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TO: Mayor and Council

FROM: Howard S. Lazarus, City Administrator

CC: Derek Delacourt Community Services Area Administrator  
Craig Hupy, Public Services Area Administrator  
Nicholas Hutchinson, City Engineer  
Brett Lenart, Planning Manager  
Colin Smith, Parks and Recreation Manager  
Robyn S. Wilkerson, Human Resources and Labor Relations Director

SUBJECT: Council Agenda Responses

DATE: November 20, 2017

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**CA-2 - Resolution to Appropriate Necessary Funds for Return of DDA Grant Award for Farmers Market Project (\$175,000.00) (8 Votes Required)**

**Question:** Q. Regarding CA-2, can you please remind me what the funding shortfall was vs. the bid amounts and also please provide an update on the current thinking in terms of next steps (rebid again and/or identify additional funding sources)?  
(Councilmember Lumm)

**Response:** The Market Infrastructure Improvement Project was first put out for bid in September 2016. Bids received significantly exceeded the cost estimate. A total project budget had been identified as \$875,000.00, comprised of various funding sources. The low bid for the construction portion of the project came in at almost \$1,200,000.00. Staff met with the low bidder to explore opportunities for lowering the contract amount while retaining the integrity of the project and lowered the cost to \$1,157,637.00. While some progress was made, the total project budget for construction, design, contingency, and construction oversight resulted in a total project budget of approximately \$1,375,000.00, equating to a shortfall of approximately \$500,000.00 in funding.

Staff rebid the project in April 2017, incorporating changes that had been identified as cost reductions after the first bid. Unfortunately, the low bid for construction came in at just under \$1,250,000.00. Factoring in design, contingency, and construction oversight the total project budget necessary is approximately \$1,500,000.00, or approximately \$625,000.00 higher than the original project budget. Staff worked to identify additional funds. The Downtown Development Authority committed another \$200,000.00 to fund parking related aspects of the project, the Public Market Advisory Commission supported the use of an additional \$100,000.00 from available designated funds, and developer contributions for the Market were identified. Despite this the project budget remained underfunded by \$137,667.00, not including developer contributions in the amount of \$119,875.00 that are identified but not yet received.

When faced with this budget shortfall and considering other infrastructure repairs the existing Market structure will require in the coming years, staff consider it prudent to not move ahead with construction of the new building at this time. Next steps scheduled for the Market in the coming year include parking lot resurfacing, concrete work, light replacement, gutter replacement, and sand blasting of columns. These improvements will be performed in such a way that if additional funding is secured the all-season structure can be built, understanding the project's site plan is approved for a three-year period. Staff will continue to explore additional funding sources and opportunities to move the approved site plan ahead.

**PH-1/B-1 - An Ordinance to Amend Chapter 55 (Zoning), Zoning of 6.4 Acres from PUD (Planned Unit Development) to C1A/R (Campus Business Residential District) WITH CONDITIONS, 1140 Broadway Rezoning, (CPC Recommendation: Approval - 6 Yeas and 1 Nays) (Ordinance No. ORD-17-17)**

**PH-2/DB-1 - Resolution to Approve 1140 Broadway Planned Project Site Plan and Development Agreement, with Modifications to Chapter 62 Landscaping and Screening (CPC Recommendation: Approval - 6 Yeas and 1 Nays)**

**PH-3/DB-2 - Resolution to Approve the 1140 Broadway Brownfield Plan**

**Question:** Q1. In an effort to gain a better understanding of C1A/R zoning, I asked on November 9<sup>th</sup> for staff's view on what constitutes "near" campus. The response was that it is not defined in the ordinance and is subject to interpretation. I understand it's not defined and is subject to interpretation, and what I'm interested in is staff's view on the question. Can you please provide staff's interpretation of "near"? (Councilmember Lumm)

**Response:** Staff's opinion of near is within walking distance. Walking distance is commonly defined as a 5 to 10-minute walk, or about ¼ to ½ mile. As a benchmark, the City's PROS plan recommends a park within ¼ mile of every residence. A map indicating ½ mile buffer is attached.

**Question:** Q2. On November 9<sup>th</sup>, I also asked what staff's view/interpretation was of the minimum percentage of retail/commercial in a development that qualifies it as "mixed use." Similar to the response to my question on what constitutes "near", the response on this was that it was not defined in the ordinance. Please provide staff's interpretation of what is the minimum retail or commercial percentage for it to be "mixed use"? (Councilmember Lumm)

**Response:** The definition of mixed use is a development with two or more uses. The proposed development qualifies as mixed use. Staff's interpretation of the minimum retail or commercial percentage for something to be "mixed-use" would be any portion greater than 0%.

