PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of December 18, 2007

SUBJECT: Lower Burns Park Neighborhood Rezoning

File No. 9333V11.2

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Lower Burns Park Neighborhood Rezoning as shown on the attached parcel and zoning map from R4C (Multiple-Family Dwelling District) and R2A (Two-Family Dwelling District) to R1D (Single-Family Dwelling District).

STAFF RECOMMENDATION

Staff recommends that this rezoning petition be amended and approved only as it relates to the existing R4C Multiple-Family Dwelling District centered on Golden Avenue, and three lots on Granger Avenue near Packard Street. The proposed rezoning of the 37 parcels in the Golden Avenue R4C district is consistent with current City plans and policies. The Central Area Plan contains an area-specific recommendation for downzoning this particular portion of the Lower Burns Park neighborhood. Two nonconforming lots and nonconforming uses would be created, however, these would be considered legal nonconforming lots and uses and could remain indefinitely if unchanged. Rezoning to a less dense zoning category will not appreciably reduce the number of potential dwelling units that could be developed because of the significant number of nonconforming lots that currently exist. Higher density multiple-family residential developments would still be possible through the planned unit development process, which could ensure that new development is in keeping with the scale and character of the immediate surroundings as well as the entire neighborhood.

BACKGROUND

On October 15, 2007, the Ann Arbor City Council passed a resolution directing Planning & Development Services staff to initiate a rezoning of portions of the Lower Burns Park neighborhood. The neighborhood was defined as the area bounded by East Stadium Boulevard on the south, Packard Street on the east, Dewey Avenue on the north, and South State Street on the west. The portions of the neighborhood currently zoned R4C (Multiple-Family Dwelling) and R2A (Two-Family Dwelling) are recommended to be rezoned R1D (Single-Family Dwelling). Planning Commission was asked to consider the rezoning and forward a recommendation to City Council by January 22, 2008.

Letters informing residents and property owners in the Lower Burns Park neighborhood were sent in late November, including a pamphlet describing the rezoning petition in more detail and providing answers to commonly asked rezoning questions. Copies of this letter and pamphlet were distributed to Planning Commission for its working session on December 11, 2007.

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HISTORY

The study area, now referred to as the Lower Burns Park neighborhood, began its conversion from what was likely agricultural land to platted residential lots beginning in 1890. In that year, Hamilton, Rose and Sheehan's Addition was platted and recorded which laid out 10 blocks and a 5.5-acre private park¹ on the east side of South State Street and north of what today is East Stadium Boulevard. Six more platted subdivisions followed Hamilton, Rose and Sheehan's Addition to complete the Lower Burns Park Neighborhood (it must be noted that use of the name "Lower Burns Park" is a relatively recent occurrence and was not used when the area was first developed). The surrounding area continued to be platted until 1932, at which time approximately 75 percent of lots in the Lower Burns Park neighborhood contained a residential building.

During this era of platting, the current path of East Stadium Boulevard was constructed. Right-of-way was collected by the State of Michigan between 1923 to 1928 to extend and expand Highway 17 across the southwestern portion of Hamilton, Rose and Sheehan's Addition. White Rose Park is the result of platted lots that had been bisected or left with acute angles, rendering them unbuildable, after the right-of-way was collected.

Year Platted	Name of Plat	Area Included
1890	Hamilton, Rose and Sheehan's Addition	S State St, Thayer St (now White St), Ingalls St (now Sheehan Ave), E Park PI, E University Ave (now Golden Ave), N Park PI (now Granger Ave), Rose Ave and Henry St
1904	White's Addition	North of H, R & S Add'n – State St and Thayer St (now White St) to Arch St
1917	Packard Lawn Addition	East of H, R & S Add'n – Henry St, Westminister, Ferndale and Montclair Places to Packard St
1922	Assessor's Plat No. 5	East of H, R, & S Add'n – Woodlawn Ave
1924	Krapf Addition	East of H, R & S Add'n – Gardner Ave
1928	Assessor's Plat No. 9	North and east of H, R & S Add'n – Granger Ave and Brooklyn Ave
1932	Assessor's Plat No. 25	Area that was private park in H, R & S Add'n – Granger Ave, East Park PI, Rose St, White St, Oakwood Place (now Sycamore Place)

