendment to the zoning map.
- C. On November 28, 2022, the Developer applied for an amendment to the City zoning map for land in the City of Ann Arbor to be site planned as South Town, as more fully described in the attached **Exhibit A** (the “Property”).
- D. On November 28, 2022, the Developer voluntarily offered in writing conditions regarding the use and development of the land to be incorporated into the zoning of the Property.
- E. On June 21, 2023, the Planning Commission, after public hearing, recommended approval of the rezoning of the Property to C1A/R (Campus Business Residential District) with Conditions. The Developer also submitted a Site Plan showing the specific proposed use and site design of the property.
- F. On _____, the Ann Arbor City Council approved the conditional rezoning subject to the Conditions.
- G. Based on the specific facts and circumstances regarding this property, the City has decided to accept the Developer’s offer of conditional zoning.

- H. By executing this Statement of Conditions, the City and the Developer desire to set forth and confirm the conditions under which the City grants conditional zoning of this Property.

NOW, THEREFORE, Developer and City agree:

1. Conditions Running with the Property. This Statement of Conditions covers the Property described in the attached **Exhibit A**. The Statement of Conditions is incorporated into the zoning of the Property and shall be binding upon and inure to the benefit of the Developer and the City, and their heirs, successors and assigns, and shall run with the Property.
2. List of Conditions. The conditional zoning was granted to the Developer based on conditions that were voluntarily offered by the Developer. The City and Developer agree that restrictions on the use and development of the land are necessary for consistency and conformance to the Comprehensive Plan. The conditions which form the basis of the City's grant of the conditional zoning are as follows:
 - A. The maximum height limit for this Property shall be 100 feet.
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 - D. The Property shall have no natural gas connections except for emergency back-up power.
4. Developer Acknowledgment. Developer acknowledges that it voluntarily offered and consented to all of the provisions contained in this Statement of Conditions. Developer agrees that the conditions contained herein are fair, reasonable and equitable requirements and conditions; agrees that the Statement of Conditions does not constitute a taking of property for any purpose or a violation of any constitutional right; and agrees to be bound by each and every provision of this Statement of Conditions. Furthermore, it is agreed and acknowledged that any improvements and undertakings described herein are necessary and roughly proportional to the burden imposed by the conditional zoning, and are necessary to ensure capability with adjacent and surrounding uses of land; to promote use of the Property in a socially and economically manner; and to achieve other legitimate objectives of the City authorized by law.
5. Authority to Execute. This Statement of Conditions has been authorized by all necessary action of Developer, and Developer acknowledges that it is the

owner of the Property or has been authorized by the owner to conditionally zone this Property. Furthermore, the signatory for Developer acknowledges they are authorized to enter and execute this Statement of Conditions on behalf of Developer, and bind the Developer to its terms.

6. City Approval. The Statement of Conditions and the City's approval of these conditions is based on the particular facts and circumstances presented, as well as the surrounding land uses and other characteristics regarding this property, and approval of these conditions for this Property may not be relied on as precedent by any other property owner seeking a conditional zoning.
7. Obligation to Obtain Other Approvals. Developer acknowledges that any use or development approved by this conditional zoning that may require a special land use permit, a variance, or site plan approval under the terms of Ann Arbor City Code, may only be commenced if such special land use permit, variance, and/or site plan approval is ultimately granted in accordance with the terms of Ann Arbor City Code.
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10. Rezoning. Developer acknowledges that nothing in this Statement of Conditions shall prohibit the City from exercising its right to rezone the property at any time as allowed by law. The City acknowledges that nothing in this Statement of Conditions shall prohibit the Developer from requesting a rezoning of the Property at any time.

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Jackie Beaudry, City Clerk

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2020 by _____, of _____, a _____,
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ORDINANCE NO. ORD-23-24

First Reading: August 7, 2023
Public Hearing: September 5, 2023

Approved: September 5, 2023
Published: September 14, 2023
Effective: September 24, 2023

SOUTH TOWN REZONING
(1601 S. STATE STREET)

An Ordinance to Amend the Zoning Map, Being a Part of Section 5.10.2 of Chapter 55 of Title V of the Code of the City of Ann Arbor, (1601 S. State Street - South Town Rezoning from R4C to C1A/R with Conditions)

The City of Ann Arbor ordains:

Section 1. THE ZONING MAP, which, by Section 5.10.2 of Chapter 55 of Title V of the Code of the City of Ann Arbor is made a part of said Chapter 55, shall be so amended as to designate the zoning classification of property described as follows:

Lots 1, 2, 3, and 4, Stimson Subdivision, as recorded in Liber 5, Page 30, Washtenaw County Records, and Lots 9, 10, 19, 20 and part of Lots 8 and 18, and the vacated alley adjacent to said Lots 9, 10, 19, and 20, and the vacated alley adjacent to said parts of Lots 8 and 18, Block 3, Hamilton, Rose and Sheehan's Addition, as recorded in Liber 1, Page 24, being part of the Southwest 1/4 of Section 33, Town 2 South, Range 6 East, City of Ann Arbor, Washtenaw County, Michigan, described as: Commencing at the Southwest corner of said Lot 1 and the Point of Beginning; thence N01°17'27"W 273.32 feet along the East right-of-way line of South State Street; thence N87°04'31"E 263.92 feet along the South right-of-way line of Henry Street; thence S01°21'25"E 273.31 feet along the West right-of-way line of White Street; thence S87°04'31"W 264.23 feet along the North line of Stimson Street to the Point of Beginning. Contains 1.66 acres.

in the City of Ann Arbor, Washtenaw County, Michigan as C1A/R (Campus Business Residential) District WITH CONDITIONS, in accordance with the attached Conditional Zoning Statement of Amended Conditions which is hereby adopted and incorporated herein.

Section 2. This ordinance shall take effect and be in force on and after ten days from legal publication.

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan, at its regular session of September 5, 2023.

(Date)

Jacqueline Beaudry, Ann Arbor City Clerk

Christopher Taylor, Mayor of the City of Ann Arbor

I hereby certify that the foregoing ordinance received legal publication in the Washtenaw Legal News on September 14, 2023.

Jacqueline Beaudry, Ann Arbor City Clerk

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT - CORRECTED

For Planning Commission Meeting of May 16, 2023

**SUBJECT: South Town (1601 South State Street)
Conditional Rezoning – File No. REZ22-0002
Site Plan for City Council approval – File No. SP22-2017
Street Vacation – File No. SV22-2001**

PROPOSED CITY PLANNING COMMISSION MOTION¹

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the South Town Rezoning Petition to C1A/R (Campus Business Residential) district and accept the conditions that the maximum building height is limited to 100 feet, the maximum vehicle parking limit is one space per four dwelling units, and the minimum active open space requirement is 50 square feet per dwelling unit, subject to executing a Conditional Zoning Statement of Conditions.

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the South Town Site Plan at 1601 South State Street and Development Agreement, subject a variance granted by the Zoning Board of Appeals to exceed the maximum FAR of the C1A/R district due to the enclosed parking garage and combining all lots prior to issuance of any permits.

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council vacate the unimproved platted alley in Block 3 of the Hamilton, Rose and Sheehan's Addition to the City and Town of Ann Arbor.

¹ Originally published incorrectly as maximum building height limit is 90 feet. The offered condition is a maximum building height limit of 100 feet and is corrected here.

STAFF RECOMMENDATION:

Staff recommends that the petitions be **postponed** to allow time to resolve outstanding staff comments and for the City Planning Commission to provide feedback on the appropriateness of the requested zoning designation and strict adherence to its dimensional standards.

LOCATION:

The subject site includes all 10 lots of the block bounded by South State Street, Henry Street, White Street, and Stimpson Street. It is more generally located south of East Stadium Boulevard between South State Street and South Industrial Boulevard in the central part of the city.

