



TO: Mayor and Council

FROM: Howard S. Lazarus, City Administrator

CC: Derek Delacourt Community Services Area Administrator
Craig Hupy, Public Services Area Administrator
Nick Hutchinson, City Engineer
Brett Lenart, Planning Manager
Cresson Sloten, Systems Planning Manager

SUBJECT: Council Agenda Responses

DATE: November 9, 2017

CA-3 – Resolution to Approve a Professional Services Agreement with Tex Hahn Communications, Inc. for the Public Outreach and Marketing plan for Utilities (RFP No. 17-17, \$135,170.00)

Question: Q1. Regarding CA-3, I can understand a public outreach plan for utilities, but am not clear what the marketing component would be. Can you please elaborate on what is contemplated for marketing? (Councilmember Lumm)

Response: The stormwater level-of- service study advisory group recommended that more stormwater education and outreach be undertaken by the City. This project is in response to this recommendation. The project develops the framework for education and outreach, the term marketing strategy is a term used by the industry. This strategy will be based on community needs, input from focus groups, and survey results from the Ann Arbor community as a whole.

Question: Q 2. Also on CA-3, the cover memo mentioned that WCWRC participated in the selection of the firm. What is the WCWRC's role in this plan and are they sharing a portion of the cost? (Councilmember Lumm)

Response: The City and the WCWRC often collaborate, and at times even partner on projects where both entities share a common interest. A portion of this project will relate to stormwater education. The WCWRC will be a part of the focus groups and one of the community representatives involved in the project, but they are not a financial partner in this project.

CA-4 – Resolution to Approve Change Order No. 1 to a Construction Contract with Liquiforce Services (USA), Inc. in the Amount of \$314,700.42 for the Nichols Arboretum Sewer and Siphon Rehabilitation

Question: Regarding CA-4, thank you for the detailed explanation of why the change order is necessary. In the cover memo, it references two UM-related aspects of the project, change order – first that one of the issues encountered was with a UM-owned sewer, and second, that student caretakers living in the Arboretum needed to be temporarily housed for two nights. Did the city (or UM) pay for the students housing? Also, did the UM reimburse the city for the added costs incurred related to the defect in the UM-owned sewer (or participate in any way in cost sharing for this project)? (Councilmember Lumm)

Response: The need to house the student caretakers for two nights was cause by the project, thus the City paid those costs.

Responsibility for the costs related to the leak in U of M's lateral sewer have not been resolved yet. The root cause of the problem has not yet been completely identified due to high flows in the lateral line. The City will continue to work with the University to identify the issue and then discuss cost sharing as appropriate. As this project involved work on the City's sewer main, the University did not participate in any other cost sharing for this project.

CA-18 – Resolution to Ratify the Pilot Project to Test Staggered Parking on Granger Avenue Between South State Street and Packard Street

Question: Regarding CA-18, this staggered parking approach is interesting. Has the City implemented it (or tried a pilot) anywhere else and if so, how has it worked out? If not, are we aware of any other cities that have done this staggered approach and if so, what has been their experience. (Councilmember Lumm)

Response: The City has not implemented this strategy previously. The strategy is based on the traffic calming technique known as chicanes. The technique uses horizontal deflections to create an environment that encourages lower speed selection by motorists. Applications of this technique may be implemented using pavement markings and the presence of parking; the use of curb bumpouts/narrowings; or including reverse curves in the horizontal alignment of the road. Examples of applications may be found at NACTO.org.

Question: Also on CA-18, about how long will the pilot be for and how will we assess its effectiveness? (Councilmember Lumm)

Response: Staff intends to conduct a preliminary evaluation of the project in the spring of 2018. Staff will poll residents and discuss with maintenance personnel regarding their experience with the change. Evaluation of data, such as crashes, will be dependent upon the initial evaluation. Crash data will be reviewed after the design change has been in place long enough to review a 12 month period of operation.

