

Subject: Chapter 5 Suggestions

From: Will Leaf
Sent: Thursday, May 1, 2025 4:28 PM
To: Planning <Planning@a2gov.org>
Subject: Chapter 5 Suggestions

Hello planning commissioners,

Thank you for putting in so much effort into this plan. With a few key changes to chapter 5, the final product will be excellent.

Suggested Changes:

Hub

1. Remove “active first floor commercial” requirements.

Transition

2. Under “Building Form”, change “low to mid-rise” to “low to high-rise.”
3. Remove “active first floor commercial” requirements.

Flex

4. Eliminate the Flex district and instead mark these areas as Transition.

Supporting Documents:

- A. An overview of the changes listed above:

<https://docs.google.com/document/d/1OOIZ1zqvBj-U2-shR3jfPHsUqeTlh8yXFQBuOIEinh4/edit?usp=sharing>

- B. Jonathan Levine and I's memo discussing the Flex District:

https://drive.google.com/file/d/1UsqHLL2kqBL_tzh8F7WJOpdHFv91XTte/view

- C. A memo explaining why it's important to allow housing in Research Park, one of the areas marked Flex:

https://docs.google.com/document/d/1XGO2CGxB_oix6IMCUJ9i22XfCwto2gbgNONBdp_jEFo/edit?usp=sharing

Summary

1. Page 100
 - a. Eliminate the Flex district.
2. Page 101
 - a. Expand the Transition District to include all land currently zoned R3-R5.
3. Page 102
 - a. Under “Transition Building Form”, change “low to mid-rise” to “low to high-rise.”
 - b. Remove “active first floor commercial” requirements.

Eliminate the Flex District

Page 100 – Eliminate the Flex District and instead mark those areas “Transition”

A week ago, Jonathan Levine and I wrote a memo explaining why we think the areas marked Flex should instead be marked Transition.

Flex District Memo:

https://drive.google.com/file/d/1UsqHLL2kqBL_tzh8F7WJOpdHFv91XTte/view

Since then, the planning commission has discussed the Flex district, and a few points came up:

Economic Diversity

Freely allowing housing and retail in the areas currently marked Flex, by instead categorizing these areas as Transition, would create jobs and promote economic diversity. In contrast, continuing to restrict retail and housing in these areas will encourage the University to buy more land at artificially low prices.

If you'd like a full rebuttal of the “housing will crowd out jobs” argument, you can check out the restrictive districts memo Jonathan Levine and I wrote a few months ago.

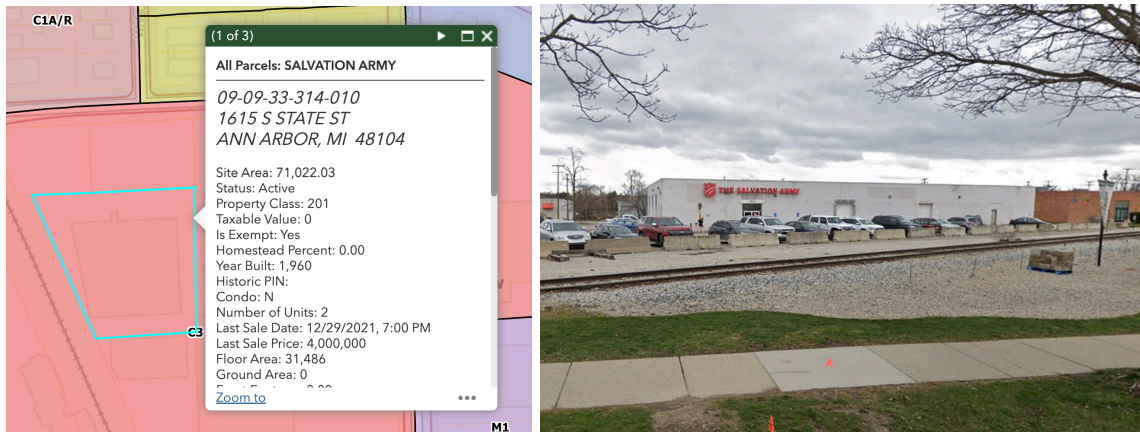
Restrictive Districts Memo:

https://drive.google.com/file/d/1gXgj9wktCJZKx8_g-z6tALbdQIHFaIPx/view?usp=sharing

Thrift Stores

The planning manager has used the PTO thrift shop as an example of a business that would surely be displaced by housing if housing were allowed on South Industrial.