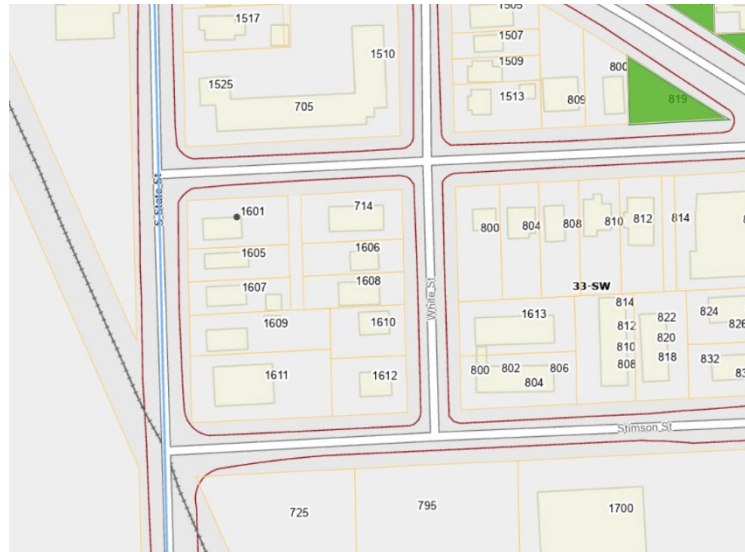


Figure 1: Location Map

SUMMARY:

The proposed project has three parts:

- 1) A petition to rezone the 1.7-acre block bounded by South State/Henry/White/Stimpson from R4C (Multiple-Family Dwelling) to C1A/R (Campus Business Commercial) WITH CONDITIONS. The offered conditions are: a) impose a maximum height limit of 100² feet; b) impose a maximum vehicle parking limit of one space per four dwelling units; and c) impose a minimum active open space requirement of 50 square feet per dwelling unit.
- 2) A site plan to redevelop a residential block with a building having two multi-story towers on top of a single-story podium, creating a development of over 200,000-square feet including ground floor commercial and resident amenity space, 216 dwelling units on upper floors, and a 54-space parking garage within the podium.
- 3) A street vacation petition to vacate the public alley in the northern half of this block.

EXISTING CONDITIONS:

The 1.7-acre site consists of ten lots and ten buildings built between 1901 and 1964. All lots are zoned R4C. Only two of the ten are conforming lots having at least 8,500 square feet of lot area as noted by the shading in the table below. Seven curb cuts serve the site as some lots share a curb cut. The public alley is unimproved and appears as the gravel driveway of 1601 S State.

² Originally published incorrectly with 90 feet. The offered condition is 100 feet and is corrected here.

South Town Site Existing Conditions					
	Address	Lot Area	Zoning	Year Built	Current Use ³
1	714 Henry S	7,488 sq. ft.	R4C	1950	Multi-family 7 units
2	1601 S State St	7,475 sq. ft.	R4C	1920	Multi-family 4 units
3	1605 S State St	4,986 sq. ft.	R4C	1920	Multi-family 3 units
4	1606 White St	5,011 sq. ft.	R4C	1920	Multi-family 5 units
5	1607 S State St	4,999 sq. ft.	R4C	1920	Single-family 1 unit
6	1608 White St	5,002 sq. ft.	R4C	1920	Multi-family 5 units
7	1609 S State St	8,616 sq. ft.	R4C	1901	Multi-family 3 units
8	1610 White St	5,655 sq. ft.	R4C	1954	Multi-family 4 units
9	1611 S State St	14,138 sq. ft.	R4C	1964	Multi-family 13 units
10	1612 White St	6,433 sq. ft.	R4C	1950	Multi-family 4 units

The northern half of the site is part of Block 3 of the 1890 Hamilton, Rose and Sheehan's Addition to the City and Town of Ann Arbor. The southern half are Lots 1, 2, 3 and 4 of the 1924 Stimpson Subdivision of Ann Arbor Township.



Figure 2 - Existing Conditions

³ Number of dwelling units according to City Assessor's data. Note the total number of units provided in this table (49) differs from the applicant's count provided in the site plan cover sheet development program statement (38).

Surrounding land uses include residential to the north and east. To the south are commercial and light industrial land uses and the University of Michigan golf course is west of the site.

REZONING PETITION:

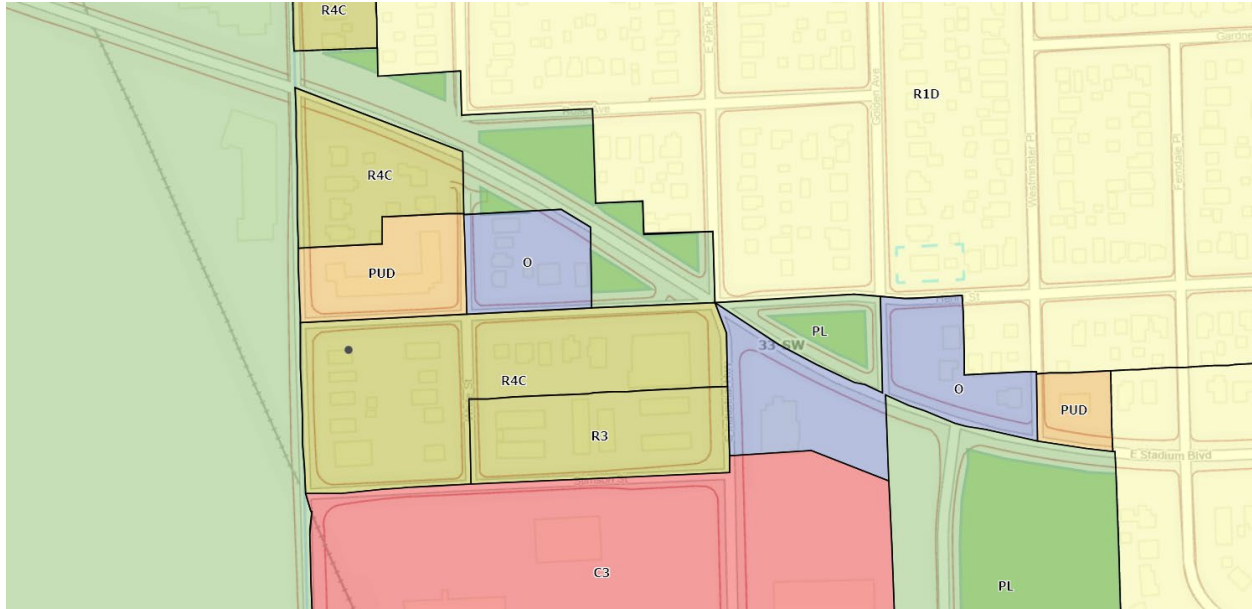


Figure 3: Current Zoning Map

Current Zoning – The lots that make up the South Town site are currently zoned R4C (Multiple-Family Dwelling). This district has a minimum lot size of 8,500-square feet. Conforming lots in this district can have multiple-family dwellings at a density of 10 dwelling units per acre. Nonconforming lots in the R4C district may be developed with a single-family dwelling. Any dwelling in the R4C district may have up to 6 unrelated persons in each household.

Proposed Zoning – The applicant requests rezoning the site from R4C to C1A/R (Campus Business Residential) with the conditions that a maximum height limit of 90 feet, a maximum vehicle parking limit of one space per four dwelling units, and a minimum active open space requirement of 50 square feet per dwelling unit are imposed.

The conditional zoning offer letter can be found on the Stream system at www.stream.a2gov.org as an attachment for plan number REZ22-0002.

Rezoning Analysis – Changes to the referenced Zoning Map of Chapter 55, Unified Development Code, of the Ann Arbor City Code may be made pursuant to Section 5.29.10. To assist the Planning Commission and City Council with their decision, applicants are provided with a petition to submit. The petition addresses:

1. The extent to which the rezoning is necessary.
2. How the rezoning will affect the public welfare and property rights of persons located in the vicinity.
3. How the rezoning will be advantageous to the City.
4. How this particular location will meet the convenience and service requirements of potential users and occupants.
5. Any changed or changing conditions in any particular area, or in the City generally, which may have bearing on the request.

6. Other circumstances and factors which further justify the request.

With a conditional rezoning, the Planning Commission has the authority to review the offered conditions against the rezoning standards to ensure that such standards are met. The Planning Commission may recommend approval with the conditions as submitted, may recommend approval with revised conditions provided that the revised conditions are voluntarily offered by the applicant, or may recommend denial of the rezoning.

