

From: Tom Stulberg <tomstulberg@hotmail.com>
Sent: Wednesday, June 21, 2023 11:29 AM
To: Planning <Planning@a2gov.org>
Cc: Heidi Poscher <heidi@prentice4m.com>
Subject: Comments regarding the SouthTown application

Planning Commissioners:

There is a lot to like about the SouthTown application, especially in the attention paid to sustainability.

If you like the SouthTown development proposal, there is an appropriate way to approve it. You have a road map provided for you by The Garnet at 325 E. Summit. Similar to The Garnet, you would reject the current application, and the same or similar plan could be re-submitted as a PUD. You could then appropriately approve it. It would require the developer to spend some extra time, and there would be an affordable housing component added - either units built on site or a payment in lieu. (The developer wouldn't have to go back to the drawing board, since the plans have already been reviewed, but the clock would have to be restarted for the proper meetings and notices for a PUD application.)

As in the case of the Garnet, the conditional zoning requested falls into the categories of conditional zoning that are frowned upon by the courts. See my comments on this at the end of the email.

I also want to point out the inappropriateness of using C1A/R at this location. It is not close to the Campus BUSINESS District. This zoning category was not intended for this location. D1, D2, C1A, and C1A/R are our city's downtown core and transition zoning categories and have certain urban core characteristics clearly designed for that purpose. This has been covered thoroughly. Please review the following documents:

1. C1A and C1A/R are covered on pages 11-15 of the **attached** Agenda Responses from the 7/6/20 City Council meeting. And another map on the last page (21). Decent questions. Short answers. Very helpful maps.
2. This link to communications to CPC from 12/15/20 has a letter from me (which imbeds a 3/31/17 Planning Staff letter) and an excellent letter from Ralph McKee: <http://a2gov.legistar.com/View.ashx?M=F&ID=9017680&GUID=4498E800-DB5A-45D4-AFB2-E6FB372FE50B>
3. The 11/17/17 letter from Susan Friedlaender, which imbeds a planning department memorandum starting on page 8: <http://a2gov.legistar.com/View.ashx?M=F&ID=5564648&GUID=D2F06BC8-BE4D-4EA9-BD2A-65EB818FFE25>

Conditional Zoning: (I wrote this for The Garnet application, which was appropriately turned down. It applies to SouthTown as well.)

The city of Ann Arbor does not apply zoning law appropriately, which includes how it deals with conditional zoning. It is getting it wrong again here.

Conditions are supposed to benefit the community not merely benefit the applicant. Planning department is trying to claim the benefit to the public is that the Garnet can't be replaced by a different (taller) building once the zoning is approved. Their conditions make it so they can't change their site plan without asking for a rezoning. But that is not a benefit to the community because the status quo already protects us from that. Leave it C1B and there is no issue of inappropriate height. Further, their conditional rezoning makes the community worse off because now someone else can get C1A or C1A/R nearby and there do not have to be any VOLUNTARY conditions on the next one.

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 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"

The existing zoning for SouthTown does not permit a height that exceeds the proposed condition in the rezoning request. Thus, the status quo already "protects" us from that. The rezoning with this condition serves the applicant's private interests, not the public's. The courts don't like this. (I am not an attorney and have tried to write this in layperson's terms for the commissioners. The city attorney's office could perhaps rephrase it more artfully.)

Thank you for your consideration.

Tom



TO: Mayor and Council

FROM: Tom Crawford, Interim City Administrator

CC: Jacqueline Beaudry, City Clerk
Derek Delacourt, Community Services Area Administrator
John Fournier, Assistant City Administrator
Matthew Horning, Interim CFO
Craig Hupy, Public Services Area Administrator
Nick Hutchinson, City Engineer
Jerry Markey, City Assessor
Brett Lenart, Planning Manager
Remy Long, Greenbelt Program Manager
Molly Maciejewski, Public Works Manager
Marti Praschan, Chief of Staff, Public Services

SUBJECT: July 6, 2020 Council Agenda Responses

DATE: July 2, 2020

CA-1 – Resolution to Approve a Purchase Order for Absentee Voter Application and Ballot Mailing Supplies to Printing Systems, Inc. (\$35,071.92)

Question: Approximately how much would it cost to provide postage-paid return envelopes for absentee ballots? (Councilmember Eaton)

Response: With five weeks to go before the August Primary, we have issued a record 20,000 absentee ballots. If that were to double in November to 40,000 ballots, postage would cost approximately \$25,000.00. 60,000 ballots would cost approximately \$37,000.00. The envelopes have already been ordered in a quantity for the August and November election and they do not have a return permit imprinted on them. Paying postage for the General Election would require the purchase of new envelopes for voters with the City's return postage permit.