**Question:** Q3. On November 9<sup>th</sup>, CM Kailasapathy asked when the last C1A/R approval was, but because the computers were down the question could not be answered. The communication we received from Ms. Friedlaender indicated the last C1A/R development was in the late 1960's. Can you please confirm if that is accurate? (Councilmember Lumm)

**Response:** Yes, this appears to be accurate.

**Question:** Q4. The response to my question regarding the brownfield and the \$2.8M reimbursement was, "That amount is based on City staff's analysis of the loss of revenue, from restricting 15 units of housing at reduced rent levels to ensure affordability for households at or below 60% of area median income. This amount is being used as a benchmark to support a portion of the parking structure, which is an eligible activity under the State's brownfield legislation. Using this benchmark and activity is due to the fact that affordable housing units are not an eligible brownfield activity." If the intent is to provide a taxpayer-funded reimbursement for affordable housing (and it seems by this response that it is) which is an ineligible activity, how is this not in violation of the legislation (either legally and/or the spirit/intent)? Is it typical with brownfields to fund an ineligible activity by simply saying it's for something else? Also, is this "swap" of uses disclosed to the County and the State? (Councilmember Lumm)

**Response:** It is not in violation of the legislation, as reimbursement for a parking structure is an appropriate cost. The City could choose to support this activity at any level, from zero to total costs (\$10M plus). The City has flexibility in applying criteria to determine a level of support. The Michigan Economic Development Corporation has been made aware of the proposed approach (considering provision and cost of providing affordable units), and has expressed support for the City's analysis.

**Question:** Q5. In an email Council received Friday that was a detailed response to the opposition on 1140 Broadway, it stated that "this developer must clean-up a \$6+M pollution plume and must widen the sidewalks, build 2 turn lanes and a series of electrified crosswalks on Maiden Lane, put a roundabout on Broadway, create bicycle infrastructure, relocate power poles along both streets." Aren't all of these costs part of

the brownfield reimbursement and actually paid by taxpayers and not the developer? (Councilmember Lumm)

**Response:** Yes, the majority of these costs are being proposed for reimbursement by the proposed Brownfield Plan. If the Brownfield Plan was not approved, they would still be requirements of the proposed development.

**Question:** Q6. There are minor differences in the two cover memos (B-1 and DB-1). B-1 indicates the buildings are 813,000 sq. ft. and there are 610 units. DB-1 says 818,074 sq. ft. and 620 units. Can you please confirm which is accurate? (Councilmember Lumm)

**Response:** The transmittal memo for B-1, the rezoning petition, was prepared in mid-September for the first reading of the ordinance to rezone held on October 2, 2017. After first reading, the developer redesigned the southwest corner of Building C. The transmittal memo for DB-1, the site plan, was prepared in mid-October for the November 9<sup>th</sup> Council meeting and reflects the most recent version of the site plan. Please refer to the last bullet point in the DB-1 transmittal memo for the accurate numbers (818,074 square feet and 620 units).

**PH-4/DB-3 - Resolution to Approve Weber Site Plan and Development Agreement, 2857 Packard Road (CPC Recommendation: Approval - 0 Yeas and 7 Nays)**

**Question:** Does staff believe that site alternative 1 would be able to pass natural areas feature review? (Councilmember Warpehoski)

**Response:** Yes, staff believes that site alternative 1 would meet natural features criteria. This was noted in staff comments from Natural Resources Review #5, which were provided to the petitioner.

**C-1 - An Ordinance to Amend Chapter 55 (Zoning), Rezoning of 0.54 Acres from PUD (Planned Unit Development District) to PUD (Planned Unit Development District), The Glen Mixed Use Development PUD Zoning and Supplemental Regulations, 201, 213, 215, 217 Glen Avenue and 1025 East Ann Street (CPC Recommendation: Approval - 6 Yeas and 1 Nays)**

**Question:** Would the petitioner be willing to fund an evaluation of converting that block of Ann St. To 2-way traffic? (Councilmember Warpehoski)

**Response:** Staff estimates this study would cost approximately \$15,000, and the petitioner has indicated that they would be willing to support this. Please note that this number does not include implementation, which would likely include reconfiguration of

striping, removal of on-street parking in the area, and potential for intersection adjustments.