Zoning District Comparison		
	Existing	Proposed
	R4C	C1A/R With Conditions
Intent	The R4C district is intended to be located in the central area of the City in close proximity to the central business district and the University of Michigan campus.	This district is designed to encourage the orderly clustering and placement of high-density residential and complementary commercial development near the campus business district.
Lot Area	Minimum 8,500 sq. ft.	No minimum
Density or FAR	2,175 sq. ft. per dwelling unit (for conforming lot)	Maximum 300% FAR
Setback – Front	Minimum 25 ft. or average established front building line	Minimum 10 ft.
Setback – Side	Minimum 12 ft plus additional depending on building length and height	None
Setback – Rear	Minimum 30 ft plus additional depending on building length and height	None
Building Spacing	Minimum 20 feet	None
Height	Maximum 30 feet	None, proposed condition maximum 100 ft ⁴ .
Open Space	Minimum 40% including minimum 300 sq. ft. per dwelling unit	None, proposed condition minimum 50 sq. ft. per dwelling unit
Off-Street Parking	No minimum (vehicles) Min. 1 per 5 units (bicycles)	No minimum (vehicles) Maximum 1/4 dwelling units (vehicles) Min. 1 per 5 residential units or 1 per 3,000 sq. ft. most nonresidential uses (bicycles)

⁴ Originally published incorrectly with 90 feet. The offered condition is 100 feet and is corrected here.

Staff Comments – The Comprehensive Plan, as a whole, encourages more dense development with a particular emphasis on more housing overall and a wider range of housing types, and encourages more sustainable developments, living arrangements that enable less or no reliance on personal vehicles, and reduced vehicle miles traveled. City Council and the City Planning Commission have supported rezoning petitions for both traditional zoning designations and planned unit developments that achieve those goals.

Therefore, staff support the proposed rezoning from R4C to C1A/R With Conditions with two stipulations: first, the proposed development conforms to the standards of the C1A/R district without variance; and second, the proposed development provides at least 19 feet of setback from the back of curb to the building face.

The proposed C1A/R designation is a reasonable choice given the site's proximity to the University of Michigan campus. However, it increases the development of the block about three times over what is currently allowed. For argument's sake, the R4C district is 100% FAR (a typical development on a conforming lot is a two-story building covering about half the site). The C1A/R district is 300% FAR. The maximum height limit in the R4C district is 30 feet, a conditional height limit of 100 feet⁵ is proposed for this C1A/R designation. While staff feel these increases are acceptable in order to meet the goals of the Comprehensive Plan, exceeding them is not.

And, although the city's utilities and our current desires can support the rezoning request, the scale of the sidewalks and public realm are firmly residential. Fully-realized development in the C1A/R district is decidedly more urban than low or mid-density residential.

With these two stipulations, to meet but not exceed the development standards of the proposed district and a streetscape design based on downtown guidelines, the proposed rezoning will be in keeping with all of the applicable goals, policies, and standards for development.

SITE PLAN PETITION:

The proposed development has two multi-story towers (Building A and Building BCD) on top of a single-story podium to create a development with over 200,000-square feet. The development includes approximately 24,000-square feet of ground floor commercial and resident amenity space and 216 dwelling units on upper stories. Also included in the design is an approximately 23,000-square foot, 54-space parking garage within the podium.

The development as shown on the proposed plans has 246,670 square feet and an FAR of 345%. A variance has been requested to not include the parking garage, which will reduce the FAR calculation to 222,404 square feet of floor area and an FAR of 308%.

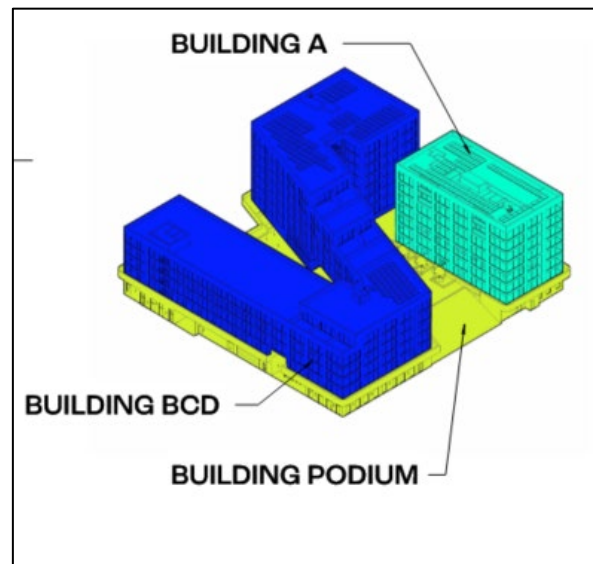


Figure 4 - South Town Podium and Building Tower Sketch (White & Henry corner at bottom, looking SW)

⁵ Originally published incorrectly with 90 feet. The offered condition is 100 feet and is corrected here.

The normal FAR maximum in the C1A/R district is 300% and an additional 8,000 square feet may be allowed from the pedestrian amenity premium. The normal FAR maximum corresponds to a 216,444-square foot development and up to 244,444 square feet is permitted with pedestrian amenities.

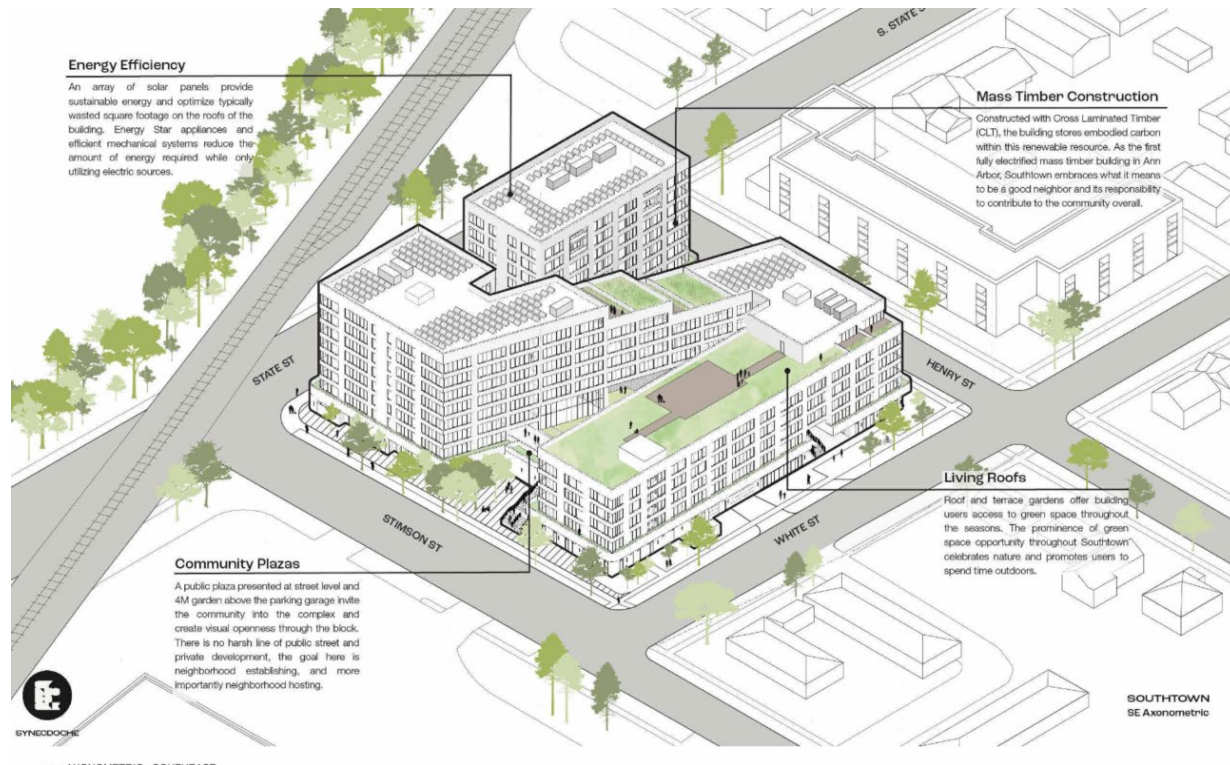


Figure 5: Axonometric Site Layout (from Stimson/White corner looking NW)

A development standards review is provided below. Notable site plan details include:

- **Setbacks from Lot Line** – The proposed building is set back a minimum of 5 feet from the South State Street front lot line, a minimum of 10 feet from the Stimson Street front lot line, a minimum of 9 feet from the White Street front lot line, and a minimum of 6 feet from the Henry Street front lot line. The C1A/R district requires a 10-foot minimum front setback, but per Section 5.18.3.C, Setback Line and Yard Alternatives, a minimum required setback can be decreased up to 50% when another required setback is increased such that the total setback area for the site remains equal to the normally required measurement.
- **Setbacks from Curb** – Setback measurements are taken from a lot line. However, staff required the proposed development to be set back at least 19 feet from the back of the curb, based on the Downtown Street Design Manual guidelines for destination streets, to allow sufficient pedestrian and amenity zones for the proposed high-density development. This is because the existing streets, sidewalks, and lawn extensions surrounding the site and its neighboring blocks were sized for low or mid-density residential uses. Given the significant increase in density with the proposed rezoning and site plan for 216 dwelling units plus additional ground floor commercial uses, more space for pedestrian circulation is warranted.