PLANNING BACKGROUND

The history and planning background of the Lower Burns Park neighborhood is closely tied to the University of Michigan. Prior to the mid 1920's, there were no University dormitories and students lived exclusively off campus with private families. Such living arrangements did not seem to kick off any kind of private building boom in the neighborhoods surrounding the University. However, as the student population grew so did the numbers of faculty and staff. This population did help spur a private building boom, converting the State Street and South University areas from residential to commercial as faculty and staff moved to newly-developed neighborhoods such as Burns Park. The first citywide planning efforts were initiated in response to the building boom and population increases. City Council adopted the first Zoning Ordinance and Map in 1923. Most of the central area, that surrounding the University, was zoned to permit multiple-family as well as one and two-family residences. The area south of Hill Street between State Street and Forest Avenue was designated B Residential. As best as staff

¹ Staff was unable to determine the name of this private park. It may have never been constructed and existed solely on the plat. The private park was subsequently further subdivided, see Assessor's Plat No. 25.

is able to determine, the B district required just 1,000 square feet per multiple-family dwelling unit. This corresponds to a maximum density of 43 dwelling units per acre.

In 1963, an entirely rewritten Zoning Ordinance and Map were adopted². The 1963 Zoning Map established several residential districts where the B district previously occurred. The current Zoning Map is almost identical to the 1963 Zoning Map. The most significant difference between the 1963 Zoning Map and today is in the area currently zoned R2A around Granger Avenue. The R2A district in 1963 included only Granger Avenue, whereas today the R2A district extends farther north to include Woodlawn Avenue. It is unknown when the R2A district was expanded and the R4C district reduced in this area. Furthermore, there is no documentation readily available to explain why certain districts were chosen, or how district boundaries were decided, for any aspect of the 1963 Zoning Ordinance and Map.

The City as a whole experienced another wave of rapid growth in the late 1960's and early 1970's. Ann Arbor's population increased almost 50 percent but virtually all of this growth occurred outside of the central area. Those new residents that did come to the central area generally found housing in converted single-family homes divided into apartments and rooms, rather than new apartment buildings. It is important to remember that urban renewal programs were very popular at the time the City's Zoning Ordinance and Map were rewritten and newly adopted in 1963. Historic preservation was generally not a priority and protection of existing character was not a primary planning goal. Nonetheless, it is noteworthy that some neighborhoods have consistently advocated for their own preservation and protection. Their work is often reflected in master plan land use recommendations.

The most recent neighborhood to petition for rezoning was the Belize Park neighborhood, located between Hiscock and West Summit Streets. The Belize Park neighborhood was zoned R4C Multiple-Family Dwelling District since 1963 although it was surrounded on three sides by R2A Two-Family Dwelling District and contained only single and two-family dwellings.

The minimum lot size in the R2A district was 6,000 square feet and the minimum lot area per dwelling unit was 3,000 square feet. The R2A district included a minimum usable floor area per dwelling unit standard based on the number of bedrooms in the dwelling unit.

The minimum lot size in the R4C district was 4,000 square feet and the minimum lot area per dwelling unit was based on the number of bedrooms in each dwelling unit. Buildings containing larger dwelling units required more lot area per dwelling unit than buildings with smaller units. R4C regulations also included a maximum usable floor area as a percentage of lot area (FAR) that varied based on the height of the building. Taller buildings were allowed to occupy a greater percentage of the lot area than shorter buildings.

During the 1980s, several Zoning Ordinance text amendments were adopted that simplified the area, height and placement regulations by removing the minimum usable floor area per dwelling unit and maximum FAR requirements, and standardizing the minimum lot area required per dwelling unit. However, the minimum lot size and lot area per dwelling unit in both the R2A and R4C districts (as well as other R2 and R4 districts) were increased. Overall, the Zoning Ordinance has incrementally reduced the maximum density allowed in most residential zoning districts during the past few decades.

² The use regulations and area, height and placement standards adopted in 1963 for the R2A and R4C districts were quite different than those in effect today. For example, then, the R2A district allowed studios of non-profit theater groups as a permitted principal use. Dormitories, rooming houses, convalescent and nursing homes, hospitals and medical and dental offices were allowed as permitted principal uses in the R4C district.

