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TO: Mayor and Council

FROM: Howard S. Lazarus, City Administrator

CC: Derek Delacourt, Community Services Area Administrator  
Raymond Hess, Transportation Manager  
Craig Hupy, Public Services Area Administrator  
Nick Hutchinson, City Engineer  
Brett Lenart, Planning Manager  
Colin Smith, Parks & Recreation Manager

SUBJECT: August 5 Council Agenda Responses

DATE: August 1, 2019

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**AC-4 - Memorandum from City Administrator: Status Updates on Resolutions R-19-112, R-19-110, and R-19-138**

**Question:** Regarding the Administrative update on R-19-112, I need clarification about what progress has actually made since March 18, 2019, when we asked for a report on potential regulation of short-term rentals properties in the city. Has the city hired a consultant for assistance? Who is the consultant? (Councilmember Nelson)

**Response:** Yes, staff is utilizing Carlisle Wortman Associates who is under a continuing services contract with the City for this type of work. The funds approved as part of the budget did not become available until July 1<sup>st</sup>.

**Question:** In the update, what does “proposed study scope” refer to? Is it suggested we don’t actually know enough about short-term rentals in our community to identify problems and concerns? (Councilmember Nelson)

**Response:** Correct. The goal of the scope is to further understand the extent of short-term rentals, establish a consensus on what the community issues are, and receive feedback from City Council and the community on what the goals of potential regulation/prohibition are.

**Question:** There is significant community conversation already around short-term rentals, among both long-established and recently-organized community groups. For the purpose of “community engagement” and “identification of goals” would it be helpful to form a task force of community members to discuss strategies? (Councilmember Nelson)

**Response:** It is currently staff’s intent to seek a broad community conversation to understand the impact of short term rentals. If it is Council’s preference to establish a task force, staff recommends it be structured to include diverse perspectives (e.g. include residents, short term rental owners, short term rental operators (both owner-occupied and rental based), etc.). Additional resources may be necessary to conduct both a community conversation and staff an ongoing task force, but staff welcomes the exploration of approaches.

**Question:** Since March 18, 2019, have we received any information or legal background on how other communities have regulated short-term rentals? (Councilmember Nelson)

**Response:** Yes, before and after the March date, staff from Community Services and the Attorney’s Office have monitored other communities attempts to encourage, regulate, prohibit and/or enforce short term rentals. In addition there is a significant amount of information available through the Michigan Municipal League, the Michigan Association of Planning and the American Association of Planning on the topic. While such information has not been provided to City Council, it will be considered during the development of any proposed regulations.

**Question:** How will the proposed community engagement be executed? (Councilmember Ramlawi)

**Response:** Staff anticipates engaging a broad spectrum of the community as part of the process, engagement will hopefully include residents, owner-occupied short term rental owners and non-owner occupied owners. As funding became available July 1st staff is just beginning the process of finalizing the engagement plan. It is anticipated that the first step will be to gain a consensus form City Council of what the issues with short term rentals are and what the a successful solution looks like for the Community.

**Question:** How many stages of analysis will be needed before policy implementation can occur? What is the earliest the community can expect to see policy be debated? (Councilmember Ramlawi)

**Response:** First it is important to determine what issues we are trying to address through regulation/prohibition, there is a wide range of concerns and thoughts on what short term rental is and should be. Staff will evaluate other communities’ actions and accepted common best practices including enforcement options, (there is no shortage of attempts and methods that have been used to regulate/prohibit this type of use). Public input will be sought form a broad range of stakeholders and ultimately a series of options will be presented to Council for consideration.

Discussion with Council and the public will take place over the next 30 – 90 days with recommendations/options provided to Council within 90 - 180 days.

Policy determination and implementation timeframes will be determined by Council.

**Question:** Are there current State laws that prevent local municipalities from changing an excise tax on Airbnb's? (Councilmember Ramlawi)

**Response:** Staff will need time to look into this.

**CA-15 – Resolution to Appropriate Funds for Fieldwork, Soil Samples, Laboratory Testing, and Development of a Remediation Plan at Leslie Science and Nature Center (\$96,800.00) (8 Votes Required)**

**Question:** Is it correct to assume that this contract was not competitively bid because of the urgency of the problem? (Councilmember Eaton)

**Response:** Yes, the fact that there was programming on the site and we did not know the extent of the issue it was important to start investigation as soon as possible.