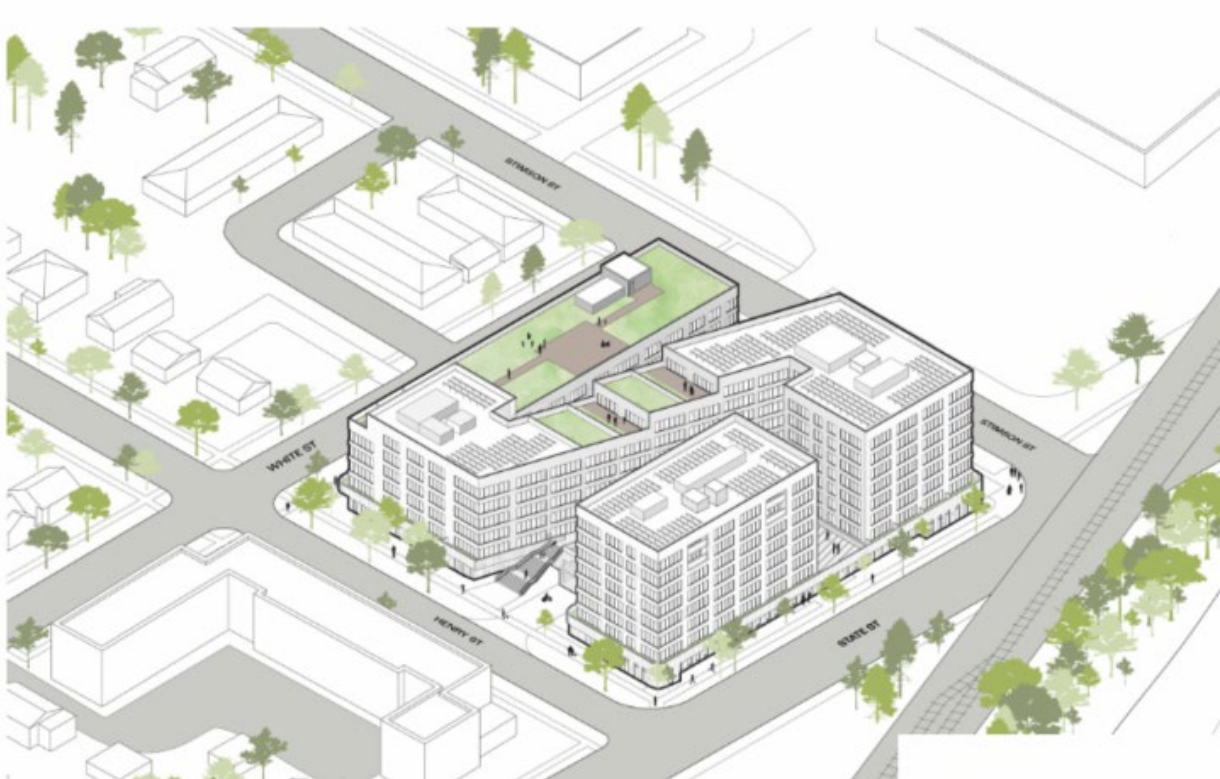


Figure 6 – Axonometric Site Layout (Henry/South State corner looking SE)

- Pedestrian Amenities – The proposed development is surrounded by public sidewalks offering at least 8 feet of pedestrian walking zones and additional space for amenities (bicycle hoops, streetlights, traffic signs, etc.). The development also includes a pedestrian plaza on its south side, adjacent to Stimpson Street. In addition, pedestrians can use stairs from Stimpson and Henry Streets to access an elevated plaza with hardscape and raised planting beds.
- Active Open Space – The proposed C1A/R With Conditions district requires a minimum of 50 feet of active open space per dwelling unit (whereas none is normally required in the C1A/R district) and the proposed site plan includes 91 square feet per unit. Active open space is open space suitable for outdoor recreation and can include lawns, sidewalks and pathways, playground and fields, decks, balconies and accessible portions of roofs.
- Driveways – The proposed development has two driveways, one on White Street to access the parking garage, and one on Henry Street for solid waste and recycling service.
- Parking – Fifty-four vehicle parking spaces are proposed in the parking garage, approximately 1 for every 4 apartments. Eight electric vehicle charging stations will be installed (10%) and the remaining spaces will be “plumbed” for easy installation of future charging stations. On-street parking is available on South State, Henry and White Streets. One bicycle parking space is proposed for every apartment and for every 2,100 square feet of commercial floor area for a total of 224 spaces.

- **Landmark Trees** – There are nine landmark trees on the site and two landmark street trees. All nine landmark trees are proposed to be removed and replaced with mitigation trees. Two alternatives for new development without impacting the landmark trees were analyzed on Sheet C-204 of the Site Plan.
- **Sustainability** – The development team has focused on three major components to prioritize sustainability. In summary, 1) the building is proposed to be constructed using mass timber and cross laminated timber sourced from sustainably managed forests, 2) the building will not use any gas equipment or connections, and 3) the building location prioritizes multi-modal transportation. A full description is provided on Sheet A700 of the Site Plan.

Development Standards Review Chart		
	South Town	C1A/R Standard
Lot Area	Combined Lot Area 69,888 SF Site Area (inc. alley vacation) 72,148 SF	No minimum
FAR	345% of site area, Or 308% of site area with variance	Maximum 300%, Or 311% including premium floor area
Floor Area	246,670 SF, Or 222,404 SF with variance	Normal Maximum 216,444 SF Premium + 8,000 SF Total With Premium 224,444 SF
Open Space	19,656 SF (91 SF per Dwelling Unit)	Minimum 50 SF per Dwelling Unit*
Building Height	85'	Maximum 100 ft ⁶ *
Front Setback	S State: 5.1' to 6.3' Stimpson: 10.4' to 48.5' White: 9.5' to 15.5' Henry: 6.4' to 53.9'	Minimum 10' (can be reduced 50% with balance)
Parking – Vehicles	54 (8 EV-1, 48 EV-C)	Maximum 1 per 4 Dwelling Unit* (if, then 10% EV-I, 90% EV-C)
Parking – Bicycles	Total 224 124 Class A 48 Class B 44 Class C	Minimum Total 57 27 Class A 0 Class B 30 Class C
* Per Conditional Zoning Statement of Amended Conditions		

⁶ Originally published incorrectly with 90 feet. The offered condition is 100 feet and is corrected here.

STREET VACATION PETITION:

The site includes part of Lots 8 and 18, and all of Lots 9, 10, 19, and 20 and an alley in Block 3 of the 1890 Hamilton, Rose and Sheehan's Addition to the City and Town of Ann Arbor. The alley was never developed or improved and contains no public utilities except for electric lines serving the current buildings, which are proposed to be demolished.

The applicant has requested the alley be vacated and the land attached to each of the adjacent lots in accordance with State platting procedures.

An application for street/public right-of-way vacation has been submitted, see attachment file name "20221021_SouthTown_Street Vacation Application.pdf" of project SV22-2000.