CA-2 – Resolution to Approve a Participation Agreement with Washtenaw County Parks and Recreation Commission and Appropriate \$73,593.00 for Purchase of Boss & Bull Holdings LLC Property (8 Votes Required)

CA – 3 – Resolution to Approve a Participation Agreement with Washtenaw County Parks and Recreation Commission and Appropriate \$115,830.00 for Purchase of Kidder Property (8 Votes Required)

CA-4 – Resolution to Approve Participation in the Purchase of a Conservation Easement on the Stiles-Kaldjian Property in Ann Arbor Township, Approve a Participation Agreement with Ann Arbor Township and Washtenaw County Parks and Recreation Commission, and Appropriate \$60,000.00 (8 Votes Required)

Question: Regarding CA2 through CA-4, in each of these the county is participating in the funding, but only on CA-4, is the township where the parcels are located participating (CA-4 – Ann Arbor Township). Were Northfield Township and Scio Township asked to participate in CA-2 and CA-3? (Councilmember Lumm)

Response: Ann Arbor Township is the lead agency for the acquisition detailed in CA-4. As indicated in the resolution, Ann Arbor Township has secured \$183,500.00 (50%) in federal ACEP-ALE funds and is also contributing \$63,500.00 (17.3%) in additional acquisition funds.

Washtenaw County Parks and Recreation Commission is the lead agency for both acquisition detailed in CA-2 and CA-3. As such, they are responsible for coordinating funding requests from potential acquisition partners. While Scio Township is not listed as a contributing partner in the memo, Washtenaw Parks and Recreation Commission has requested the township contribute \$115,830 towards the acquisition. This request will be considered at Scio Township Land Preservation Board's July meeting. Staff are not aware of a request by Washtenaw County Parks and Recreation Commission for Northfield Township to participate in the acquisition detailed in CA-2.

Question: Also on CA-2, I recall that Northfield Township was going to create a funding mechanism for preservation. Did that ever happen, and if so, how much is the available funding? (Councilmember Lumm)

Response: It is staff's understanding that Northfield Township has discussed a millage to support land conservation in the township, though no additional details on that effort have been provided by the township to date.

CA-8 – Resolution to Fund Stormwater Services with the Washtenaw County Water Resources Commissioner (\$320,000.00 Annually)

Question: Q1. How does the \$320K we're paying annually to the WCWRC for the next five years compare to the annual payments the last five years? (Councilmember Lumm)

Response: Previously, there were three separate contracts that were utilizing county services. This contract seeks to combine all services into one contract. Contact amount history is as follows:

Contract	FY 16	FY 17	FY 18	FY 19	FY 20	FY 21
Rain Garden Program	\$ 30,000	\$ 30,000	\$ 30,000	\$ 30,000	\$ 30,000	
Stormwater Services	\$ 110,000	\$ 113,300	\$ 117,000	\$ 121,000	\$ 124,640	
Green Infrastructure	\$ -	\$ -	\$ -	\$ -	\$ 165,000	
Proposed Contract						\$ 320,000
Annual Total:	<u>\$ 140,000</u>	<u>\$ 143,300</u>	<u>\$ 147,000</u>	<u>\$ 151,000</u>	<u>\$ 319,640</u>	<u>\$ 320,000</u>

Question: Q2. Can you please briefly explain how the value of the services (and payment amount) is determined? Also, are any changes planned in the working relationship going forward? (Councilmember Lumm)

Response: The value of services extends to the collaborative nature of the City and County partnership for Stormwater Management – including capital improvement projects, grant and loan coordination, project implementation and community-wide initiatives. The payment amounts are based on the scope of services and actual hours of work for professional staff, including coordinating contracted maintenance, coordinating volunteers, administering construction projects (including public engagement for capital projects), and education and outreach endeavors.

There are no changes planned in the working relationship moving forward. The City and the County have an extremely successful partnership for stormwater management projects and programs.

Question: Q3. The cover memo references the city payment funding 0.5 FTE at the county. Is that new, or have our payments always paid for 0.5 FTE? I’m assuming that person spends a good bit of time at city hall with city staff – correct? (Councilmember Lumm)

Response: Yes – this is an existing FTE that the City currently funds. This individual attends internal City meetings and is considered part of the decision-making team for stormwater management efforts within the City of Ann Arbor.

CA-9 – Resolution to Approve a Professional Services Agreement with ADS Environmental Services for Sanitary Sewer Flow Monitoring Services (\$227,520.00)

Question: Regarding CA-9, it’s good that ADS is holding their price, but how did their price compare to the other 2 responders to the RFP? Also, is the \$227K the total for the three years or the annual amount? (Councilmember Lumm)

Response: ADS was the low bidder in response to the RFP. The \$227K cost is the total for the three-year period (not the annual amount).

CA-12 – Resolution to Award Sewer Televising and Cleaning Construction Contracts to Taplin Group, LLC (Not-to-Exceed \$3,364,492.95) and Pipetek Infrastructure Services, LLC (Not-to-Exceed \$3,429,675.00) for Two-Year Durations (RFP # 20-20)

Question: Regarding CA-12, if I'm reading the cover memo correctly, we budgeted roughly \$1.2M in FY21 for these sewer televising and cleaning services and these two agreements total almost three times that (roughly \$3.5M a year). Is that correct, and if so, can you please provide a bit more information on the large variance and what this may mean to other sewer-related spending and projects? (Councilmember Lumm)

Response: Yes, this is correct. The FY21 approved sanitary budget included \$585,000 for televising, and \$650,000.00 for stormwater televising. If this resolution is approved, tasks will initially be assigned based on these totals and tasks will be assigned to each contractor accordingly. However, since the budget numbers were planned, the City entered into an Administrative Consent Agreement with EGLE for the sanitary system which requires, among other things, a complete evaluation of the sanitary sewer system within a shorter timeframe than was originally planned. Staff issued the RFP with these expanded regulatory requirements and televising needs in mind. If the resolution is approved, staff will open a purchase order with a not-to-exceed amount of \$585,000.00 for FY21. Public Works staff will then assess each firm's progress and work performance to determine the level of budget and operating adjustments needed to complete the required work.