B – 3- 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 (8 Votes Required))

Question: Q1. I am trying to get a sense of what areas in the City (in staff’s judgement) would qualify for C1A/R zoning as “near the campus business district” - more specifically, what distance defines “near” and whether “campus” includes the North Campus, Medical Campus, and South Athletic campus areas? Could you please clarify and provide a general map of the areas that would be eligible for C1A/R zoning (map doesn’t need to be perfect; general indication is fine)? (Councilmember Lumm)

Response: “Near” is not defined by ordinance, so it is subject to the interpretation of staff, the Planning Commission and the City Council. From a staff perspective, north campus, central campus and medical campuses can be considered to be of a different character, based on programming, trip generation, and types of use as employment/educational/research/medical centers than the south athletic campus, and thus could be appropriate to be near C1A/R zoning districts. The south athletic campus appears to function at a different level and pattern of use, so it may be less appropriate. Staff is unable to produce a map based on the City’s network outage today.

Question: Q 2. Also on B-3, the proposal includes less than 1% commercial space (4,500 sq ft of the 813,000 sq ft total). IN staff’s judgement, what is the minimum threshold in terms of the percentage of commercial/retail space that is necessary for a development to qualify as “mixed use” and meet the C1 A/R standards. (Councilmember Lumm)

Response: There is no minimum threshold defined by the zoning ordinance.

Question: Q3. All Councilmembers received a detailed email on November 5th that related to the C1A/R vs PUD zoning question that has been raised. The communication concluded that “C1A/R with self-imposed conditions, variance, and planned project modifications sound an awful lot like a PUD, except with all the power in the hands of the developer.” Council has received communications from others making the same argument. While I understand the Developer requested the C1A/R zoning, can you

please elaborate on why staff did not insist (or at least strongly encourage) a PUD instead? (Councilmember Lumm)

Response: Staff cannot insist that private landowners seek any potential zoning of their property. Staff encouraged petitioner to consider PUD zoning. After such consideration, the petitioner chose not to seek that designation.

Question: Can the developer be tied to the site plan that's been submitted with the rezoning? What allows us to ensure that the approved site plan cannot be changed? (Councilmember Kailasapathy)

Response: In this case, a conditional rezoning could include a condition that links the site plan to the zoning, but the petitioner has not voluntarily offered such a condition. Any approved site plan could be changed, subject to zoning ordinance and development requirements.

Question: I understand that the developer would be tied to the height limitations offered as a condition for the rezoning, but if we rezone the property could he scrap the existing plan and seek approval of a new plan as long as it meets the ordinance requirements and the imposed condition? Would we be required to approve it as a permitted use by right? (Councilmember Kailasapathy)

Response: Yes, a new plan would be considered under the requirements of the C1A/R district and any associated zoning conditions. If such a plan met all requirements, it would be considered as other permitted use site plans.

Question: How is residential density determined in the C1A/R district? Did you do any research to see how it was determined under the C1A/R plan? (Councilmember Kailasapathy)

Response: Residential density, and other use square footage maximums in the C1A/R district are limited by Floor Area Ratio (FAR) up to 300%, and up to 600% with premiums.

Question: The ordinance provides that R4 zoning is a permitted use in the C1A/R district. It doesn't say generically that multiple family zoning is allowed. The question is why don't we apply R4 standards then? (Councilmember Kailasapathy)

Response: The R4 reference is to uses only. Area, height, and placement standards are governed by the C1A/R standards when property is zoned accordingly.

Question: What is the practice when we approve a rezoning that is not completely in keeping with the master plan? Do we usually review the master plan first before the rezoning are there any precedents here?

Response: Zoning petitions should be carefully considered by staff, Planning Commission, and City Council for consistency with the Master Plan. The Council ultimately decides the degree by which a rezoning needs to be consistent with the Master Plan.

The City does not typically require a review of the Master Plan separately prior to a development proposal, but the staff, Planning Commission and Council rely upon the recommendations of the Master Plan when making their decision.