CITIZEN PARTICIPATION:

A citizen participation meeting was held on Wednesday, September 21, 2022. Residents and property owners within 1,000 feet of the site were invited. The applicant's report of the meeting can be found on the Stream system at stream.a2gov.org for plan number SP22-2017, file name: 20220921_SouthTown_Citizen Participation Report_v1.pdf

CITY MASTER PLAN:

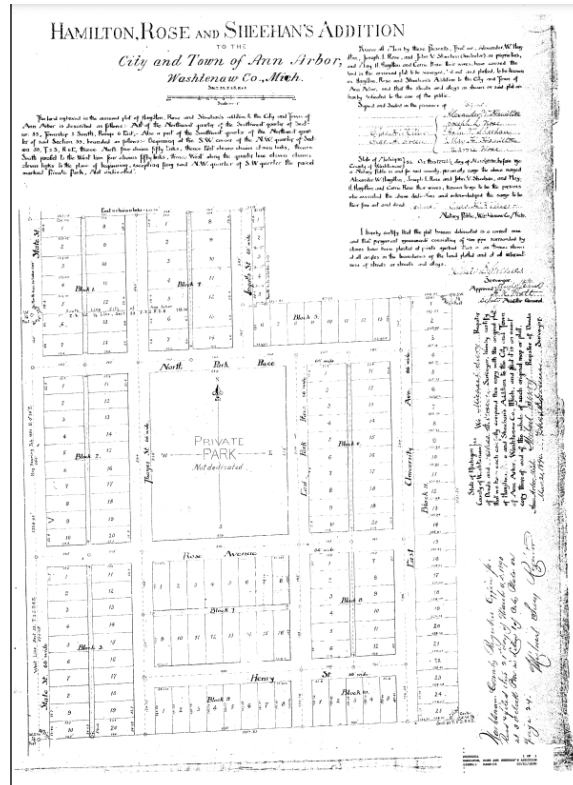
The elements that constitute the current Comprehensive Plan include the:

- Land Use Element (2009)
- State Street Corridor Plan (2013)
- Downtown Plan (2009)
- Parks and Recreation Open Space Plan (2016)
- Natural Features Master Plan (2004)
- Treeline Allen Creek Urban Trail Master Plan (2017)
- Comprehensive Transportation Plan (2021)

Taken together, these plans seek to guide the City towards a more dense, more sustainable, safer, and more inclusive community for all.

SERVICE UNIT COMMENTS:

The application materials have been reviewed by staff from Land Development, Parks and Recreation, Transportation, Planning, Public Works, Engineering, Sustainability, Fire Marshal, Building, and Urban Forestry/Natural Resources.



Planning – Staff have no further comments on the proposed project other than what has been noted in this report: the development should provide at least 19 feet from the back of curb to the building face (which it does) and all the dimensional standards of the proposed C1A/R district without the need for any variances (which it does not).

A variance has been requested from the definition of FAR, which will effectively allow the project to have a greater FAR than the maximum permitted including premium floor area, and will be considered by the Zoning Board of Appeals on May 24, 2023. Staff do not provide recommendations in their reports to the ZBA, but the Board is provided with Planning Staff Reports such as this one and the minutes of relevant City Planning Commission meeting minutes.

Engineering – Engineering staff are still working to review site plan version 3, the most recently submitted site plans. Staff comments for version 2 are outlined below. Recommendation: postpone for results of review 3.

- A triangle at the corner of South State Street and Stimpson Street must be dedicated as right-of-way to compass existing sidewalk and traffic signal infrastructure.
- The proposed curb cut and drive approach to the solid waste service area does not meet the minimum dimension standard.
- The proposed bicycle hoops in the South State Street right-of-way should be moved onto the site. Bicycle hoops in the public right-of-way require a license agreement to address maintenance and replacement responsibility.
- The proposed site plan must clarify if and where fire walls are included as these impact the fire service and sanitary sewer service lead requirements.
- Modeling of the proposed sanitary sewer impacts is pending.

Transportation – Transportation impact analyses are required for proposed rezonings and proposed site plans meeting certain thresholds for peak hour trips. Transportation's review of the submitted transportation impact analysis found several general and specific concerns. Overall, the transportation impact analysis: does not address all modes of transportation in the recommended format, uses an unacceptable methodology for balancing traffic volumes, does not consider nearby developments, uses an unacceptable trip generation source data, and does not explore changes to operations to best serve the proposed development. Recommendation: revise and resubmit.

Parks – A contribution of \$625.00 per dwelling unit has been requested and will be made by the applicant. The contribution formula represents the dollar amount per dwelling unit to maintain 0.0125 acres of parkland per household, keeping pace with the current amounts, and the average cost to acquire an acre of parkland (\$50,000.00). For the proposed 216 dwelling units, the contribution to be provided prior to issuance of certificates of occupancy is \$135,000.00. The contribution will be used to benefit the residents of the development with improvements to nearby parks such as Graydon and Frisinger Parks.

Fire Marshal – The Fire Marshal's review of site plan version 3 indicated the need to acknowledge and comply with applicable codes for the stairway access to the roof and the rooftop gardens and landscaping. Recommendation: revise and resubmit or conditional approval.

Public Works – Public Work’s review of site plan version 3 asks for the solid waste collection containers to be larger sized and for some changes to ensure service access.

Recommendation: revise and resubmit or conditional approval.

Stormwater Management – Staff comments on site plan version 3 include requiring clarification or changes to the infiltration system from the permeable pavers and providing details of proposed bioswales.

Prepared by Alexis DiLeo
5/11/23; Corrected 5/15/23

Attachments: Site Plan
Zoning Map
Aerial Photo
Draft Conditional Zoning Statement of Conditions
Draft Development Agreement
[Link](#) to rezoning file REZ22-0002
[Link](#) to site plan file SP22-2017
[Link](#) to street vacation file SV22-2000

c: Applicant and Engineer – Nederveld Engineering (Brandon Chaney)
Architect – Synecdoche (Adam Smith)
Owner – Prentice Partners of Ann Arbor, LLC (Margaret Poscher)

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of June 21, 2023

SUBJECT: South Town (1601 South State Street)
Rezoning – File No. REZ22-0002
Site Plan for City Council – File No. SP22-2017
Street Vacation – File No. SV22-2001

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the South Town Rezoning Petition to C1A/R (Campus Business Residential) district and accept the conditions to limit the maximum height to 100 feet, limit the maximum number of parking spaces to 0.25 per dwelling unit, limit the principal use to be multiple-family residential and no more than 30% short term rentals, and limit natural gas connections to emergency back-up power only, subject to executing a Statement of Conditions.

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council vacate the unimproved platted alley in Block 3 of the Hamilton, Rose and Sheehan’s Addition to the City and Town of Ann Arbor.

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the South Town Site Plan at 1601 South State Street and Development Agreement.

STAFF RECOMMENDATION:

Rezoning with conditions– Staff recommends that the rezoning petition to C1A/R With Conditions be **approved** and the offer of conditions to impose a height limit and maximum parking space limit, and restrict uses and power sources, **be accepted** because it is consistent with overall goals of the Comprehensive Plan and is compatible with the surrounding neighborhood.

Street Vacation – Staff recommends that the street vacation be **approved** because the right-of-way is not needed for public purposes, including vehicular or pedestrian access or public utilities, and it would not have a detrimental effect on circulation or access in the vicinity.

Site Plan – Staff recommends that the **site plan** be **approved** because, with a variance granted by the Zoning Board of Appeals, the contemplated development complies with all applicable state, local, and federal law, ordinances, standards and regulations; and the development limits the disturbance of natural features to the minimum necessary to allow a reasonable use of the land.

SUMMARY:

The South Town project has three parts: a petition to rezone the site to C1A/R With Conditions; a petition to vacate the public alley on the site, and a site plan for a building having two multiple-story towers on top of a single-story podium.

Following a public hearing on May 16, 2023, the City Planning Commission postponed a recommendation on the project until the Zoning Board of Appeals considered a variance for the project and outstanding staff comments were addressed.

The requested variance has been granted, most outstanding staff comments have been addressed, and the applicant has changed their offer of conditions.