Question: Also on CA-12, were the fee proposals for the other qualified firms in the same range as the two firms recommended? If significantly lower, why were they not selected. (Councilmember Lumm)

Response: Fee proposals from 4 firms were opened. Pipetek and Taplin were the two lowest proposers. The third firm was significantly higher and the 4th firm did not properly complete the fee proposal.

CA-13 - Resolution to Approve an Agreement with Decision Support Systems, LLC, DBA Allowance for a Capital Improvement Plan Prioritization and Database Software and Consulting Services (est. \$282,260.00 over 5 years) and to Appropriate funds from the FY21 Information Technology Fund (\$109,760.00) (8 Votes Required)

Question: The total amount of this contract over five years is estimated to be \$282,260.00. Considering the economic impact of the pandemic and recession on the City budget, could this contract be delayed for a year or more? (Councilmember Eaton)

Response: The current CIP database is essentially at the end of its useful life. The database was originally built on a Microsoft Access 2000 platform (1999 version) and is now being operated over 20 years later through the current Microsoft 365 version of Access. When, as happens with greater frequency, issues are encountered with the database, IT staff must create programming code “patches” to address these issues, a task which is time consuming and progressively more challenging. Because of this ever-bulkier programming code, the database is also running noticeably more slowly, particularly after the recent transition to Office 365. This causes increased staff time for entering and maintaining the data behind the hundreds of active projects in the current CIP and makes its use for fiscal tracking highly inefficient. In addition, the upgraded software will allow us to incorporate prioritization modeling; thereby, incorporating two separate processes, increasing efficiencies, reducing related staff hours and delivering a higher quality product. For these reasons, delay of implementing the new software is not recommended.

Question: Regarding CA-13, it does seem that the existing software and systems do need to be replaced, but the firm recommended is more than twice as expensive as the other qualified finalist (and the cost premium is over \$100K over the five years). Can you please elaborate a bit more on why the added functionality is worth such a healthy premium? (Councilmember Lumm)

Response: The City’s robust Capital Improvement Plan process requires that related software can accommodate a sophisticated level of data management. The recommended Allovance software is completely customizable and can readily incorporate not only basic cost and schedule data for each project but also detailed information unique to the City of Ann Arbor and its institutional goals. Examples include recording (as in the present database) the anticipated level of community engagement for each project, its contribution to the Sustainability Framework goals, and identification of unique funding sources. The Allovance software also permits the City to make its own software edits going forward to add additional data fields, create custom reports, etc.

The other finalist’s product, by contrast, is an “out of the box” software product which would work well for many communities seeking a more basic level of service. Its built-in data fields are designed primarily to accommodate universally-applicable data tracking such as cost and schedule information, but are not designed to be customized. A user’s request for additional data fields (such as community engagement efforts) must thus be reviewed by the vendor and will be added if deemed of value to multiple customers. Programming such data additions must be performed by the vendor as, unlike with Allovance, the user has no direct ability to edit the software. In the long run, the need to solicit and pay for programming from the vendor for every change needed would be anticipated to significantly reduce the cost differential between the two.

The RFP for this work also called for consulting services to advance the City’s prioritization process. The Allovance proposal provides in-depth consulting services that will tailor our present prioritization criteria to each capital asset group, update criteria weighting, and integrate it seamlessly with the CIP database component for improved

efficiency. We will also be able to incorporate new prioritization criteria related to the City's greenhouse gas reduction goals. The other finalist's product offers a set of universal prioritization goals derived from the State's Economic Development Corporation. We would also be able to scribe our goals into that software but no consulting services are proposed. The Allovance proposal is significantly more value-added and also provides software tools for ongoing City prioritization needs.

CA-26 – Resolution to Approve the Collective Bargaining Agreement between the City of Ann Arbor and Ann Arbor Police Officers Association Effective January 1, 2020 - December 31, 2022

Question: Q1. Can you please confirm that the city approached the AAPOA with regard to further negotiations and the AAPOA formally declined? Also, was the possibility of a one-year agreement through December 31, 2020 (rather than three years) mentioned to the AAPOA as a possibility to discuss? (Councilmember Lumm)

Response: Yes, the City approached AAPOA regarding further negotiations and AAPOA declined.

Question: Q2. Can you please clarify the scope of binding arbitration in Michigan – in other words does it apply to only economic issues or non-economic, operational matters such as right of assignment and investigatory and disciplinary processes and if it does cover non-economic, is it a binary choice of current contract language vs. city proposed language for the arbitrator(s) to decide or do the arbitrators have discretion in identifying their own language? (Councilmember Lumm)

Response: Act 312 (binding arbitration), which applies to police officers and firefighters, covers both economic and non-economic issues (i.e., assignments, discipline, etc.). For economic issues, both parties submit a best and final offer and the arbitration panel must choose between one or the other. For non-economic issues, the arbitration panel may award whatever it deems appropriate and does not have to choose between the parties' final offers. For both economic and non-economic awards, the arbitration panel must consider and base each decision on certain statutory factors. These factors include comparing the wages, hours, and conditions of employment with other comparable municipalities and other unions within the City.