**C-1 – An Ordinance to Amend Section 5.15, Table 5-15 and Section 5.16.6 of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor (Office District Permitted Uses, Accessory Restaurant/Bar/Food Service Use Specific Standards)**

**Question:** In the staff report, I see that this proposed change originated with an “owner and manager of several office developments.” Who would that be? (Councilmember Nelson)

**Response:** The petition is from Oxford Properties.

**Question:** I note that in the staff report from the Planning Commission public hearing (3/19/19) that under the parameters first proposed, this ordinance change would have applied to only two privately-held properties (both at S. State commons). As currently proposed, is it correct that every building zoned O could dedicate 10% of floor area to restaurant/food service? (Councilmember Nelson)

**Response:** Yes, the proposed language would now apply to every property zoned O – Office.

**Question:** Did staff identify how many existing buildings zoned Office District were large enough to include a viable restaurant? (Councilmember Eaton)

**Response:** No, staff didn't make assumptions of food service viability based on size. However, staff did provide additional data and background information to the Planning Commission for their working session discussion in a memo dated April 9, 2019 (attached). There are approximately 70 office districts in the city ranging in size from 6,000 square feet to 3,600,000 square feet. The average size of a coffee shop is 2,000 square feet and a full service chain restaurant is 5,000-8,000 square feet. The Tasty Green Café, located in City Hall, is 500 square feet.

**DC – 2 – Resolution to Direct the City Administrator to Review the City's Policies on Assessing Fees for Freedom of Information Act (FOIA) and Provide Alternatives and Recommendations to Council that Promote Transparency and the Public Interest**

**Question:** What constitutes a "reputable media outlet"? For example, which of the following would fit into that category? (Councilmember Grand)

1. MLive
2. The Ann Arbor Observer
3. A2Indy
4. Mgoblog
5. Current Magazine

**Response:** The resolution directs the City Administrator and City Attorney to review the City's current policy and examine applicable best practices. Part of that review will include whether there is a workable definition of "reputable media outlets."

**DS-1 - Resolution to Proceed with a Road Reconfiguration and Safety Enhancement Project for Earhart Road, from US-23 to South Waldenwood Drive and Appropriate \$34,500.00 and \$40,500.00 Respectively from the General Fund and Alternative Transportation Fund Balances (8 Votes Required)**

**Question:** Is there any literature or engineering standards that recommend the use of "paint and removable devices such as plastic delineators" for test reconfigurations such as this resolution proposes? (Councilmember Eaton)

**Response:** Paint and removable devices are tools commonly used for "tactical urbanism." Tactical Urbanism began as a grass-roots movement using flexible and short term projects to advance long-term goals related to street safety, public space and more (<http://tacticalurbanismguide.com/about/>). Government agencies quickly saw the public value in experimenting with design changes through low cost means as an easy way to implement some types of projects, garner public understanding of changes, and refine proposed infrastructure changes in a cost effective way. Tactical or pilot project delivery uses standard traffic control tools such as pavement markings, signs, flexible delineators, and temporary curb elements to install projects such as protected bike lanes, and

temporary curbing. The National Association of City Transportation Officials (NACTO) provides a variety of resources and training on how to provide this style of project delivery (e.g. <https://nacto.org/event/designingcities-2017-tactical-urbanism-quick-changes-on-the-ground/>). Additionally, staff attended MDOT sponsored bicycle design training this week that emphasized the importance of using pavement marking and flexible post delineators to provide this type of pilot project.

### **DS-2 - Resolution to Proceed with a Road Reconfiguration Pilot for Traverwood Drive, from Huron Parkway to Plymouth Road**

**Question:** Is there any literature or engineering standards that recommend the installation of on-street parking where none previously existed as a best practice for improving bicycle safety? (Councilmember Eaton)

**Response:** Staff have not been able to identify recent research on this topic, nor have any crash modification factors been identified for this type of change. On street parking may provide a traffic calming effect on the road as well as provide a buffer for pedestrians on the sidewalk; conversely there are additional conflict points where parking would be permitted. In the instance of Traverwood, the share the road arrow (or sharrow) will be placed in such a manner to guide cyclists to avoid “dooring” from cars. Staff evaluated on-street buffered bike lanes on both sides of the street and determined this would be technically feasible but would not be responsive to requests for on-street parking.

### **DS-3 - Resolution to Proceed with a Road Reconfiguration Pilot for Green Road, from Burbank Drive to Plymouth Road**

**Question:** Did the staff study of this proposed reconfiguration include a count of how many trucks use this section of Green Road and include any consideration of the impact of 10 foot lanes on that truck traffic? (Councilmember Eaton)

**Response:** Yes. Vehicular traffic comprised of vehicles larger than a personal/passenger vehicles has been measured at 2%. This percentage represents a very small portion of traffic. Please note that the normative design width of commercial (box truck) and semi-trailer vehicles is 8.5’ or less, so a 10’ lane is adequate to address truck movement.