Question: If it is okay to allow campus zoning in areas that are off-campus is it also okay to use downtown zoning classifications such as the D1 and D2 in areas that are not in the downtown? It's not appropriate to use D1 and D2 zoning outside the downtown areas what is the difference? Wasn't the campus zoning also drafted specifically for the campus areas the way we drafted the downtown ordinances for downtown areas.

Response: The City could decide that there are other appropriate locations in the City for D1 and D2 zoning, but it could determine that some standards should be modified based on other contexts. The C1A/R zoning intent is to encourage the orderly clustering and placement of high density residential and complementary commercial development near the campus business district.

Question: What are the change or changing conditions in this area that support the rezoning from a PUD to the requested classification? What other circumstances and factors further justify the requested zoning from PUD to C1A/R? (Councilmember Kailasapathy)

Response: There aren't other factors or circumstances that justify the requested zoning than those already included the staff report that accompanies this item.

C-2 – An Ordinance to Amend Chapter 55 (Zoning) Related to Medical Marijuana Facilities (CPC Recommendation: Approval - & Yeas and 0 Nays)

Question: Would the zoning appeals that each dispensary will have to go through allow for these existing locations to reside within 1000' of each other? (Councilmember Frenzel)

Response: No, the proposed ordinance would not provide any exceptions to the 1,000 feet requirement. A variance would need to be sought from such a standard. The seven currently operating dispensaries that filed license applications with the City prior to legal clarification under State law that the uses were not allowed are all in compliance with the separation requirement.

Question: The cover memo indicates that the 1,000 foot spacing requirement was removed for all medical marijuana facility types except provisioning centers". Does this bullet refer to the 1,000-foot distance from K-12 schools or the 1,000-foot minimum

distance between medical marijuana facilities? Also, did the Medical Marijuana Advisory Committee discuss this specific issue and if so what was their recommendation? Finally, is there a recommendation or guideline contained in the State legislation? (Councilmember Lumm)

Response: This bullet refers to the separation between facilities, the 1,000-foot separation of any type of facility from k-12 schools remains in the proposed ordinance. The Medical Marijuana Advisory Committee discussed this issue without reaching consensus. There is no recommendation or guideline in the State legislation in this regard.

DC-3 – Resolution Supporting Vision Zero Implementation, Including Near-and Long-Term Roadway Safety Measures and Huron High School and Citywide

Question: Q1. One of the lane reduction actions the city has implemented where there seems to be conflicting view (between City Hall and residents) of the action's effectiveness is Packard. Can you please provide whatever before/after data is available regarding accidents, increased travel/wait times at peak periods, and increased traffic on nearby streets related to the lane reductions on Packard? (Councilmember Lumm)

Response: Accident data can be provided, but is not immediately available. Data is not available on increased travel/wait times or increased traffic on nearby streets.

Question: Q2. What maximum amount of increase (percentage or actual time) in travel/wait time at peak periods is viewed as acceptable by staff in recommending/implementing a lane reduction action? Is there a threshold level of vehicle volume at peak periods where a lane reduction would not be considered? (Councilmember Lumm)

Response: The Federal Highway Administration has published a *Road Diet Informational Guide*. The guidebook feasibility determination factors are safety; design context and complete streets; vehicular operational needs; non-vehicular considerations (e.g. bicycles, pedestrians, transit, and freight); and other factors such as costs, parallel roadways (i.e. system redundancies) railroad crossings, and public input. The determination of whether to install a lane reduction needs to take all of these factors into account alongside vehicular traffic volumes and potential increases in delay to motorists. Traffic volumes and delays do not have set thresholds for inclusion or exclusion as the decision must be broader and evaluate the surrounding transportation network system.

Question: Q.3 The second and third deliverables for January 15th reference evaluating all road signage near mid-block crosswalks and incomplete road conversions recommended in the Non-Motorize Transportation Plan. About how many mid-block

crosswalks are there in the city and how many of these incomplete road conversions are there (and what are the locations)? (Councilmember Lumm)

Response: Data for this request is not immediately available.