Question: Q3. Also on binding arbitration, can you please outline the process steps and typical timeline? (Councilmember Lumm)

Response: The first step in the process is mediation. Following mediation or within 30 days after submitting the matter to mediation, the matter may be submitted to binding arbitration. Within seven days of the filing for arbitration, the Michigan Employment Relations Commission (MERC) selects three nominees from its arbitration panel and provides those names to the parties. Each party has five days to strike one name. Within 15 days from appointment if the chairperson, the chairperson must hold a scheduling

conference. The arbitration hearing and post-hearing briefs must be completed and filed within 180 days following the scheduling conference. The arbitration panel must then issue its decision within 30 (or 60 days if more time is needed) following the submission of the parties' post-hearing briefs.

B-1 – An Ordinance to Amend Sections 5.29.6 and 5.29.7, and Add a New Section 5.29.8, of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor (Code Requirements of Site Plans and Area Plans)

Question: Regarding the two ordinances at second reading (B-1 and B-2), have any comments or objections been received by staff since their respective first readings? (Councilmember Lumm)

Response: Staff received some comments, but no objections. A proposed substitute version is attached to the Legistar file.

B-2 – An Ordinance to Amend Section 1:209 of Chapter 8 (Boards and Commissions) of Title I of the Code of the City of Ann Arbor

Question: Regarding the two ordinances at second reading (B-1 and B-2), have any comments or objections been received by staff since their respective first readings? (Councilmember Lumm)

Response: Staff has not received any comments or objections.

C-1 – An Ordinance to Amend Section 1:312(20) of Chapter 14 (Purchasing, Contracting and Selling Procedure) of Title I of the Code of the City of Ann Arbor

Question: Q1. Can you please provide a summary of new reporting requirements this places on bidders vis-à-vis current requirements? (Councilmember Lumm)

Response: New requirements for construction projects that exceed \$250k (which would be more than 70% of our constructions projects based on FY20 data) would include:

- Bidders License Numbers and confirming statements
- Statement from the bidder that construction workers would not be misclassified
- Statement from bidder and subcontractors on percentage of its work force that resides within the City and Washtenaw County
- Proof of insurance
- A list of bidder's litigation and arbitrations in the past 5 years
- Bidder's violations of state, federal or local laws or regulations, including OSHA or MIOSHA violations, state or federal prevailing wage laws, wage and hour laws, worker's compensation or unemployment compensation laws, rules or regulations, issued to or against the bidder within the past five years.

- A Fitness for Duty Program and description
- Safety program information
- Experience Modification Rating (EMR)
- Ratio of masters and journeypersons to apprentices along with documentation
- Participation in a Registered Apprenticeship Program or a program for assessing the skills and qualifications of its employees
- Audited financial statements
- Evidence of any quality assurance program and results on previous projects

Question: Q2. I'm assuming this change to the definition of "responsible bidder" does not change any other requirements such as prevailing wage – correct? (Councilmember Lumm)

Response: Correct. This RCP would have no impact on the City's current Prevailing Wage practices.

Question: Q3. Who on city staff will be responsible to review each submission, check that all requirements are satisfactorily met, do any necessary follow-up etc – and how much extra staff time will this likely require? (Councilmember Lumm)

Response: Service Unit staff (with consultation from Purchasing) are responsible for vetting and determining the responsible nature of each bid received. Extra staff time could easily be in the hours, possibly days or weeks if Service Unit staff have questions regarding what's provided in the bidding document.

Question: Q4. Was any benchmarking done in developing these reporting requirements? Are these requirements consistent with purchasing industry professional best practices? (Councilmember Lumm)

Response: No benchmarking was done. Responsibility is a core concept in public procurement but not to the extent that RCP prescribes. Staff's main concern with this is not that the city is asking the questions but how the city is asking the questions, and what documentation the city is requiring upon bid opening.

Question: Q5. Did anyone (staff or sponsors) reach out to a sample of our vendors/contractors to obtain feedback on these new reporting requirements, including how the intent might be achieved in a more efficient manner? (Councilmember Lumm)

Response: Staff has not.

Question: Q6. The reporting requirements are quite extensive, and I would appreciate hearing from the operational staff, purchasing & finance professionals, and Interim City Administrator regarding:

- Does staff support this ordinance change? Has it been reviewed thoroughly with operational personnel (beyond Attorney's Office)?

- Is there a concern these new reporting requirements would limit the number of bidders and/or result in higher costs to the city?

Does operational staff have any suggested revisions? (Councilmember Lumm)

Response: Staff is opposed to the RCP as proposed, since we do not have any issues with determining if a bidder is responsive with our current process, nor do we have issues with successfully finishing projects. There was some inclusion/review of draft versions but there was insufficient time to properly evaluate the RCP.

Yes, staff is concerned that these new bid requirements will reduce the already limited number of bidders who take an interest in the city's bids, while concurrently increasing project costs due the expanded expectations for determining responsibility.

Yes, adjusting "how" we ask the questions. Some of the items included in this RCP are not binary (yes/no). This RCP would introduce a level of subjectivity where there should be no subjectivity to evaluating the responsiveness of bidders when it comes to ITB's. Bids are evaluated on *if* they meet criteria, not *to what extent* they meet criteria.