**Question:** Did the staff study of this section of road consider the additional traffic anticipated from the proposed commercial development at the site formerly occupied by Red Roof Inn? (Councilmember Eaton)

**Response:** Potential changes to the Red Roof Inn site were taken into account on the basis of the site plans received by the City, and under review by staff, at the time of our analysis.

## MEMORANDUM

TO: Planning Commission

FROM: Planning Staff

DATE: April 9, 2019

SUBJECT: Amendment to UDC to allow restaurant, bar and food service use in O district with use specific standards

A petition to amend the UDC to allow restaurant, bar and food service use in the O district with use specific standards was postponed on March 19, 2019 for further discussion at a working session.

The proposed petition amended Table 5-15 in Section 5.15 to identify restaurant, bar and food service use with a P in the O district column and cross reference to Section 5.16.3.L, and added standards for this use/district combination to Section 5.16.3.L.

With the proposed standards requiring a minimum lot size of 4 acres and a minimum floor area of 100,000 square feet, the amendment would offer the option to develop restaurant use on three sites, at 777 East Eisenhower Parkway, 789 East Eisenhower Parkway, and 2723 South State Street. Planning Commission asked staff to explore options and impacts of lowering the proposed standards so that more sites could be eligible to develop restaurant use.

### **Additional Data and Background Information**

Planning Commission asked for additional data and background information to help inform a working session discussion about expanding the opportunities for restaurant use in O districts. In no particular order:

- a. The O district is a mixed use zoning district (section 5.12) intended “primarily for office buildings. The office district classification will be applied as a transitional use buffer between residential uses and nonresidential and special purpose<sup>1</sup> uses which would be incompatible in direct contact with residential zoning districts(section 5.12.1).”
- b. The average size of a ...
  1. coffee or bagel shop = 2,000 square feet
  2. convenience store, such as 7-Eleven or Circle K = 2,000 to 4,000 square feet

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<sup>1</sup> Nonresidential and special purpose districts (section 5.13) include R5 Hotel, P Parking, PL Public Land, RE Research, ORL Office/Research/Limited Industrial, M1 Limited Industrial, M1A Limited Light Industrial, M2 Heavy Industrial and PUD Planned Unit Development.

3. full service chain restaurant = 5,000 to 8,000 square feet
  4. small grocery store, such as ALDI or Busch's = 10,000 to 30,000 square feet
  5. big box retailer, such as Target or Meijer = 100,000 to 200,000 square feet
- c. The location of office districts falls into two very loose categories:
1. As buffers between commercial areas or major roads and residential neighborhoods



Figure 1 - Example of O district as buffer between commercial area and residential neighborhood (Collingwood Dr between Jackson and Fair St)



Figure 2 - Example of O district as buffer between major road and residential neighborhood (South Main, south of Pauline Blvd)

## 2. Creating modern office complexes

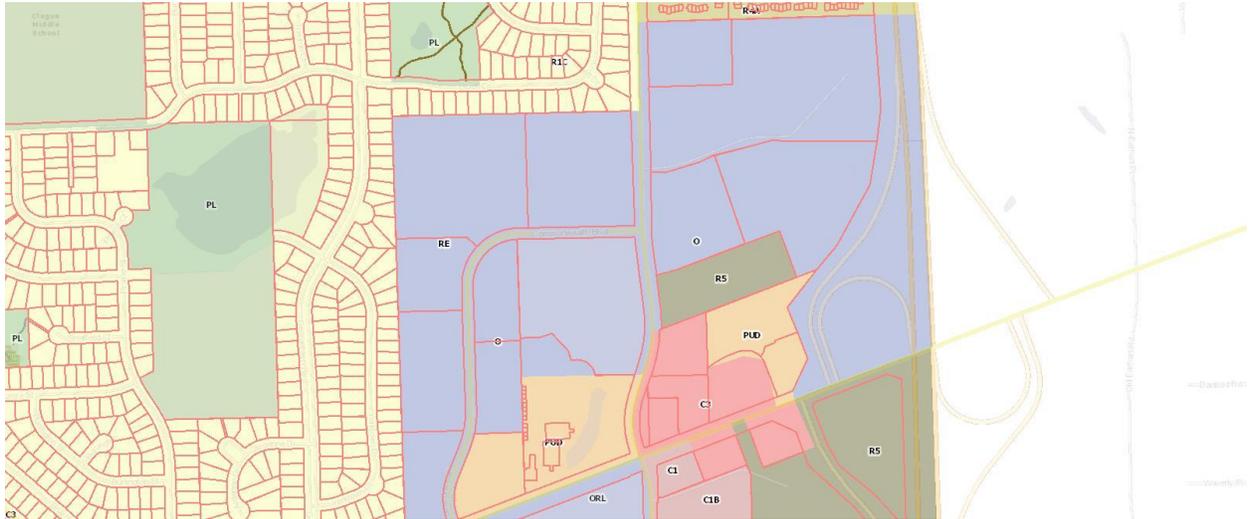


Figure 3 - Example of O district creating office complex (Green Road north of Plymouth Road)

