

From: Scott Trudeau <scott.trudeau@gmail.com>

Sent: Thursday, May 18, 2023 10:17 PM

To: Lisa Disch

Cc: Briggs, Erica <EBriggs@a2gov.org>; Sarah Mills; Gibb-Randall, Shannon; Planning <Planning@a2gov.org>

Subject: Re: Following up from last night

Hi Lisa,

[cc'ing planning@ on this email because these are thoughts I also want to share with Sarah & Shannan and want to make sure it is appropriately recorded related to planning commission business]

Thanks for this response.

I very much disagree with your stance on this rezoning. I think the C1A/R zoning district is appropriate for this site. Its purpose, as defined in the UDC, is to enable high density residential and a mix of commercial uses in districts adjacent to campus. This site is literally across the street from campus and existing commercial and residential uses. If it isn't appropriate here, it is not appropriate anywhere. This is one of few options we have in the short run that is rooted in our current plans and policies that can help reduce barriers to developers trying to meet our urgent needs. We need more time to resolve many other issues, but we don't need more time for this!

There are a lot of changes we legitimately can't make to our zoning until the long overdue Comprehensive Plan is done. We can't make changes to our building code without help from the State. But in this case, rezoning this area to C1A/R is reasonable and anything that could be built to that standard here would be a net win for the City. Ideally, it'd be housing. In my dreams, it is a passive house, electric-only, mass timber collection of buildings with public green open space and very little parking. But even if it is a hotel, the contribution to the affordable housing trust fund via the millage alone would be a substantial benefit, as would fewer people visiting town needing to use cars while they visit.

Just because something isn't the perfect ideal thing for this site, doesn't mean it's so bad it has to be banned. And banning anything but perfect is exactly what we do when we demand extreme and specific conditions on rezonings. We also need hotel space, so we might get a hotel. It is unlikely to be 100% STRs because that would almost double the number of active, registered STRs in the entire City! We don't need office space, so it'd be very unlikely to be that. The most likely use will be primarily residential because that's where the demand is. And if the market demands dramatically changed (like all of a sudden there was a huge demand for office space) it would be a *good* thing the possible use profile of this site was flexible to address our changing needs!

It is entirely possible this project will fail. We've approved many projects (often ones full of sustainability features and other "goodies" we ask for above and beyond our written rules) that have never got a shovel in the ground. Within just two blocks of my house there are two still-vacant lots that have been that way for over a decade because well intentioned projects ultimately failed to be realized while trying to meet our high aspirations. I don't think that my neighborhood has been improved by persistently vacant lots because we "approved" well intentioned projects that then made those parcels much harder and riskier to redevelop when they failed. By delaying the approval for the rezoning to try to make it

perfect, we only increased the odds this particular project will fail. And by trying to severely condition the zoning, in the event of failure of this specific project, we are further making it more likely these parcels will remain unchanged for decades. By trying to ensure the project is perfect, we increase the odds that we get nothing at all.

In my opinion, the only question on the table for Planning on SouthTown was whether the Commission thinks C1AR (per the UDC, comprehensive plan and general guidelines about how and when to rezone) was an appropriate district for this parcel, period. If you don't think it is, you should just vote no. I think that's a wrong and harmful call in the balance of things, but that's the only judgement call in the legitimate purview of the CPC (again, IMO). The FAR question is one for the ZBA. None of the conditions the developer offered (or Commissioners hinted at asking for, skirting the edges of the ethical boundaries of conditional rezoning requests) were relevant specifically to the site relative to the effects of the zoning or connected to specific documented zoning-related policies. Planning Commissioners legally can't "ask for" conditions on the rezoning but that is exactly what they are doing when they highlight non-zoning and non-plan related concerns and vote to delay or threaten to deny a rezoning recommendation for those reasons.

While I *am* disappointed by the result of this particular delay, I am *so frustrated* because this delay represents a what I meant by "business as usual" at the Planning Commission. The primary reasons raised by Commissioners to vote no or vote for a delay were not actually ones rooted in the rules we have written down. It's all just vibes. Commissioners seem to want to be able dictate the specifics of this site plan in the zoning beyond the menu our ordinance provides and enforce what are mostly just subjective preferences about what is built and how. This far exceeds their appropriate role (IMO) but it is how the Commission has long operated. Planning Commission (and Council) use these discretionary approvals and power of delay (which imposes real, sometimes non-obviously severe, costs on every project) to try to enforce rules and policies we don't actually have written down anywhere; and some of those rules Planning Commission is trying to enforce via zoning discretion are not effectively (and possibly not even legally) enforceable via the zoning code, like full electrification. When you use the wrong tools for the job you should not be surprised they don't work!

I care about outcomes. And the outcomes with this way of operating by Planning Commission have been bad! Many ambitious projects that would better our city never even make it to the table. The ones that do, that we even manage to "approve" (after extracting every last possible whim of a concession) frequently fail anyway and leave us with empty lots for decades until someone else comes along with deep enough pockets to spin the Planning Commission roulette wheel. It's not a "success" to win conditions and promises that can never be delivered.