For example, the City asks for an EMR (a % value – which is something typically reserved in the industry for multi-million-dollar projects). If the City decides to award to the higher cost bidder because they have a higher EMR we may be forced to consider the lower EMR and lower bid bidder "non-responsible" and we would fully expect the lower bidder to protest as simply providing a response (of any %) should make them "responsible." This potential situation is applicable for any of the items like EMR where it's not binary as written; ratio of masters/journeypersons/apprentices, evidence of any quality assurance program and results, etc.

Or the City could run into the reverse, where the low bidder provides an EMR that is lower than a higher bidder and the City desires to award to the low bidder. The high bidder with a higher EMR could protest/argue that the award should be made to them simply because they submitted a higher EMR value.

If the proposed RCP passes, the City would be putting itself unnecessarily at risk for more bid protests, higher bid costs, a lower number of bids received, when it is already struggling to find contractors to bid. Staff believes this policy would reduce competition and effectively eliminate the smaller general contractors who may not be large enough to provide an EMR or audited financial reports simply to respond to a bid.

DC-3 – Resolution to Advance Healthy Streets in Downtown Ann Arbor to Promote Safe Social Distancing Outdoors

DC-4 – Resolution to Advance Healthy Streets Outside of Downtown Ann Arbor to Promote Safe Social Distancing Outdoors and Appropriate \$15,000.00 from the FY 2021 Major Street Fund Operations and Maintenance Budget

Question: The map for the Healthy Street agenda items has the DOWNTOWN map posted for both items. Would it be possible to have a map that shows what non-downtown streets are being considered? (Councilmember Bannister)

Response: Page 1 of the attachment is related to DC-3 and shows the streets for consideration downtown. Page 2 of the attachment is related to DC-4 and shows the streets for consideration outside of downtown. The same attachment is used for both agenda items to show the interrelationship between the two.

Question: Regarding DC-3 and DC-4 (healthy Streets), are there any changes to the resolutions/proposals council postponed on June 15th and if so, can you please summarize them? (Councilmember Lumm)

Response: The Transportation Commission's recommendation was added to the memo for both DC-3 and DC-4. Additionally, the fiscal year for the funding was updated from FY20 to FY21 for DC-4.

DC-5 - Resolution to Appoint Carrie Leahy to the Local Development Finance Authority (7 Votes Required)

Question: I was unable to find Ms. Leahy's resume in the Granicus system. Could you provide a copy of her application and resume? (Councilmember Eaton)

Response: Once logged in at <https://a2gov.granicus.com/account/login>, navigate to the people tab and search. The most common reason that someone wouldn't show up, is if they are already appointed, you must first clear the filters under the search box (submitted/eligible/), which is the default but will not show currently appointed members. Please see screenshot below. Once you click the name, the resume the last item before interests and experiences.

People 

leahy  Boards ▾ Date ▾ Application Sta

Showing 2 of 2 results: leahy ✕

<input type="checkbox"/>	Date	Name	Board: Status
<input type="checkbox"/>	Aug 03, 2016	Carrie Leahy	Local Development Finance...: Archived
<input type="checkbox"/>	May 18, 2020	Carrie Leahy	Local Development Finance...: Appointed

DC-9 – Resolution to Impose a Temporary Moratorium on all New Development or Expansion of Existing Development that Requires Site Plan Approval in the C1A and C1A/R Zoning Districts, or Rezoning to the C1A or C1A/R Zoning Districts, in Conjunction with the Study and Revision of the Unified Development Code Related to these Districts

Question: Please describe the origins of C1A/C1AR zoning, when was it first created? Also, if it’s possible, could I see a map of areas where this zoning was originally designated? I would also like to see a map of where C1A/C1AR zoning currently applies. How many development projects have a applied to receive C1A/C1AR zoning in the last ten years? (Could I see the locations mapped?) How many projects were approved in the last ten years to receive C1A/C1AR zoning and could I see those locations mapped as well? (Councilmember Nelson)

Response: C1A/C1A/R was first created through a package of ordinance amendments adopted in 1966 under the title of Comprehensive High-Rise Ordinance. The Ordinance established these districts for the first time, with the following intent statements:

C1A: This business district is designed primarily to serve as a neighborhood shopping area for the University oriented population which is concentrated around it, providing goods that are day-to-day needs, specialty shops, and recreation. While the primary function of this district is to serve as a neighborhood shopping area for the student-faculty population concentrated around it, it also has community-wide orientation, due to its unique and distinctive commercial function peculiar to University oriented population. These districts shall be located in close proximity to the central area of the City.