Question: Q.4 The third deliverable for January 15th also references “any other road segments that in staff’s evaluation are not optimal for the safety of all road users.” Is there a list of those developed at this point and if so, can you please share it? (Councilmember Lumm)

Response: There is no such list developed at this time

Question: Q5. While I recognize most of these deliverables are developing plans (not implementing actions), there still is a staff time commitment. Can you please provide a rough estimate of the staff time required to provide these deliverables and any costs (consultants etc.) that would be incurred? (Councilmember Lumm)

Response: There will likely be a substantial time commitment from staff, and it is likely that a consultant will need to be retained to perform some of the work. Staff has not yet had a chance to determine the extent of those costs.

Question: Q6. As I recall (may be wrong), Council passed a resolution at one point to look at reducing speed limits in near-downtown streets. Based on the second deliverable for February 15th (Evaluation of the findings of the Transportation Commission concerning speed reduction options throughout the city) it sounds like that was referred to the Transportation Commission. If so, when is the Transportation Commission likely to report their findings/recommendations and if not, is staff proceeding with any speed limit studies at this time? (Councilmember Lumm)

Response: The Transportation Commission has formed a Speed Reduction Subcommittee that is tasked with developing a recommendation for a comprehensive approach to lowering speeds on City streets, and it is currently anticipated that the committee will be presenting their findings to the Commission at the Commission’s December or January meeting. If the Commission acts on the committee’s recommendation by their January meeting, their action will be forwarded to City Council by the Council’s second meeting in February.

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)

Question: Q1. The development agreement (P-9) references a special assessment district for additional improvements to Broadway Street and Maiden Lane, such as

street widening. Can you please elaborate on what improvements are contemplated in the next 5 years or so? (Councilmember Lumm)

Response: There are none.

Question: Q2. P-20 of the development agreement references a number of “traffic mitigation improvements” that are completed and paid for by the developer. How is it determined which items fall into this “traffic mitigation improvement” category and which fall into the future special assessment district category? (Councilmember Lumm)

Response: This is determined by identification of improvements through the site plan review process that are required to meet City requirements associated with the realization of this development. All of these elements will be the responsibility of the developer.

Question: Q 3.If the zoning, site plan and brownfield plan are all approved tonight, what is the expected timeline for the beginning and completion of both the brownfield clean-up and construction of the development? (Councilmember Lumm)

Response: 3-4 years is estimated.

Question: Q1. When was the last time that the city approved a site plan in a C1A/R zoning district? (Councilmember Kailasapathy)

Response: Staff is unable to research this with the City network down.

Question: Q2. Did staff research any previously approved site plans for a C1A/R development?(Councilmember Kailasapathy)

Response: No, staff reviews the technical compliance of proposed site plans against ordinance requirements.

Question: Q 3. The developer is asking for reduced setbacks. Have you analyzed how the abutting property would impacted by the reduced setback? Isn't the setback supposed to protect the adjacent property? Why should the adjacent property to this site have different rules applied to them than in other parts of the city where the setback is honored? Did you ask the developer to show a concept plan of how the site would work without the reduced setback? Did you ask whether the development could achieve the goals that the developer wanted without the setbacks. (Councilmember Kailasapathy)

Response: The C1A/R district requires the same setbacks as the adjacent residential district be applied when abutting residential. Setbacks are generally established to ensure light and air between adjacent developments. The proposal to reduce setbacks for this proposal considers the fact that the adjacent development, Medical Center Court Apartments are separated by Building A by the apartment's parking lot. The setback

modification is provided through the City Code, and is intended to provide flexibility when certain conditions are met. No alternative concept plans without the proposed modifications were considered. City staff is not privy to all of the ultimate development goals of the petitioner, but there are of course numerous ways to consider development of a site.