Residents of the neighborhood petitioned the Planning Commission to initiate a study of the area in 1991 and, upon the recommendation of staff and Planning Commission, City Council approved rezoning to R2A in 1993.

The <u>Central Area Plan</u> includes an extensive action plan framework that addresses several general issues, including: housing and neighborhoods; circulation and parking; development-redevelopment; downtown; parks, open space and public areas; and, historic preservation. Much of the housing and neighborhoods section of the <u>Plan</u> deals with preservation and maintenance of existing housing stock and also blending new development into the existing neighborhoods (beginning page 19). Area-specific recommendations are provided in the <u>Plan</u>'s implementation program. Among the area-specific recommendations for housing and neighborhoods for the study area, the Golden Avenue and the Dewey/Packard/Brookwood portion are identified where the zoning should be changed to protect existing lower-density development (see Map 7, following page 71).

EXISTING CONDITIONS

The study area includes 448 lots spread across 21 blocks. While the area is predominately divided into three zoning districts, R4C, R2A and R1D, there are a total of ten zoning districts found in the area, including R1C Single-Family Residential District, O Office District, C1 Local Business District, C3 Fringe Commercial District, P Parking District, PL Public Land District and PUD Planned Unit Development District. These additional districts are found on the edges of the neighborhood, along Packard Street and East Stadium Boulevard.

This staff report primarily focuses on the 430 lots that are zoned R4C, R2A, R1C and R1D with particular emphasis on those in the R4C and R2A districts.

Zoning District	Number of Lots	Zoning District	Number of Lots
R4C Multiple-Family Residential	111	C1 Local Business	6
R2A Two-Family Residential	116	C3 Fringe Commercial	1
R1C Single-Family Residential	14	P Parking	1
R1D Single-Family Residential	189	PL Public Land	6
O Office	3	PUD Planned Unit Development	1

Nonconforming Lots – The vast majority of lots in the Lower Burns Park neighborhood are nonconforming lots due to insufficient lot size. In fact, 95 percent of the lots in the R4C district are existing nonconforming lots and 98 percent of the lots in the R2A district are existing nonconforming lots. (It should also be noted that 50 percent (95 of 189) of lots in the R1D district are existing nonconforming lots.) As mentioned previously, the neighborhood was generally platted before any zoning regulations were in place. Almost all of the existing nonconforming lots are such by design, meaning that the lots were platted to have less than 5,000 square feet of area, rather than the result of land divisions³. The 1963 Zoning Map dramatically increased the number of existing nonconforming lots by placing many blocks in the R4C or R2A districts, which both have a minimum lot size of 8,500 square feet.

³ In accordance with Section 5:61 of the Zoning Ordinance, when an originally platted lot exists that does not comply with the minimum lot size of its zoning district classification, the lot may still be developed but only for single-family residential use. This allowance applies to any nonconforming lot in any district, including industrial, commercial and office districts. With this provision no existing lot is rendered completely unbuildable by the area, height and placement standards of the Zoning Ordinance.

By definition, any structure on a nonconforming lot is a nonconforming structure because the structure on the lot does not comply with the minimum lot area per dwelling unit as required in the Zoning Ordinance. Section 5:87 of the Zoning Ordinance addresses nonconforming structures. A nonconforming structure may be maintained or restored, but no alteration is permitted unless approved by the Zoning Board of Appeals. The only exception are alterations to a single-family dwelling in an R1, R2, R3, or R4 district, which are allowed with proper building permits. Thus, nonconforming lots may be easily developed and maintained if used for single-family dwellings. Two-family or multiple-family dwellings on nonconforming lots may also be maintained and expanded by approval of the Zoning Board of Appeals if the alteration complies as nearly as practical with the requirements of the zoning district and will not have a detrimental effect on neighboring properties. Alterations are changes that create additional floor area (such as, for example) converting a basement into a bedroom, a greater number of dwelling units or enlarging the dimensions of the building.