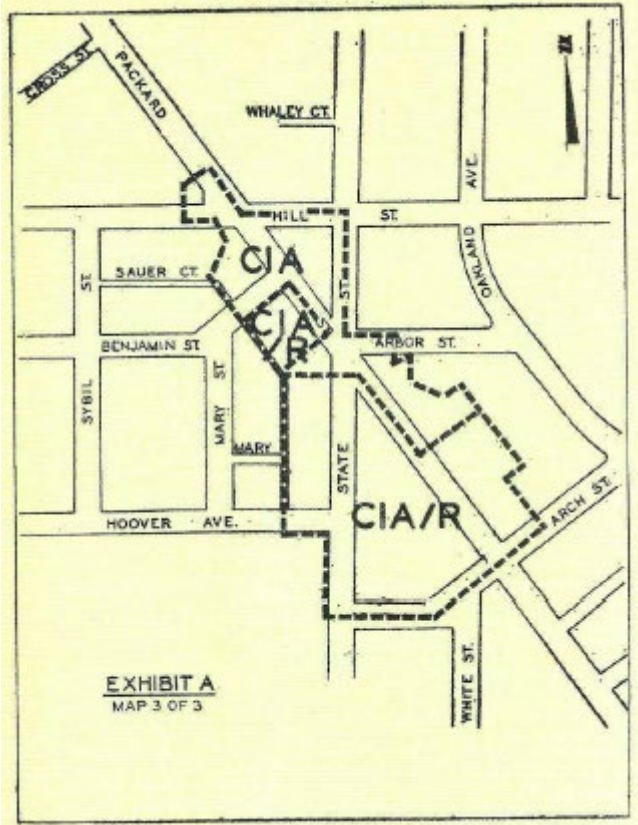
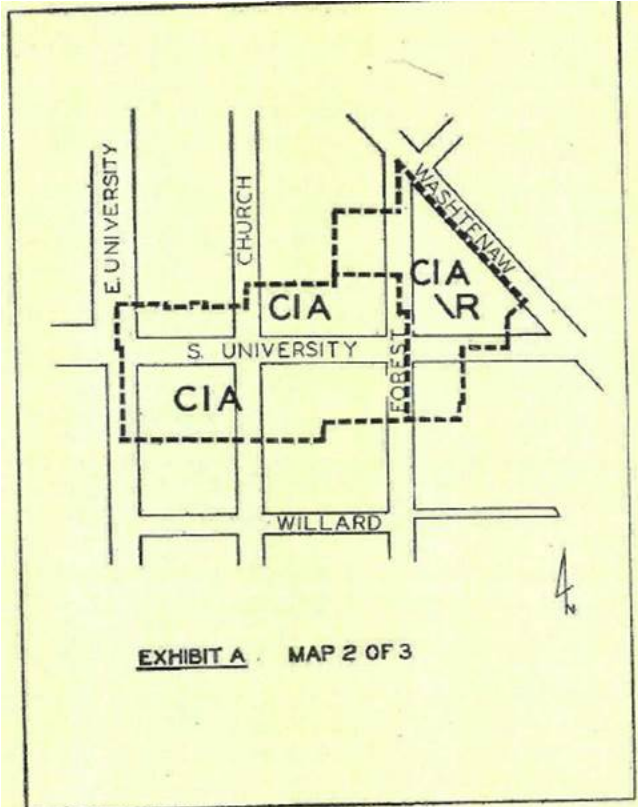
C-1A/R: This district is designed to encourage the orderly clustering and placement of high-density residential and complementary commercial development near the campus business district.

At adoption, the following standards applied:

C1A – 200% maximum FAR/400% maximum FAR with premiums; no maximum height

C1A/R – 300% maximum FAR/600% maximum FAR with premiums; no maximum height

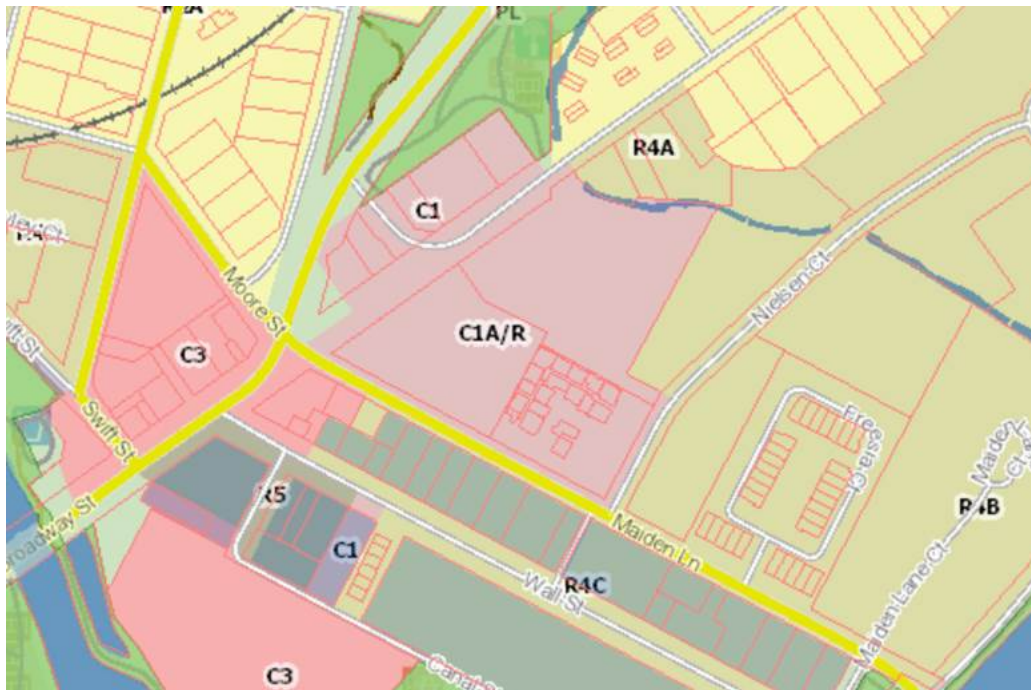
The initial areas where these zoning districts were designated were generally in the South University and Packard/State areas (See below):



Current areas zoned C1A or C1A/R are provided on an attached map.