Question: Please describe the massing of the former PUD relative to the current proposal. Also, please describe massing changes incorporated through conversation with neighbors, staff, and Planning Commission, relative to the sites border with single family. (Councilmember Westphal)

Response: The former PUD included a larger, taller building pushed closer to the Maiden Lane frontage, with some reduced massing closer to the single-family homes. The FAR for the previous PUD and current proposal are comparable. Based on conversations, this proposal has evolved to reduce the height of the portion of Building A closest to the single family homes from 5 to four stories, shifting that massing further away by adding an eighth story in other portions of the proposed development. These 4-story wings were also pulled back, increasing the setback from the property line.

DB-2 – Resolution to Approve the 1140 Broadway Brownfield Plan

Question: The proposed brownfield plan calls for a certain number of affordable units. The developer has indicated a plan to divide these between buildings A and C. If building C is significantly delayed or not built, will the developer still be required to provide the same number of affordable units? (Councilmember Warpehoski)

Response: As the City is not specifying a specific number in a specific building, it is possible that if building C were delayed or not built, the number of units could be impacted. It is difficult to surmise at this point in such circumstance, if the units could then all be incorporated into Building A. In any event, the TIF reimbursement will only be based on the actual number of units provided.

Question: Q 1. As noted in the Brownfield Plan, about half of the costs (\$5.2M of \$10.9M) the developer is being reimbursed for have nothing to do with environmental activities. While I understand there are non-environmental items that are eligible for developer reimbursement in Brownfield redevelopments, the magnitude of non-environmental in this instance was surprising. Have there been any other examples of other brownfield plans in Ann Arbor where half or more of the reimbursable costs were non-environmental? (Councilmember Lumm)

Response: Zingerman's Deli, Michigan Inn, 618 S. Main Street, Packard Square and 221 Felch are other examples of brownfields where the non-environmental activities exceeded half of the total eligible costs.

Question: Q 2. Included in the \$5.2M non-environmental expenses the developer is being reimbursed for is \$2.8M for the parking structure, which is described in the memo as related to the 15 units of affordable housing. How was that specific amount determined and can you please confirm if it is a correct interpretation to say that the city (and state) are paying for the affordable housing units rather than the developer? Also, if the reimbursement actually is for the affordable units, why is it characterized as being for the garage? (Councilmember Lumm)

Response: 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.

Question: Q 3. Also included in the \$5.2M non-environmental expenses the developer is being reimbursed for is \$1.5M for infrastructure improvements including traffic signals, bus stop improvements, etc. Are any of these part of the "traffic mitigation improvements" referenced in the development agreement that the developer is responsible to construct and pay for?

Yes, this brownfield plan item is reimbursement for the referenced improvements.
(Councilmember Lumm)

Question: Q 4. In reviewing the Brownfield Plan financials, my takeaway is that the current taxable value is \$2M, the expected taxable value at buildout is about \$50M, and it is expected the city will forego about \$750k a year in tax revenue for up to 13 years. Is that correct? (Councilmember Lumm)

Response: It is expected that the tax increment revenue from increased taxable value would be captured for a period of 9 years if the project progresses as proposed. Staff's recommendation is to cap the total period of reimbursement to no longer than 13 years should development take longer, or a lower final taxable value is achieved.

Question: Q 5. The cover memo indicates that the developer was requesting \$1.8M in additional reimbursement (beyond the \$10.9M) to pay for a solar photovoltaic system, but that was not included in the brownfield plan. The cover memo also states that the "petitioner continues to express interest in this renewable energy system with financial support from the City". Can you please clarify what that actually means? Does it mean the developer is not going to do the system unless the City contributes a certain amount towards the cost and if that's the case, what is the amount being requested from the City and how would it be funded? (Councilmember Lumm)

Response: The developer does not intend to install such a system without the financing from the City at a level of \$1.8M.

DS-1 – Resolution to Approve Fees for New Medical Marijuana Facilities Annual Permits

Question: Can you please provide the rationale/basis for the recommended annual permit fee of \$5,000? Also do we have any information on what other cities will be charging? (Councilmember Lumm)

Response: This amount is based on the maximum amount set forth by the State legislation. Staff's understanding is that the majority of cities that are allowing for such facilities will be charging the same \$5,000 permit fee.