However, the Salvation Army is a thrift shop in a C3 district that allows housing, two minutes away from the PTO Thrift Shop. There is also a used-clothing consignment shop called Top Shelf in the same C3 district.



These stores show that allowing housing does not necessarily drive out thrift stores or other businesses. On the contrary, the Stadium, Plymouth and Washtenaw corridors are full of businesses, even though housing has been allowed in them for decades. The city has actually struggled to encourage housing construction in these areas.

Nuisances

At the last commission meeting, Commissioner Mills posed a great question, asking something like, “How should the city regulate smelly and dirty uses that are needed for a city?”

A staff planner replied “You create an industrial zone.”

This solution sounds obvious, but creating a nuisance-friendly industrial zone is actually not a good solution for several reasons:

First, a nuisance-friendly industrial zone doesn’t protect residents within the district from each other. Even if a zone only allows industrial uses, a polluting use can harm workers on nearby parcels within the zone. If a zone allows both industry and other uses, the dangers are more obvious. Ann Arbor’s M1 light industrial zone allows for schools, day cares, and nursing homes by-right, and therefore does not isolate industrial activities from residents. Residents’ actual protections come from performance standards that apply throughout the city.

Permitted Uses – (UDC, page 36):

<https://www.a2gov.org/media/rh4bt05h/unified-development-code.pdf#page=36>

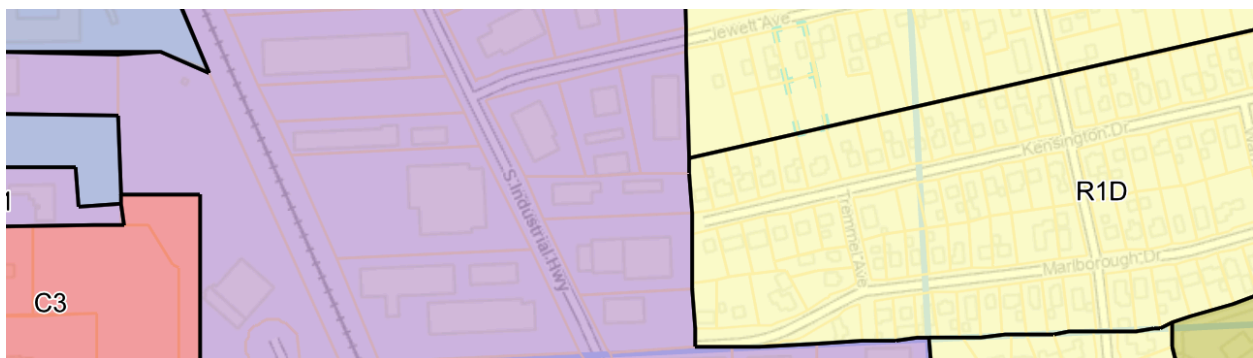
Performance Standards – (UDC, page 24):

<https://www.a2gov.org/media/rh4bt05h/unified-development-code.pdf#page=24>



Central Academy, an Arabic language charter school, inside an M1 district on South Industrial

Second, industrial zones necessarily touch other zones, and therefore harms can spill out from the zone. For example, South Industrial is a narrow strip of land directly touching a residential neighborhood to the East.



If you would like to read about the history of this zoning buffering problem, you can check out this article I wrote on the subject.

Article about Buffering

<https://digitalcommons.tourolaw.edu/cgi/viewcontent.cgi?article=1983&context=scholarlyworks>

Because zoning does not effectively isolate industrial nuisances, cities across the world rely on performance standards. Cities that rely on zoning too much, without sufficient performance standards, sometimes suffer serious consequences, as can be seen in the case of Ruby Recycling 45 minutes east of Ann Arbor.