**Question:** Q1. The Old Fourth Ward Neighborhood Association has made two suggestions to improve the traffic flow in the area (1) making E. Ann a two-way street in the small section from Glen to the hotel entrance and (2) creating a left turn lane on Northbound Glen and allowing left turns onto Ann Street. Can city traffic engineering staff please comment on the pros and cons of both of those recommendations? (Councilmember Lumm)

**Response:** Converting a small section of Ann Street from Glen to the hotel entrance is not recommended. For reasons including traffic operations and safety, it very uncommon to have a segment of a block carrying one-way traffic and the rest carrying two-way traffic. Regarding adding a turn lane on northbound Glen approaching Ann, this will be evaluated as part of the alternative evaluation study. Challenges with adding a turn lane include limited existing pavement width to accommodate buses making northbound right-turning vehicles.

**Question:** Q2. It also was suggested that (since valet parking is such an important element of the traffic flow and parking plan) that a minimum number of valet attendants be formally incorporated into the PUD/agreement. Can staff please comment on that suggestion as well including any legal or other reason why that can't (or shouldn't) be done? (Councilmember Lumm)

**Response:** PUD Supplemental Regulations may regulate allowed land uses; area, height, and placement requirements; off-street parking requirements; and landscape and screening. Valet staffing however, is more operational and enforcement would be difficult to impossible. When PUD requirements shift from zoning and site-based requirements, toward such operational requirements, it has the potential to unreasonably create expectations that can't be met.

**Question:** Q3. Another suggestion that's been made is to possibly eliminate the Glen drop-off lane and move it to Ann Street. Can staff please comment on the advantages/disadvantages of that change as well? (Councilmember Lumm)

**Response:** Engineering staff cannot fully address this question. Drop-off lane provides convenience to hotel customers and may reduce vehicular traffic in the area. Valet operations using the drop-off lane do not reduce traffic in the area. The proposed drop-off lane is accommodated by shifting the sidewalk.

**Question:** Q4. The Old Fourth Ward communication referenced the city-designated parking spaces on Ann St. (from Division to State) and that there was a "promise" that those spaces would be returned to the neighborhood. How many spaces are involved, and can you please clarify what the City told the neighborhood and if it was that the

spaces would be returned to the neighborhood, why hasn't that been done?  
(Councilmember Lumm)

**Response:** Ann Street between Division and State did not have on-street parking previously. As confirmed by Google street view and aerial photography from 2007, the street carried one-way eastbound traffic with no on-street parking.

**Question:** Q5. The Planning Staff report covered the history of the site including the Historic District Commission's past actions, the related court consent judgements, and the 2015 HDC denial and subsequent Notice to Proceed. Do those prior court judgements and/or more recent HDC actions have any bearing (legally) on Council's decision now? (Councilmember Lumm)

**Response:** No, they are provided as background information only.

**Question:** Q6. The supplemental regulations (Section 3 paragraph C and D) reference the site clean-up and it's my understanding there is no brownfield or other request for public funding support for the clean-up. Can you please confirm that is correct and what would be the approximate increase in taxable value (and city revenue) from the project once it's completed? (Councilmember Lumm)

**Response:** It is correct that no brownfield or other public funding is being requested. Staff has no information on the projected taxable value of this project.

**DC-1 - Resolution to Approve the 2017-2019 Ann Arbor Police Officers Association Collective Bargaining Agreement Mandated by the Act 312 Award (8 Votes Required)**

**Question:** Q1. What is the tuition reimbursement amount per year for non-union employees and for the other, larger represented groups (AFSCME, Fire)?  
(Councilmember Lumm)

**Response:**  
Non-Union, AC, DC, AAPOA - \$5000

AFSCME, Teamster Civ Sup, PPA, PSS and COAM – in negotiations; current amount is \$2500

**Question:** Q2. One of the contract changes is "an increase in the employee cost of purchase of military time for pension purposes from 5% to 6%." Can you please explain how that program works - specifically, if an employee leaves city employment for military service and returns, what is their date of service, does the time they serve in the military fully count as city service, and what does the 5% represent (5% of what)?  
(Councilmember Lumm)