REPORT:

Rezoning Petition – The applicant has changed their offer of conditions, withdrawing the offer to establish a minimum active open space requirement in the district and now offering a requirement for the principal use of the property, a limitation on short term rental use, and a requirement on energy source. The offers regarding establishing a maximum height standard and maximum vehicle parking standard continue. The currently offered conditions in full are:

- A. The maximum height limit for this Property shall be 100 feet.
- B. The maximum number of vehicle parking spaces for residential use on the Property shall be 0.25 per dwelling unit.
- C. The principal use of the Property shall be multiple-family residential and no more than 30% of the provided dwelling units may be as short-term rental use.
- D. The Property shall have no natural gas connections except for emergency back-up power.

Site Plan and Variance – On May 24, 2023, the Zoning Board of Appeals granted a variance to exclude floor area used for at-grade parking from the FAR calculation for the South Town development. The South Town development continues to have 246,670 square feet of floor area, but because of the variance granted by the ZBA, 24,278 square feet of that total is not included in the FAR calculation. The South Town development has 222,404 square feet of floor area contributing towards its FAR calculation and may exceed the FAR limit by 8,000 square feet due to the pedestrian area premium. The proposed development meets the FAR + 8,000-square foot premium standard of the C1A/R district.

Outstanding Staff Comments

Engineering – Since the May 16, 2023, City Planning Commission meeting, review 3 has been completed, version 4 site plan was submitted and reviewed, and has been found satisfactory.

Transportation – A multi-modal transportation impact analysis (MTIA) has been provided and reviewed by staff. Highlights of the analysis, its conclusions, and transportation staff comments include:

- Existing conditions for vehicles, pedestrians and bicycles operate acceptably.
- “Background” conditions, meaning future conditions without the proposed development, are predicted to continue to operate acceptably for vehicles, pedestrians and bicycles.
- Future conditions, including “background” growth and the proposed development, are expected to continue operating acceptably in a similar manner to background conditions.
- The results of a safety review indicate there are no correctable crash patterns present at the study intersections, while several countermeasures could be made to mitigate bicycle involved crashes resulting in injuries, including providing a protected bike lane, painting “bike boxes” at the intersection, installing and enforcing “not turn on red” signage, and implementing “protected bike signal” to allow fully protected bicycle movements.
- The proposed driveway to the South Town site will have adequate lines of sight.
- The projected parking demand for this site can be accommodated with the parking as proposed.
- Recommendations of the MTIA are:
 - Convert Henry Street between White and South State to two-way operations.
 - Revise the on-street parking on Henry Street and White Street to accommodate the proposed development uses. Short-term only parking on the south side of Henry to accommodate daycare operations. No parking on White Street to meet International Fire Code standards for aerial access adjacent to high-rise construction.
 - Provide a high-visibility crosswalk across Stimpson Street at White Street.
- Transportation staff concur with the analysis and recommendations of the MTIA, provided that the high-visibility crosswalks include a rectangular rapid flashing beacon and the approved site plan show the proposed transportation improvements.

South Town (1601 S State St)
June 21, 2023; Page 4

Prepared by Alexis DiLeo
6-13-2023

Attachments: June 13, 2023 Draft Statement of Conditions
May 16, 2023 Planning Staff Report
May 10, 2023 Draft Development Agreement
[Link](#) to rezoning file REZ22-0002
[Link](#) to street vacation file SV22-2000
[Link](#) to site plan file SP22-2017

c: Applicant and Engineer – Nederveld Engineering (Brandon Chaney)
Architect – Synecdoche (Adam Smith)
Owner – Prentice Partners of Ann Arbor, LLC (Margaret Poscher)

Revised 6/16/23 – BL: Resolving broken Attachment links

FIRST AMENDMENT TO SOUTHTOWN DEVELOPMENT AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 2024, by and between the City of Ann Arbor, a Michigan municipal corporation, with principal address at 301 East Huron Street, Ann Arbor, Michigan 48107, hereinafter called the CITY; and South Town by 4M LLC (“Developer”), a Michigan limited liability company, with principal address at 2082 S State St, Ann Arbor, Michigan 48104, hereinafter called the DEVELOPER, amends the development agreement between the City and the DEVELOPER dated _____ (“Development Agreement”).

WHEREAS, the DEVELOPER has received site plan approval for certain land in the City of Ann Arbor, commonly known as Southtown;

WHEREAS, the DEVELOPER requests amendment to the Development Agreement to address compliance with the Southtown Conditional Zoning Statement of Conditions requirement to operate a carbon-efficient continuous microgrid;

THEREFORE, the City and the DEVELOPER agree to the following:

Paragraphs shall be added to the Development Agreement as follows:

(P-21) For Period 1, the DEVELOPER will power and operate its fuel cells first with renewable natural gas (RNG) produced specifically from agricultural emissions or via biodigestion, if commercially available, or with RNG commercially available through DTE if not, and second using carbon capture technology as soon as it is available, with end-use of captured CO₂ either permanent sequestration or as offtake in the food-grade CO₂ market.

(P-22) For Period 2, the DEVELOPER will power and operate its fuel cells first with green hydrogen if commercially available or with blue hydrogen if commercially available, then with renewable natural gas (RNG) produced specifically from agricultural emissions or via biodigestion if commercially available, then with RNG commercial available through DTE, and second using carbon capture technology as soon as it is available, with end-use of captured CO₂ either permanent sequestration or as offtake in the food-grade CO₂ market.

(P-23) Notwithstanding paragraphs 21 and 22 above, the DEVELOPER will power, operate and plan MEA overhaul of its fuel cells such that it uses hydrogen fuel as soon as it becomes commercially available, and that it employs carbon capture technology (with end use

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by Christopher Taylor, Mayor, and Jacqueline Beaudry, Clerk of the City of Ann Arbor, a Michigan municipal corporation, on behalf of the corporation.

NOTARY PUBLIC
County of _____, State of _____
My Commission Expires: _____
Acting in the County of _____

South Town by 4M LLC

By: _____
Margaret Poscher, Sole Member

STATE OF _____)
County of _____) ss:

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by Margaret Poscher, Sole Member of South Town by 4M LLC, a Michigan limited liability company, on behalf of the company.

NOTARY PUBLIC
County of _____, State of _____
My Commission Expires: _____
Acting in the County of _____

DRAFTED BY AND AFTER RECORDING RETURN TO:
Kevin McDonald (P-61761)
City Attorney's Office
City of Ann Arbor
Post Office Box 8647
Ann Arbor, Michigan 48107
(734) 794-6183

SOUTH TOWN DEVELOPMENT AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 2023, by and between the City of Ann Arbor, a Michigan municipal corporation, with principal address at 301 East Huron Street, Ann Arbor, Michigan 48107, hereinafter called the CITY; and South Town by 4M LLC ("Developer"), a Michigan limited liability company, with principal address at 2082 S State St, Ann Arbor, Michigan 48104, hereinafter called the DEVELOPER, witnesses that:

WHEREAS, the DEVELOPER owns or has the right to develop certain land in the City of Ann Arbor, described in Paragraph T-4 below (the "Property") and site planned as South Town (the "Project"), and

WHEREAS, the DEVELOPER has caused certain land in the City of Ann Arbor, described below to be surveyed, mapped and site planned as South Town, and desires site plan and development agreement approval thereof, and

WHEREAS, the DEVELOPER desires to build or use certain Improvements with and without the necessity of special assessments by the CITY, and

WHEREAS, on September 5, 2023, City Council approved the South Town Site Plan ("Site Plan") and the South Town Development Agreement ("Agreement") pursuant to a resolution adopted on that date, and

WHEREAS, the CITY desires to ensure that all of the Improvements required by pertinent CITY ordinances and regulations be properly made, and that the DEVELOPER will install these Improvements prior to any permits being issued.

THE DEVELOPER HEREBY AGREES:

(P-1) To prepare and submit to the CITY for approval plans and specifications ("the Plans") prepared by a registered professional engineer for construction of public water main, private storm water management system, and public sidewalk ("the Improvements") provided that no work on said Improvements shall be commenced until the Plans have been approved by the City Administrator or designee, and until such other relevant information to CITY service areas as shall be reasonably required has been provided.