Rezoning the R4C and R2A districts to R1D will greatly reduce the number of existing nonconforming lots and, by extension, the number of existing nonconforming structures. The number of existing nonconforming lots in the R4C district would be reduced by approximately two-thirds. In the R2A district, the number of existing nonconforming units would almost be cut in half.

Zoning District	No. Lots	Number Existing Non- conforming	Percentage Existing Non- conforming	Number Made Conforming if R1D	Number Remaining Non- conforming if R1D	Percentage Remaining Non- conforming
R4C	111	106	95%	69	37	33%
Golden Ave.	37	33	89%	25	8	22%
State/Dewey/ Packard	74	73	99%	44	29	39%
R2A	116	114	98%	60	54	47%

Nonconforming Uses – Nonconforming uses are addressed separately from nonconforming lots and nonconforming structures. Currently, any lot in the R4C district that has less than 8,500 square feet and has more than one dwelling unit is considered a nonconforming use. Similarly, any lot in the R2A district that has less than 8,500 square feet and has more than one dwelling unit, or any size and more than two dwelling units, is considered a nonconforming use. Section 5:86 of the Zoning Ordinance addresses nonconforming uses. A nonconforming use may be continued but it cannot be changed to another nonconforming use, cannot be expanded or increased, cannot be re-established after discontinuing for one year, and cannot be re-established if irreparably destroyed. This means that any existing two-family or multiple-family dwellings in the study area may continue as existing if rezoned but could not increase the number of dwelling units and could not be rebuilt if demolished. A change of ownership does not affect nonconforming uses.

There are 29 existing nonconforming uses in the R4C district, usually because a two-family dwelling is located on a lot that is less than 8,500 square feet, a nonconforming lot. Two of the 29 existing nonconforming uses in the R4C district are dental offices. There are 15 existing nonconforming uses in the R2A district, also typically because a two-family dwelling is located on a lot that is less than 8,500 square feet. Two of the 15 existing nonconforming uses in the R2A district are buildings that contain more than two dwellings.

Table 1

Nonconto	orming Uses in the R4C Multiple-Far	nily Dwelling District	
Address	Use	Notes	
1209-1211 Brooklyn Ave	Two-family dwelling	Nonconforming lot	
1104-1106 Brooklyn Ave	Two-family dwelling	Nonconforming lot	
1221 Brooklyn Ave	5-unit multiple-family dwelling	Lot area sufficient for only 4 dwelling units	
1224-1226 Brooklyn Ave	Two-family dwelling	Nonconforming lot	
810 Dewey Ave	Two-family dwelling	Nonconforming lot	
908 Dewey Ave	Two-family dwelling	Nonconforming lot	
942 Dewey Ave	Two-family dwelling	Nonconforming lot	
1424 Golden Ave	9-unit multiple-family dwelling	Lot area sufficient for only 5 dwelling units	
1510 Golden Ave	4-unit multiple-family dwelling	Nonconforming lot	
1518 Golden Ave	Two-family dwelling	Nonconforming lot	
1010 Granger Ave	4-unit multiple-family dwelling	Nonconforming lot	
1310 Packard St	6-unit multiple-family dwelling	Nonconforming lot	
1316 Packard St	Two-family dwelling unit	Nonconforming lot	
1402 Packard St	Two-family dwelling unit	Nonconforming lot	
1406 Packard St	Two-family dwelling unit	Nonconforming lot	
1506 Packard St	6-unit multiple-family dwelling	Nonconforming lot	
1540 Packard St	Two-family dwelling	Nonconforming lot	
1600 Packard St	7-unit multiple-family dwelling	Nonconforming lot	
1602 Packard St	7-unit multiple-family dwelling	Nonconforming lot	
1616 Packard St	Dental office	Nonconforming use	
1700, 1702, 1702 ½ Packard St	Dental office, 2 dwelling units	Nonconforming lot and use	
1015 Rose Ave	Two-family dwelling	Nonconforming lot	
1301 S. State St	Two-family dwelling	Nonconforming lot	
1307 S. State St	Two-family dwelling	Nonconforming lot	
1309 S. State St	5-unit multiple-family dwelling	Nonconforming lot	
1313 S. State St	6-unit multiple-family dwelling	Nonconforming lot	
1319 S. State St	Two-family dwelling	Nonconforming lot	
1327 S. State St	Two-family dwelling	Nonconforming lot	
1407 S. State St	Two-family dwelling	Nonconforming lot	