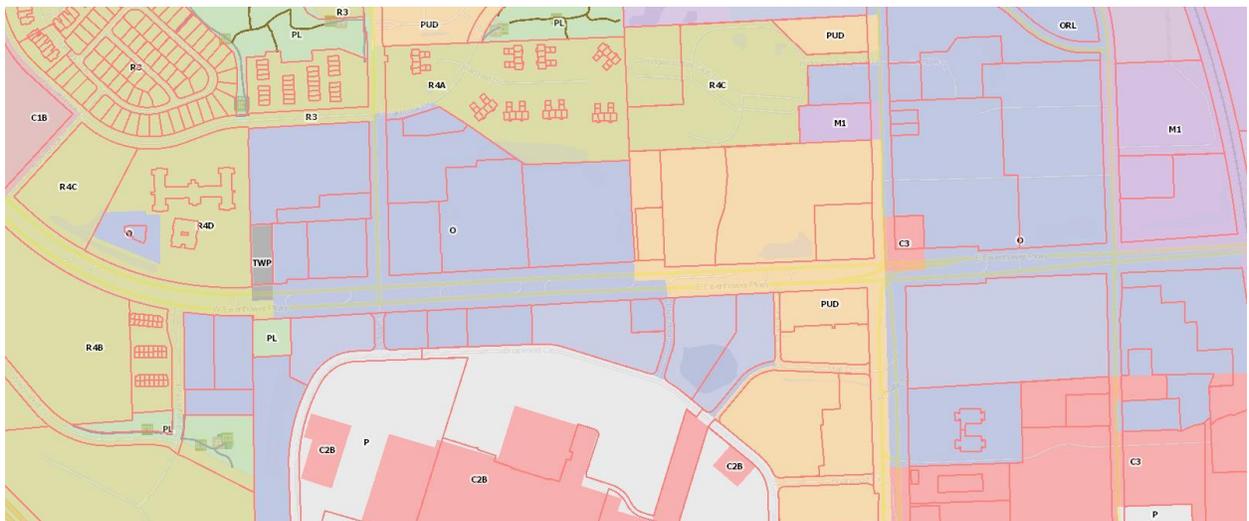


Figure 4 - Example of O district creating office complex (South Main Street at West Eisenhower Boulevard)

- d. There are approximately 70 office districts in the city ranging in size from 6,000 square feet to 3,600,000 square feet (82 acres).
- e. The amount of land zoned office is similar to the land zoned commercial. There are 21,911,090 square feet of land zoned O and 29,067,110 square feet of land zoned C or D. That's about 500 acres zoned O and 667 acres zoned C or D.

## **Options and Considerations**

Staff offer the following options to consider to shape the proposed text amendment. Please discuss and recommend one to be presented as a revised amendment at a continued public hearing.

- I. Lower, or eliminate, the proposed thresholds for lot area and building size. This would increase the number of eligible sites that could host a restaurant in addition to office use. It would apply throughout the city anywhere there is office zoning as long as the criteria are met.

This approach offers the least protections in terms of minimizing competition or cannibalizing nearby commercial areas, and maintaining the intent of office districts as buffers to residential neighborhoods, but does offer the greatest opportunity to move the office district further into a mixed use zone as well as offer the greatest transparency to office land owners.

- II. Allow restaurant use in proportion to office use. Staff suggest 10% of the floor area in an office district could be restaurant use. A threshold criteria could be when the floor area of the restaurant itself, or the entire parcel, is at least 300 feet from the boundary of any residential zoning district. Ten percent is the same allowance for retail uses in special purpose zoning districts. Three hundred feet is the current setback required for unlimited building height in the O district.

The restaurant use would be then a permitted use in the O district, allowed anywhere there is office zoning as long as the criteria are met. It offers basic protections against negative impacts while still being straightforward and has a predictable approval process for applicants.

- III. Allow restaurant use as a special exception use. Restaurants could be allowed with or without threshold criteria – minimum lot size requirements, maximum restaurant floor area allowances – but with specific approval standards that are focused on achieving Planning Commission's goals, and specific conditions could be required for each restaurant. For example, preference could be given to petitions that have no commercial areas, or existing restaurants, within walking distance, and

This approach would ensure minimizing any impacts to nearby established commercial areas and adjacent residential neighborhoods, but would add uncertainty to the approval process for potential applicants. It has the lowest approval predictability for applicants which may artificially limit the number of new restaurant uses.