(P-2) To construct all Improvements set forth in Paragraph P-1 of this Agreement in accordance with the approved Plans and to repair all defects in the Improvements that occur within one year from the date of acceptance of the Improvements by the CITY, commencing on the latest date of the acceptance of any Improvements by the CITY. If the DEVELOPER fails to construct the Improvements, the CITY may send notice via first class mail to the DEVELOPER at the address listed above requiring it to commence and complete the Improvements in the notice within the time set forth in the notice. The CITY may cause the work to be completed at the expense of the DEVELOPER, if the DEVELOPER does not complete the work within the time set forth in the notice.

(P-3) To furnish, within 30 days of completion, an engineer's certificate that the construction of the private Improvements set forth in Paragraph P-1 above have been completed in accordance with the specifications of the CITY in accordance with the approved plans. The engineer's certificate will cover only those items the DEVELOPER'S engineer inspects.

(P-4) To grant an easement to the CITY for public sidewalk and access as shown on the Site Plan, subject to City Council approval. DEVELOPER shall submit legal descriptions and survey drawings for the easements prior to the request for and issuance of building permits, and the easements shall be granted to the CITY in a form reasonably acceptable to the CITY Attorney. The easements must be accepted by City Council prior to the request for and issuance of any certificate of occupancy, although the easements may be accepted at a later time as determined by the CITY Public Services Area.

(P-5) Prior to the issuance of any certificate of occupancy, to dedicate a triangle of land at the northeast corner of Stimson Street and South State Street as shown on the Site Plan to the City of Ann Arbor as publicly owned right-of-way.

(P-6) To install all water mains pursuant to CITY approved plans and specifications, necessary to connect the site with existing CITY systems adjacent to the site prior to the issuance of any building permits.

(P-7) To be included in a future special assessment district, along with other benefiting property, for the construction of additional Improvements to South State, Stimson, Henry and/or White streets, such as street widening, storm sewers, curb and gutter, sidewalks, bike paths, street lights, and the planting of trees along these frontages when such Improvements are determined by the CITY to be necessary.

(P-8) To indemnify, defend and hold the CITY harmless from any claims, losses, liabilities, damages or expenses (including reasonable attorney fees) suffered or incurred by the CITY based upon or resulting from any acts or omissions of the DEVELOPER, its employees, agents, subcontractors, invitees, or licensees in the design, construction, maintenance or repair of any of the Improvements required under this Agreement and the Site Plan.

(P-9) To cause to be maintained General Liability Insurance and Property Damage Insurance in the minimum amount of \$1,000,000 per occurrence and naming the CITY as additional insured to protect and indemnify the CITY against any claims for damage due to public use of the public improvements in the Project prior to final written acceptance of the public Improvements by the CITY. Evidence of such insurance shall be produced prior to any construction of improvement and a copy filed with the City Clerk's Office and shall remain in full

force and effect during construction of the public Improvements and until notice of acceptance by the CITY of the Improvements.

(P-10) For the benefit of the residents of the DEVELOPER'S Project, to make a park contribution based on the formula of the Number of Dwelling Units x \$625.00 to the CITY Parks and Recreation Services Unit prior to the issuance of certificate of occupancy. (For 216 dwelling units, the contribution to be provided is \$135,000.00.) This contribution will be used for Improvements to neighborhood parks such as Graydon Park, Frisinger Park, or regional parks such as Gallup Park, Burns Park or Buhr Park.

(P-11) To construct, repair and/or adequately maintain on-site storm water management system. If the DEVELOPER fails to construct, repair and/or maintain the private storm water management system, the CITY may send notice via first class mail to the DEVELOPER at the address listed above, requiring it to commence and complete the items stated in the notice within the time set forth in the notice. The CITY may cause the work to be completed at the expense of the DEVELOPER if the DEVELOPER does not complete the work within the time set forth in the notice.

(P-12) After construction of the private on-site storm water management system, to commission an annual inspection of the system by a registered professional engineer evaluating its operation and stating required maintenance or repairs, and to provide a written copy of this evaluation to the CITY Public Services Area upon request.

(P-13) Prior to the request for or issuance of any certificate of occupancy, for the benefit of the Property and in order to comply with Ann Arbor City Code requirements for site access and transportation impacts of the Project on nearby roads, Traffic Mitigation Improvements shall be paid for and completed by the DEVELOPER. The Transportation Mitigation Improvements as shown on the Site Plan and recommended in the DEVELOPER'S Multimodal Transportation Impact Analysis, as further specified in civil construction plans to be approved by the CITY, shall include:

- a) Installing an uncontrolled crosswalk across Stimson Street at White Street with associated ramps, pavement markings, and rectangular rapid flashing beacon (RRFB).
- b) Conversion of Henry Street traffic from one-way to two-way with vertical deflection traffic calming measures (such as speed humps, lumps, or tables) between White Street and South State Street.

These Transportation Mitigation Improvements shall be designed and constructed by the DEVELOPER consistent with all applicable laws and standards including the resources on traffic calming measures provided by the ITE (Institute of Transportation Engineers) on its traffic calming website. The DEVELOPER shall be responsible for any applicable review and inspection fees charged by the City to ensure the Transportation Mitigation Improvements are designed and constructed accordingly.

(P-14) To design, construct, repair and maintain this Project in accordance with the provisions of Chapter 119 (Noise Control) to ensure that any noise emanating from said Project will not impact nearby residents or businesses. In addition, DEVELOPER shall review existing noise sources surrounding said Project and incorporate necessary design and construction techniques to ensure that future tenants will not be exposed to noise sources in violation of Chapter 119.

(P-15) To remove all discarded building materials and rubbish from the Project at least once each month during construction of the Project Improvements, and within one month after completion or abandonment of construction.

(P-16) As part of the application for the first building permit, to provide documentation from an independent, qualified professional that verifies the building has been designed to achieve a minimum of two points under the U.S. Green Building Council Leadership in Energy and Environmental Design (LEED) Energy & Atmosphere Credit No. 1, based on the most recent version in effect at the date of this agreement. Compliance with this requirement shall be verified and documented by the independent, qualified professional using an industry standard software energy modeling tool (EQUEST or equivalent).

(P-17) DEVELOPER is the sole title holder in fee simple of the Property described below except for any mortgage, easements and deed restrictions of record and that the person(s) signing below on behalf of DEVELOPER has legal authority and capacity to enter into this Agreement for DEVELOPER.

(P-18) Failure to construct, repair and/or maintain the site pursuant to the Site Plan and/or failure to comply with any of this approved Agreement's terms and conditions shall constitute a material breach of the Agreement and the CITY shall have all remedies in law and/or in equity necessary to ensure that the DEVELOPER complies with the Site Plan and/or the terms and conditions of the approved Agreement. The DEVELOPER shall be responsible for all costs and expenses including reasonable attorney fees incurred by the CITY in enforcing the terms and conditions of the Site Plan and/or Agreement.

(P-19) In addition to any other remedy set forth in this Agreement or in law or equity, if DEVELOPER fails to make a timely or full payments to the CITY as set forth elsewhere in the Agreement to the CITY in the agreed upon manner, any unpaid amount(s) shall become a lien, as provided under Ann Arbor City Code and recorded with the Washtenaw County Register of Deeds, against the land described below and may be placed on the CITY tax roll as a single lot assessment, or if the Project is converted to condominium ownership, every owner of a portion of the Property shall pay a pro-rata share of the amount of the payments attributable to each condominium unit. If the unpaid amount(s), in whole or in part, has been recorded as a lien on the CITY'S tax roll and with the Washtenaw County Register of Deeds, upon payment of the amount in full along with any penalties and interest, the CITY, upon request, will execute an instrument in recordable form acknowledging full satisfaction of this condition.

(P-20) To pay for the cost of recording this Agreement with the Washtenaw County Register of Deeds, and to pay for the cost of recording all documents granting easements to the CITY.

THE CITY HEREBY AGREES:

(C-1) In consideration of the above undertakings, to approve the South Town Site Plan.

(C-2) To use the park contribution described above for Improvements to neighborhood parks such as Graydon or Frisinger, or regional parks such as Gallup, Burns or Buhr.

(C-3) To provide timely and reasonable CITY inspections as may be required during construction.

(C-4) To record this Agreement with the Washtenaw County Register of Deeds.