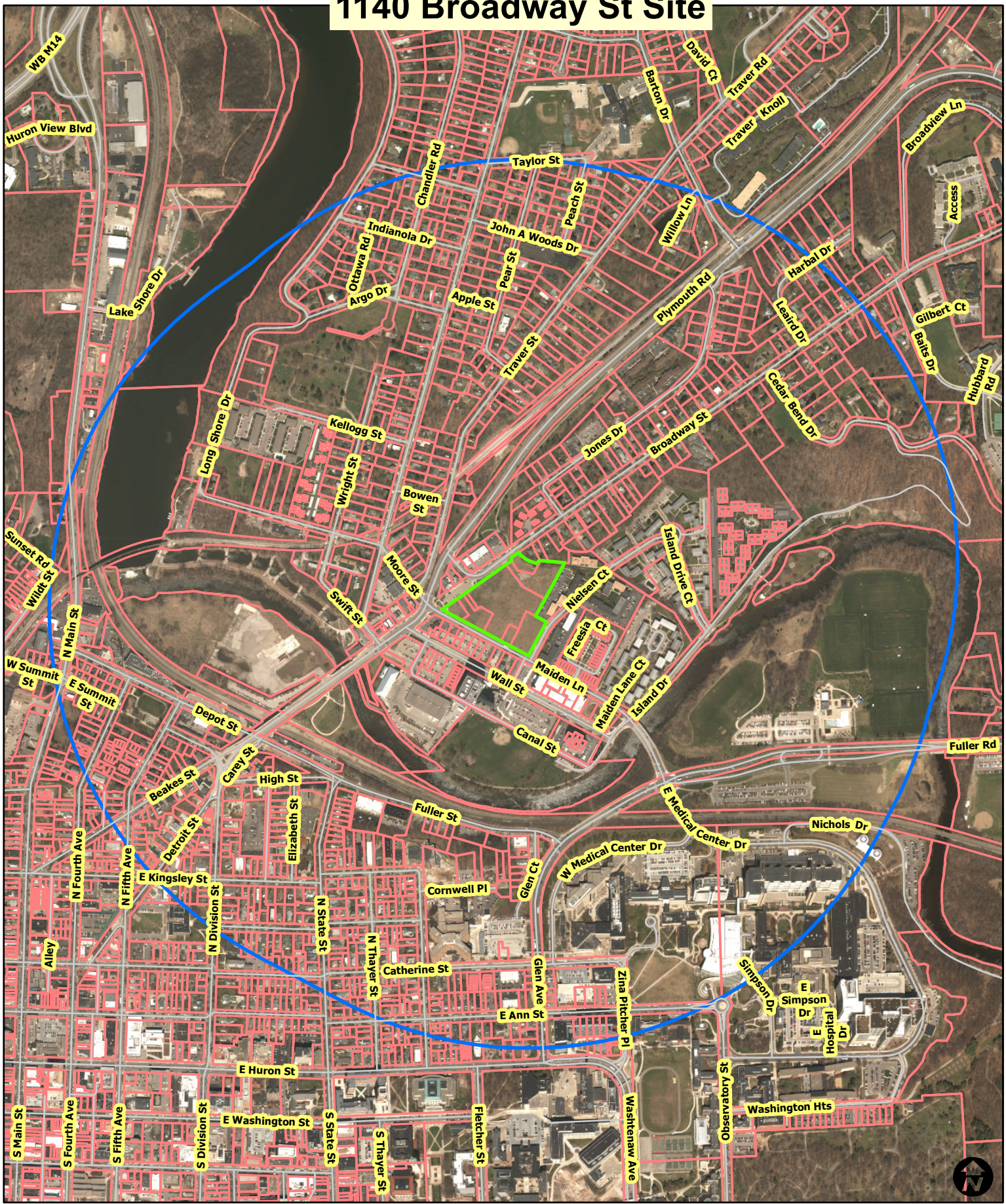
**Response:** This match strictly deals with military service that occurred before City employment. The change brings the military buy back contribution up to the current employee pension contribution of 6%.

Military time that occurs while employed by the City is governed by USERRA.

**Question:** Q3. Other City employee groups have moved to a new dual pension plan for new hires, but it appears that is not the case in the Police agreement - is that correct? Also, can you please confirm that the dual plan for new hires was included in the city's position going in to arbitration, and if not, why wasn't it (given other groups now have the dual plan for new hires)? (Councilmember Lumm)

**Response:** The dual (hybrid) plan was presented in Act 312 arbitration, but was rejected by the arbitrator.

# 1140 Broadway St Site



- 1140 Broadway St Site Half Mile Buffer
- 1140 Broadway St Site
- Tax Parcels



Map date 11/20/2017  
 Any aerial imagery is circa 2015  
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