"It's only a month" is a big problem! This kind of thinking, at minimum, impose tens-of-thousands of dollars in additional costs on any particular development. Developers who know they can't survive the risk of navigating ambiguous Planning Commissioner vibes (because again, there are no rules written down anywhere that they know they can follow to secure an approval; they have to read the minds of whatever Planning Commissioners happen to be at the table to try to clear the bar) just never show up in the first place. And sometimes this kind of delay can impose even more severe costs. Large projects, especially ambitious ones attempting to do things differently than the status quo, are complicated with many interdependencies, including competing timelines. For example, a project might have financing conditioned on first approval by a certain date, and if that approval fails for a month long delay for some vibes-based (not in the rule book) "concerns," they lose their financing. And if the finance climate has changed since their original round, the project is dead. For example.

If our problems weren't urgent, we could afford to be more careful. We could treat rezonings like an academic crit. We could accept only the perfect. But our problems are *urgent* and we cannot effectively solve our problems quickly by carefully following the playbook we have used for decades and expect the outcomes to be any different. If we want developers to try ambitious things (electrification! mass timber! passive house! geothermal!) to more quickly get us on a path to better outcomes we need to be comfortable with being a little uncomfortable. We need to be willing to share some of the risks. This stuff is *not* well-trod ground. Ambitious projects might fail anyway. We need to let people try things and learn from those things, which means *we have to tolerate some failure*. If we can tolerate no failure then we cannot make fast and meaningful progress. And we need to make better progress, faster than we have done in the past! Especially when the "failure" is defined as "a hotel paying millions of dollars in taxes helping us avoid a looming budget deficit and bolstering our affordable housing millage, our climate millage, supporting our transit system, our libraries, and our county mental health system; and now more people who visit town don't have to keep a car while they're here." That is some low stakes to let someone try to really achieve things we've been desperately asking for!

On Twitter I referenced the [Serenity Prayer](#). Planning Commission should seek the wisdom referenced in that prayer. There are a lot of things we can't control in the short run. We can't rewrite our entire zoning code before the comprehensive plan is completed. We can't enforce building code rules in our zoning ordinance (and we can't change our building code without changes from the State). We can't conjure up a mature green building industry, complete with supply chain and experienced trades pool overnight. But our problems are urgent, and there are things we *can* do. We *can* rezone parcels near campus to C1AR which opens a pathway to really excellent, innovative boundary pushing projects like this one*.. That doesn't mean they will happen, but everything we've done so far has made any progress at all less likely; but if we actually wanted to act with urgency we would be finding ways to make this project more likely and stop doing business as usual and imposing increased risks and costs when people are genuinely trying to accomplish what we're asking for.

Scott Trudeau
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* Or even boring, imperfect ones like Beekman on Broadway that still have added a substantial amount of desperately needed housing *and* an infusion of tax revenue

On Wed, May 17, 2023 at 10:30 PM Lisa Disch wrote:
Dear Scott,

I agree with you very much that Southtown is a great project. My position on the rezoning is that I support C1A/R because there's no other choice. It is really the only option in the present zoning code that allows a project like Southtown to be realized. This is certainly a flaw with the present zoning code, as you emphasized.

If I could be perfectly sure that Southtown will be built, I would rezone without hesitation but there are no guarantees of that--not with this or any project. If PC had rezoned only with the conditions offered last night, we would have added enormous value to those parcels and green-lighted uses that I do not think it is appropriate for PC to make available in that location, namely a hotel or an office complex. I doubt the latter would happen but I'm certain the former would.

What I heard from you and many others who wrote or called to support the rezoning is that you were excited about Southtown as a residential project with innovative sustainability features. As I am pretty sure you know better than I do, rezoning to C1A/R alone is no guarantee that these parcels will be redeveloped for residential use. My sense of the communications I received is that people are willing to support the "upzoning" for such a large building if it enables more people to live in Ann Arbor as residents; I cannot imagine that they would be pleased if it turned out to be a Marriott (or you name your brand).

So, it is important to me that the conditional rezoning include the "no gas hookups" and if possible also some percentage of solar. I do not think that the developer has any problem with making these offers as these are already features of the project. I wish that it had occurred to them to offer or staff to suggest that they offer these features as conditions as well because it was clear that this is not something anyone wanted to think up on the fly.

I am not worried about STRs in Southtown because I believe the developers when they say that they intend a preponderance of the project to be LTRs. I raise those questions at the table because I receive them from residents; as the CM on PC, that's part of my job. I also do not have a problem with C1A/R allowing STRs. That question was not before us last night and I did not raise it. I was trying to find a way to use C1A/R so as to realize the innovative residential project that we all want to see there.

I don't think that "business as usual" was a fair characterization of the discussion last night. I understand that you were disappointed last night. I hope you can put that disappointment in balance with other things that are moving forward.

Lisa