GENERAL TERMS

Both the DEVELOPER and the CITY agree as follows:

(T-1) This Agreement is not intended to create a contractual right for third parties.

(T-2) This Agreement and any of its terms, conditions, or provisions cannot be modified, amended, or waived unless in writing and unless executed by both parties to this Agreement. Any representations or statements, whether oral or in writing, not contained in this Agreement shall not be binding on either party.

(T-3) This Agreement and any of its terms or conditions shall not be assigned or transferred to any other individual or entity unless prior approval of the CITY is received. Such approval shall not be withheld unreasonably.

(T-4) The obligations and conditions on the DEVELOPER, as set forth above in this Agreement and in the Site Plan, shall be binding on any successors and assigns in ownership of the following described parcel:

City of Ann Arbor, Washtenaw County, Michigan

Lots 1, 2, 3, and 4, Stimson Subdivision, as recorded in Liber 5, Page 30, Washtenaw County Records, and Lots 9, 10, 19, 20 and part of Lots 8 and 18, and the vacated alley adjacent to said Lots 9, 10, 19, and 20, and the vacated alley adjacent to said parts of Lots 8 and 18, Block 3, Hamilton, Rose and Sheehan's Addition, as recorded in Liber 1, Page 24, being part of the Southwest 1/4 of Section 33, Town 2 South, Range 6 East, City of Ann Arbor, Washtenaw County, Michigan, described as: Commencing at the Southwest corner of said Lot 1 and the Point of Beginning; thence N01°17'27"W 273.32 feet along the East right-of-way line of South State Street; thence N87°04'31"E 263.92 feet along the South right-of-way line of Henry Street; thence S01°21'25"E 273.31 feet along the West right-of-way line of White Street; thence S87°04'31"W 264.23 feet along the North line of Stimson Street to the Point of Beginning. Contains 1.66 acres.

Tax Parcel Id. No.: 09-09-33-315-001, 09-09-33-315-002, 09-09-33-315-003, 09-09-33-315-004, 09-09-33-315-005, 09-09-33-315-006, 09-09-33-315-007, 09-09-33-315-008, 09-09-33-315-009, 09-09-33-315-010

(T-5) In addition to any other remedy in law or in equity failure to comply with all of the above paragraphs on the part of the DEVELOPER, or any part of the Site Plan, in part or in whole, shall give the CITY adequate basis and cause to issue a stop work order for any previously-issued building permits and shall be an adequate basis and cause for the CITY to deny the issuance of any building permits, certificates of occupancy, or any other permits unless and until the CITY has notified the DEVELOPER in writing that the DEVELOPER has satisfactorily corrected the item(s) the DEVELOPER has failed to perform.

(T-6) This Agreement shall be interpreted, enforced and governed under the laws of the State of Michigan and Ann Arbor City Code. DEVELOPER submits to the personal jurisdiction of

any competent court in Washtenaw County, Michigan, for any action arising out of this Agreement. DEVELOPER also agrees that no action will be commenced against the City because of any matter arising out of this Agreement in any courts other than those in the County of Washtenaw, State of Michigan, unless original jurisdiction can be established in the United States District Court for the Eastern District of Michigan, Southern Division, the Michigan Supreme Court, or the Michigan Court of Appeals.

CITY OF ANN ARBOR, MICHIGAN
301 East Huron Street
Ann Arbor, Michigan 48107

By: _____
Christopher Taylor, Mayor

By: _____
Jacqueline Beaudry, City Clerk

Approved as to Substance:

Milton Dohoney Jr., City Administrator

Approved as to Form:

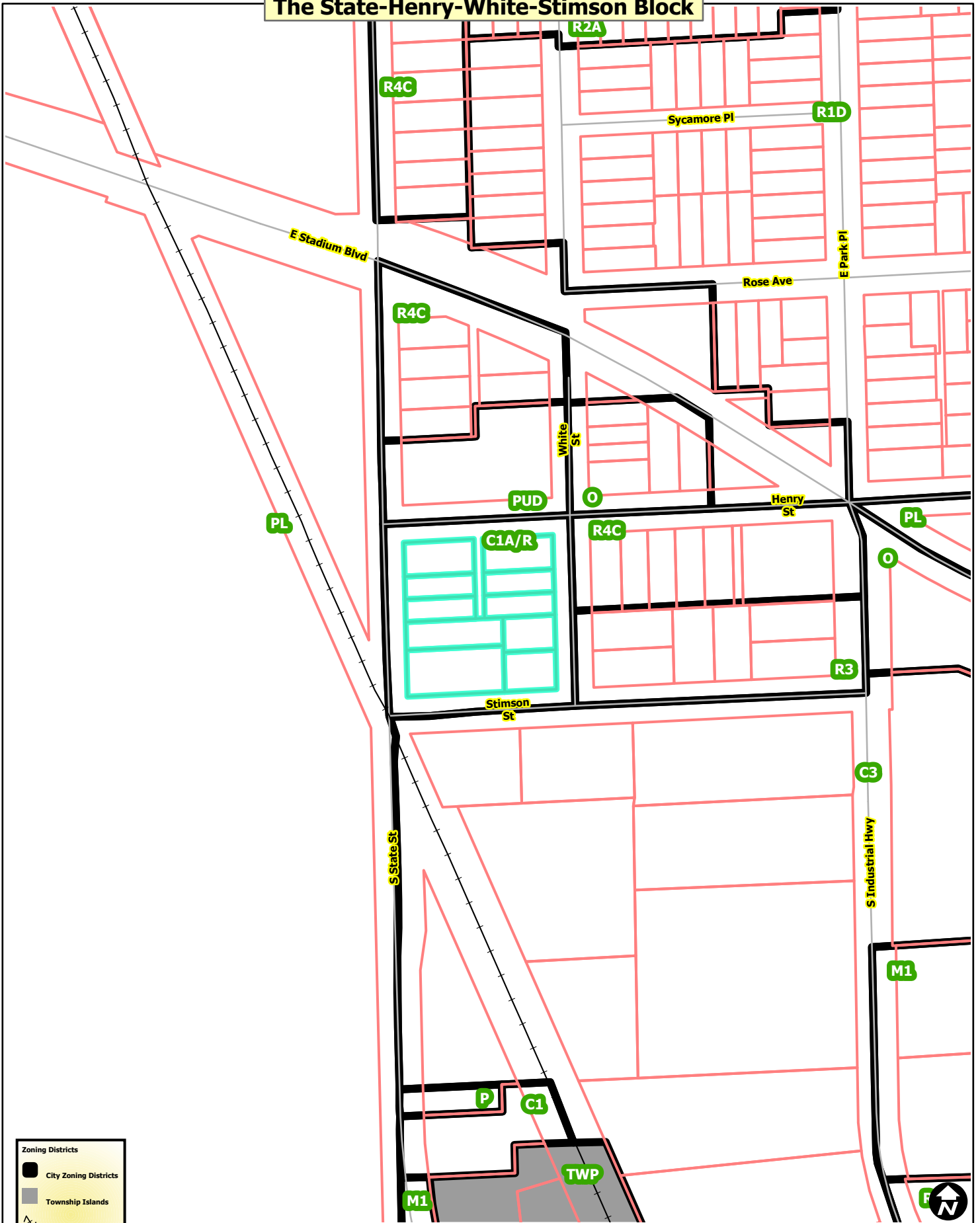
Atleen Kaur, City Attorney

STATE OF _____)
County of _____) ss:

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by Christopher Taylor, Mayor, and Jacqueline Beaudry, Clerk of the City of Ann Arbor, a Michigan municipal corporation, on behalf of the corporation.

NOTARY PUBLIC
County of _____, State of _____
My Commission Expires: _____
Acting in the County of _____

The State-Henry-White-Stimson Block



Zoning Districts




- City Zoning Districts
- Township Islands
- Railroads
- Huron River
- Tax Parcels



Map date: 4/8/2024
 Any aerial imagery is circa 2023
 unless otherwise noted
 Terms of use: www.a2gov.org/terms

The State-Henry-White-Stimson Block



-  Railroads
-  Huron River
-  Tax Parcels



Map date: 4/8/2024
Any aerial imagery is circa 2023 unless otherwise noted
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