Two projects have sought rezoning to C1A or C1A/R over the past 10 years:

- 1140 Broadway – Rezoning from PUD to C1A/R with conditions was approved in 2017 (map follows).



- 325 E. Summit – Rezoning from C1B to C1A was denied in 2019 (map follows).



DC-10 – Resolution Directing the City Administrator to Develop a Plan to Review and Increase the Utilization of the Poverty Exemption Program

Question: Regarding DC-10, can you please provide data on the number of exemptions applied for (and granted) over the last 5 years or so? (Councilmember Lumm)

Response: Attached is a summary for poverty applications that have been applied for during the past six (6) years 2015 through March 2020. Please note that tax years 2015 thru 2019 include March / July / December poverty applications. Tax year 2020 only includes March 2020 applications. The 2020 July and December board of review have not met.

DS-1 - Resolution to Direct the City Administrator, Ann Arbor Housing Commission, and Planning Commission to Create Proposed Application Materials, Review and Recommend Development Entitlements to the City Council for 415 W. Washington to Support the Development of Affordable Housing in the City

Question: At the March 20, 2020 Council meeting this item was postponed to allow staff to conclude discussions with the Treeline Conservancy. Thank you for concluding the discussion with the Conservancy to their satisfaction. A second reason given for delaying the resolution was to allow nearby neighbors to express their opinions about the three options for 415 W. Washington presented in the SmithGroup presentation. Were the nearby neighbors allowed to express their preferences for the three options? If the nearby neighbors were allowed to opine on all three options, how much support did each of the options receive? (Councilmember Eaton)

Response: Neighbors were able to express preferences on the numerous options via multiple platforms, and did so as provided in the summary of feedback provided in the DS-1 attachment titled “Ann Arbor Housing + Affordability 415 W Wash May-June Engagement Summary-FULL (1).pdf.” As the engagement of nearby residents and property owners was multi-faceted (online survey and webinar), the May 21st webinar included 90+ curated questions from the 50+ participants to the panelists. Additional community feedback conducted since the March 20 Council Meeting included 165 on-line survey responses from a survey that was mailed to the 1200 households that live within 1,000 feet of the site, and an additional 50 website comments received. Of the engagement conducted after City Council direction, the majority of respondents expressed support for the minimal footprint & full buildout options. Toward understanding such sentiment, the open-ended feedback sought on the preferred option (pages 48 to 60 of file referenced above) are valuable.

Question: If the staff recommendation (identical to the previous April version) is adopted then would the following occur? Would authorization be given for the City to undertake, and fund preparation for rezoning action, preliminary site planning work, and other similar functions normally performed and funded by the developer? (Councilmember Bannister)

Response: Yes, in this circumstance the work would be performed by the City with an elevated focus on community goals. The intent of this process is to entitle the project prior to having a developer involved, avoiding this being a developer driven decision. This, in essence, puts the community and Council in the role of developer until the project seeks its final site and permit approvals. It means the community absorbs the upfront cost. It’s also the reason staff’s recommendation is conservative on what will be necessary to achieve the community’s goals, we do not want to go through the entitlement process only to return to the community and Council recommending a development of greater scale to meet the desired outcomes.

Question: If so, what is the cost to the City to fund this preparation work? (Councilmember Bannister)

Response: This is estimated at \$250,000.

Question: Would the developer be pre-entitled to build a dense 175 Unit development at the site, with few or no “Affordable” units, and almost certainly all high end apartments or condos? (Councilmember Bannister)

Response: No, unless the final plan and final project are approved as such by City Council. The resolution in front of Council directs staff to go and work out the details of the proposed concept, conduct the required public participation and develop more detailed plans and district regulations. Full approval of the project would take place at the end of the process. The pre-entitlement process will dictate what is possible from an affordability standpoint. Staff believes that the site is challenging for affordable units because it would not be eligible for any federal or state funding assistance. Realizing

affordable housing at the site becomes more viable with additional density (beyond the preferred option) or with identification of additional local financial subsidies.

Question: Would the City receive little or no financial compensation from the developer, due to costly remediation of environmental conditions at the site? Basically the property would be gifted to the developer, with no funding received for other uses, like “Affordable Housing,” at other sites, through the Affordable Housing Fund? (Councilmember Bannister)

Response: Sale or long-term lease of the site is envisioned. Since community goals are prioritized however, (e.g. retain chimney, compliance with floodplain regulation environmental remediation, construction of the Treeline Trail, conformance with HDC requirements etc.) each has the potential to add constraints that could result in a lower financial return to the City. The project proposed is designed to give the best opportunity to meet those goals, it is not designed to maximize revenue/return for the City. The City would need to sacrifice these community priorities and indicate that payment into the affordable fund is the priority and sell the site to a developer with that as the goal. To date the priority is to leverage the site to accomplish the community priorities as prioritized through the community engagement process. If the site can be developed in a manner less dense, and that is Council’s desire, it can be determined through the entitlement process. It is possible that multiple options are possible however, without going through the process it will be difficult to determine. Staff is proposing what, in our opinion, is most likely necessary to achieve the desired outcomes and be a viable project for a future development partner.