Table 2

Nonconforming Uses in the R2A Two-Family Dwelling District			
Address	Use	Notes	
901 Granger Ave	Two-family dwelling	Nonconforming lot	
1027 Granger Ave	3-unit multiple-family dwelling	Nonconforming use	
1115 Granger Ave	Two-family dwelling	Nonconforming lot	
1117 Granger Ave	Two-family dwelling	Nonconforming lot	
1119 Granger Ave	9 Granger Ave Two-family dwelling Noncont		
1126 Granger Ave	3-unit multiple-family dwelling	Nonconforming lot and use	
1208 Granger Ave	Two-family dwelling	Nonconforming lot	
1314 Sheehan Ave	Two-family dwelling	Nonconforming lot	
1316 Sheehan Ave	Two-family dwelling	Nonconforming lot	
1321 Sheehan Ave	Two-family dwelling	Nonconforming lot	
900-902 Woodlawn Ave	Two-family dwelling	Nonconforming lot	
914 Woodlawn Ave	Two-family dwelling	Nonconforming lot	
921 Woodlawn Ave	Two-family dwelling	Nonconforming lot	
922 Woodlawn Ave	Two-family dwelling	Nonconforming lot	
1006 Woodlawn Ave	Two-family dwelling	Nonconforming lot	

New Nonconformities – Two new nonconformities would be created by the proposed rezoning. The lot located at the northeast corner of Golden Avenue and Henry Street is a conforming lot in the R4C district. It contains a three-unit multiple-family dwelling, which is a conforming use in the R4C district as well. This lot contains addresses 1527 Golden Avenue, 1101 and 1103 Henry Street. The lot located at the northeast corner of Golden Avenue and Granger Avenue is a conforming lot in the R4C district with an address of 1401 Golden Avenue. It contains a four-unit multiple-family dwelling, which is a conforming use in the R4C district.

These two conforming lots and uses would be made nonconforming if rezoned to R1D. It appears these are the only two examples of existing conforming lots and uses that would become nonconformities.

Rental Properties – Due to its close proximity to the University of Michigan campus, especially the athletic campus, Lower Burns Park is an attractive and popular neighborhood for undergraduate students and, to a lesser extent, graduate students. A sizable percentage of the neighborhood are registered rental properties inspected by City of Ann Arbor housing inspectors on a routine basis. Of the 430 residential lots in the study area, 139 are registered rental properties (32 percent). The registered rental properties are concentrated in the existing R4C districts but many are also present in the two-family and single-family districts.

Zoning District	Rental Properties	Total Properties	Percentage Rental
R4C	72	111	65%
(Golden Ave.)	(14)	(37)	(38%)
(State/Dewey/Packard)	(58)	(74)	(78%)
R2A	37	116	32%
R1C	1	14	7%
R1D	29	189	15%

The number of rental properties will not be affected by the proposed rezoning. Properties may be owner-occupied or rented to tenants regardless of the designated zoning district.

ANALYSIS

On the surface it may seem that rezoning from R4C and R2A to R1D would easily ensure that an existing neighborhood could retain its present character. Based on the comments and questions received in response to the public notices sent to residents, owners and nearby neighbors of the Lower Burns Park neighborhood, it seems that the primary concern is minimizing the potential for assembling two or more lots in order to create larger-scale multiple-family residential buildings.

State/Dewey/Packard – Staff believes that it would be advantageous to assemble lots along South State Street and Packard Street to facilitate larger-scale multiple-family residential buildings. This type of development, on assembled land, would provide several benefits to the City as a whole. First, it would reduce the number of curb cuts, which helps smooth traffic flow on important arterial streets. Second, it would require site plan review, in which case storm water management and natural features protection and mitigation requirements would be required. Finally, it could mean increased density in a location that is most able to accommodate additional dwelling units without a significant change in neighborhood character or impacts to existing residents.

