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**Subject:** Campus Business Zoning issues

Planning Commissioners,

I hope you had the opportunity to read the lengthy document I recently sent to you. I also offer these thoughts to contemplate for tonight's discussion.

**C1A and C1A/R are core area zoning categories.** While a case could be made to stretch the boundaries a little, perhaps to immediately adjacent properties, that would have more to do with the expansion of the urban core characteristic, not the sign on a U of M building. The characteristics of these categories are specifically designed for urban core areas, like D1 and D2 are. They are not to be used elsewhere where that characteristic and the standards and requirements of those zoning categories do not fit.

**The Campus Business District is the Gown part of our Town and Gown downtown urban core areas.** It is essentially along South University Ave along with the streets immediately abutting it to the south, and the State and Packard intersection. It is not anything simply called "Campus"; it is the **Campus Business District**. It isn't merely defined by physical location but also by characteristics. Urban Core zoning categories have requirements and standards particular to the characteristics of an urban core. Picture either the Town or Gown urban core and certain things make sense like small front setbacks and zero side setbacks, but those things wouldn't make sense in a neighborhood. Urban core characteristics usually include taller heights, greater density, less parking, and more flexibility in mixed use. Picture the herds of undergrads walking up and down South University Ave going to class or finding a place for a meal or beverage. Our planning documents and zoning code support such an urban core and differentiated our town and gown urban cores from other areas of the city. After a study of these core areas, some of the gown core was changed to D1 and D2 which we have in the town core, and a couple gown zoning categories were dropped. C1A and C1A/R were actually contemplated being dropped and similarly replaced. When these categories were created and later changed, the basic boundaries of what our urban cores were did not change!

**Transition Zoning:**

The city deliberately created a transition zoning category, D2. Here is the text from the UDC:

**D2 - Downtown Interface District**

This district is intended to be an area of transition between the D1 and surrounding residential neighborhoods. This district is appropriate for medium density residential and mixed-use Development.

Additionally, when a mixed use zoning district abuts a residential district, the setbacks and sometimes heights are changed (see the footnotes in Table 5:17-4 and the full Table 5:17-6 on pages 60 and 62 of the UDC) to create a buffer between the core area and the neighboring residential area. For example, the South University Overlay says: "For D1 a minimum 30-foot setback from a Lot Line abutting any R zoning district. For D2, a minimum 40-foot setback. This setback shall be measured from the rear and side exterior walls of the Building to any R zoning district boundary on the same block as the Building."

The concept of a core and a transition between it and what lies beyond the core was clearly the intention of creating and later modifying D2 in our zoning ordinance. Allowing core zoning categories beyond that transition zone defies our planning and zoning documents and philosophy. It is absurd to deliberately create a transition zone, then increase the intensity or height beyond that transition zone. If we want to do that, for example to create some mini-downtowns or mixed use hubs on transit corridors, we could, but we would have to do that with a master plan revision and some new zoning categories. Our current master plan and zoning ordinance do not support that.

#### **Premiums:**

Here is the text from the UDC for Premiums:

#### **5.18.6 Premiums and Affordable Housing**

A premium is an increase in allowable Floor Area to exceed the normal maximum Floor Area Ratio established by this chapter for Structures in the **C1A, C1A/R, D1 and D2 Zoning Districts**.

##### **A. Purpose**

The intent of incorporating premiums into this chapter is:

1. To provide an incentive for residential development in and in close proximity to the City's downtown and to encourage affordable housing opportunities in situations where such opportunities might not otherwise be provided.
2. To encourage Development which reinforces pedestrian activity along streets within the central Business core and to achieve a greater mixture of land uses and intensities than might occur in the absence of such premiums in order to strengthen the economic vitality and diversity which is essential to a healthy and vibrant street life.

**Notice which zoning categories allow these premiums and what they have in common? They are the urban core and the urban core transition categories.** Also, the city recently changed the premiums to encourage creation of more affordable housing units or more money to the affordable housing fund. Allowing Campus Business District zoning outside of the urban core and transition area effectively allows developers to get "premiums" without the required tradeoff such as additional affordable housing. Properties all over the city outside the core will get to increase their allowable density without adding any benefit to the city (other than more market rate housing).

#### **Conditional Zoning:**

The city of Ann Arbor should be more careful about conditional zoning. The conditional zoning originally recommended for 325 E. Summit, The Garnet, clearly was in the category of

conditional zoning that the courts do not support. Conditions are supposed to benefit the community not merely benefit the applicant.

I have a 10MB document that has excerpts and comments on many legal cases around the country specifically about conditional zoning. Yes, I read the whole thing. If anyone wants it, I'll share it. It is from "the" treatise on zoning law.

Here are some applicable highlights from it:

- "In this respect, a rezoning with conditions may be held invalid where the police power is bargained away, where the conditions imposed are illegal or unreasonable or where the rezoning primarily furthers private interests rather than the general welfare or otherwise constitutes illegal spot zoning."
- "courts approving of rezoning with conditions have held such rezonings invalid when found to primarily benefit a private owner rather than the general welfare or when such action constitutes otherwise illegal spot zoning."
- "the imposition of restrictive conditions usually benefits the surrounding properties and adversely affects the owner of the rezoned"

I look forward to tonight's meeting.

Thank you,

Tom