Question: If points 1 - 4 are all basically true, why should we proceed with this plan at this floodway/floodplain site, particularly with all the concerns and other possibilities regarding this site? (Councilmember Bannister)

Response: The reasons to proceed with this approach would be to pursue the elimination of a blighted, functionally obsolete building, construction of new residential homes, environmental remediation, preservation of the chimney swift habitat, and construction of one segment of the Treeline Trail, all with minimal to no financial contributions by the City. In addition the concept is designed to meet the requirements of existing and proposed floodplain regulations.

Alternatively, these goals could be pursued unilaterally by the City, without any expectation of private investment supporting the associated costs.

Question: Q1. The pre-entitlement update memo (Att 2) includes a revised resolution that could be used as a substitute. Is it staff’s recommendation that the substitute be used/approved? seems to be suggesting? (Councilmember Lumm)

Response: Correct.

Question: Q2. In the Smithgroup presentation (attachment 5), slide 8 on the current preferred option seems to be the same proposal recommended on April 20. Is that correct? If not, what are the changes? (Councilmember Lumm)

Response: Correct, staff continues to recommend the approach illustrated in the preferred option.

Question: Q3. On slide 9 of that SmithGroup presentation (engagement feedback), I interpret the “stepped building” as the preferred option – is that correct? For those supporting “full buildout” or “minimal footprint”, what were those alternatives described as? (Councilmember Lumm)

Response: No, the preferred option evolved as a new scenario that incorporated aspects of both the “Stepped Building – Option 2A” and the “Full Buildout – Option 2B.”

The descriptions of all options developed are as follows:

- Option 1A: Minimal Footprint – Meets R4C Zoning, which limits height to 30’. New building towards rear of site provides residential units on an elevated platform level with parking below. Constructs new elevated leasable commercial use building (office, maker spaces, studios, non-retail commercial) in footprint of old building on Washington. No drive connection to Liberty St. provides more space for potential open space uses.
- Option 2A: Stepped Building – D2 zoning, by-right 200% FAR. Given floodplain and height restrictions, only achieves 104% FAR. Builds new multi-story mixed-use building on top of ground floor parking. Access drive along the west side of the property with Washington and Liberty St. connections. Building steps down toward Washington Street. Opportunity for commercial users opening onto the terrace/Treeline level.
- Option 2B: Full Buildout – D2 Zoning, by-right up to 200% FAR. Reflects the largest building option given floodplain limits and height restrictions, which reaches 160% FAR. Building step back on Washington St., but height is only slightly above YMCA frontage height.
- Preferred Option – Zoning D2, Total Square Feet 148,330, FAR 133%, Total number of units 173, commercial/flex: 9,900 Square Feet

Question: Q4. Of the 215 responses, how many were from residents in the immediate neighborhood and was their feedback different from the overall? (Councilmember Lumm)

Response: Staff does not have the survey results analyzed by geography to differentiate this subset from the total feedback received in May and June, however, will work to perform that analysis and provide on Monday, July 6th in advance of the meeting.

City of Ann Arbor
Poverty Applications
2015 thru 2020

Year	2020					
Month	Count	Change in Value	Average	Granted	% Granted	Denied
March	41	\$ 1,445,105	\$38,029	38	93%	3
July	??	JBOR has not met				
December	??	DBOR has not met				
Total POV	41	\$ 1,445,105		38	93%	3

Year	2019					
Month	Count	Change in Value	Average	Granted	% Granted	Denied
March	30	\$ 1,196,090	\$42,718	28	93%	2
July	16	\$ 335,055	\$33,506	10	63%	6
December	26	\$ 217,893	\$11,468	19	73%	7
Total POV	72	\$ 1,749,038		57	79%	15

Year	2018					
Month	Count	Change in Value	Average	Granted	% Granted	Denied
March	41	\$ 1,265,087	\$39,534	32	78%	9
July	16	\$ 228,876	\$17,606	13	81%	3
December	8	\$ 91,436	\$45,718	2	25%	6
Total POV	65	\$ 1,585,399		47	72%	18

Year	2017					
Month	Count	Change in Value	Average	Granted	% Granted	Denied
March	46	\$ 1,257,611	\$38,109	33	72%	13
July	12	\$ 125,265	\$17,895	7	58%	5
December	10	\$ 101,110	\$50,555	2	20%	8
Total POV	68	\$ 1,483,986		42	62%	26

Year	2016					
Month	Count	Change in Value	Average	Granted	% Granted	Denied
March	43	\$ 1,205,600	\$36,533	33	77%	10
July	19	\$ 342,997	\$31,182	11	58%	8
December	4	\$ 27,889	\$13,945	2	50%	2
Total POV	66	\$ 1,576,486		46	70%	20

Year	2015					
Month	Count	Change in Value	Average	Granted	% Granted	Denied
March	43	\$ 1,334,403	\$49,422	27	63%	16
July	23	\$ 412,106	\$29,436	14	61%	9
December	5	\$ 81,784	\$40,892	2	40%	3
Total POV	71	\$ 1,828,293		43	61%	28

City of Ann Arbor
Poverty Applications
2015 thru 2020

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Month	Count	Change in Value	Average	Approved	% Granted	Denied
Total POV	72	\$ 1,749,038		57	79%	15

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