Dewey Avenue, also in the R4C district, has an existing character more in keeping with the blocks to the north than the rest of the Lower Burns Park neighborhood. Staff believes that both sides of Dewey Avenue should considered together for a change in zoning, and ideally should be considered along with the entire R4C district extending northward for a change in zoning. The Central Area Plan area-specific recommendation for rezoning combines Dewey Avenue with Sylvan Avenue, Brookwood Place and parts of White Street. Multiple-family residential uses are appropriate for this general area since it is a neighborhood that is within walking distance to central campus, the University athletic facilities and parts of downtown.

Dwellings in the R4C district may house up to 6 unrelated persons, but dwellings in R1 and R2 districts may only house up to four unrelated persons. Any existing dwelling along Dewey Avenue, if rezoned to R1D, that is currently occupied by five or six unrelated persons could continue their existing occupancy but any dwelling that is currently occupied by four or less must remain at that level of occupancy. Rezoning would create a substantial administrative burden in record keeping and enforcement because of this particular type of nonconforming situation, and could exacerbate existing tensions between owner-occupied properties and rental properties. Perhaps the most appropriate action for Dewey Avenue will come with future planning efforts to re-evaluate the area, height and placement standards for the R4C district throughout the City.

For these reasons, staff recommends keeping the existing R4C zoning designation for the lots fronting South State Street, Dewey Avenue and Packard Street in the study area.

R2A District – This portion of the study area contains the highest percentage of nonconforming lots by zoning district, 98 percent. Rezoning to R1D would halve the percentage of nonconforming lots. However, there would be no change to the existing or future density of this portion of the study area regardless of zoning district. Most existing R2A lots contain a single-family dwelling. Only 15 of 116 lots currently contain a two-family (or more) dwelling. The likelihood that any existing single-family dwellings would be demolished and lots assembled to construct one new, larger two-family dwelling is quite slim. A single-family house is more valuable than one unit in a two-family dwelling. Without being able to increase density to spread land acquisition and construction costs, there is little incentive to acquire two nonconforming

lots, demolish two buildings each with one unit and reconstruct one building with two units on one conforming lot.

Because the total number of dwelling units will generally remain the same with either zoning designation, staff believes the criteria to consider rezoning the R2A district to R1D are generally of a political nature rather than a land use related. It is the opinion of staff that the R2A district should not be rezoned to R1D because it would not appreciably affect the density of the existing neighborhood nor the physical character.

Golden Avenue – This portion of the study area appears at first glance to be an anomaly in an otherwise orderly transition from multiple-family uses in the north, two-family uses in the center and single-family uses in the south. Looking further, Golden Avenue includes the highest percentage of conforming lots and conforming uses in the entire Lower Burns Park neighborhood. Five of its 37 lots meet or exceed the minimum lot size for the R4C district. It contains 11 dwellings with two or more units. Several of these dwellings were constructed about 70 years ago when the neighborhood was first developed.

Yet, considering the surrounding conditions on the east and west sides of Golden Avenue, it may be more appropriate to downzone to R1D. Existing multiple-family residential buildings would be legal nonconforming uses and could remain indefinitely if unchanged from their current configurations. Any new development in the area would then be of the same scale and massing as the adjacent streets to the east and west, as well as the north.

Multiple-family residential projects could still be considered on Golden Avenue, but given the need to maintain the existing development pattern of the neighborhood, they may be best addressed through the planned unit development process. In this manner, existing nonconforming lots could be combined into larger sites and small-scale but high-density developments could be achieved.

<u>Summary</u> – Staff does not support rezoning of the portions of the Lower Burns Park neighborhood along South State Street, Dewey Avenue and Packard Street that are in the R4C district. Staff also does not support rezoning of the existing R2A district centered on Granger Avenue. Staff **does** support rezoning of the R4C district centered on Golden Avenue to R1D and would encourage new development in this portion of the Lower Burns Park neighborhood in the form of planned unit developments. A map of staff's rezoning recommendation is attached for reference.

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Reviewed by Connie Pulcipher and Mark Lloyd

jsj/12/13/07

Attachments:

Existing Zoning Map

Existing Nonconforming Residential Lots Map

Registered Rental Properties Map

Proposed Zoning Map

Proposed Nonconforming Lots Map

c: City Attorney Systems Planning File No. 9333V11.2