Ruby Recycling News Story

<https://www.youtube.com/watch?v=sKG5SNXQCCM>

Performance standards, rather than zoning, are the most reliable way to protect residents from dirty, smelly, and potentially dangerous uses, without excluding these uses from a city entirely. Performance standards require property owners to contain their dirt and smells on their own property, using either technology or physical distancing.

Ann Arbor made a decision many decades ago to allow sensitive uses like schools and nursing homes in its light industrial districts, and it now relies on performance standards to make this mixture safe. It would be irresponsible to reverse this decision by loosening performance standards in these areas.

Instead, the city should allow its already mixed light industrial districts to evolve into denser areas that permit residential and retail. In theory, the Flex district allows for this evolution, but in practice, it could impede it, as Jonathan Levine and I discuss in the Flex District Memo. We suggest eliminating the Flex district and instead marking those areas Transition.

Flex District Memo:

https://drive.google.com/file/d/1UsqHLL2kqBL_tzh8F7WJOpdHFv91XTte/view

Expand the Transition District

Page 101 – Expand the Transition District to include all land currently zoned R3-R5.

The land use map is one of the most important aspects of the entire plan, but there is very little explanation in the plan of how this map was constructed. It looks like the map mostly just consolidates existing zoning districts, but there are exceptions.

There are many areas currently zoned R3 and R4 that are not consolidated into the Transition district. These areas include the Old Fourth Ward, where I live, along with nearby apartment buildings by the hospital that are outside the historical district. I support including these areas in Transition, along with all other areas currently zoned R3, R4, or R5.

The map also marks several arterial streets that are currently zoned R1 and R2, like Miller and Maple, as Transition. I support this upzoning, but rezoning these areas to have a 45 foot height limit would be controversial and could slow down implementation of the plan. Maybe the solution is to keep the residential arterials marked as Transition, but to rezone them after the other rezonings to Transition are completed.

Uncap the Transition Height Limit

Page 102 - Under “Transition Building Form”, change “low to mid-rise” to “low to high-rise.”

This small change is critical. Allowing highrises far from Low-Rise Residential areas is probably the single most effective way to solve the housing crisis.

If a potential building is very far away from any Low Rise Residential property, it shouldn't be limited to mid-rise height. For example, the city should be welcoming highrises immediately adjacent to downtown or Briarwood mall.

Remove Active First Floor Commercial Requirements

Page 102 – Remove “active first floor commercial” requirements.

The plan says that in all Hub districts, and Transition districts along arterials, there should be “active first floor commercial.”

It's unclear if the consultants are simply stating general hopes for these areas or are calling for zoning requirements that mandate ground-floor retail in these districts.

If the former, then the plan should move those hopes to a different page to avoid confusion. If the latter, these requirements should be removed. They would be unworkable for several reasons:

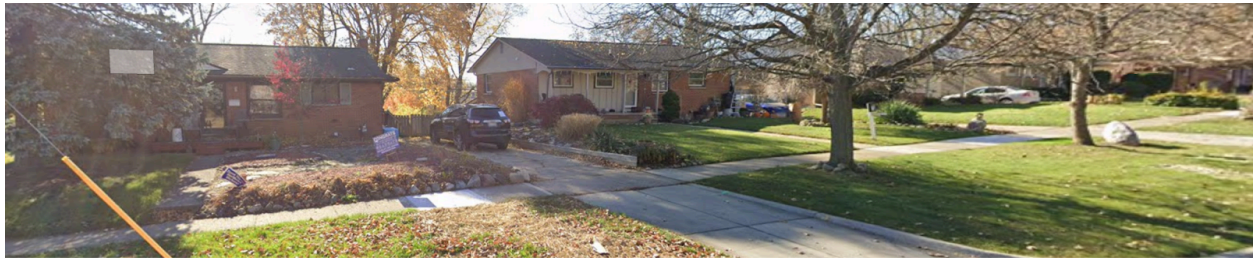
1. The Hub and Transition districts include hundreds of necessary uses that are not “active commercial”, like day cares, urgent cares, Planned Parenthoods, nursing homes, schools, etc. Banning these uses from first floors would severely stifle essential services for no good reason.



An urgent care on Stadium that would become a nonconforming use

2. The transition district includes thousands of homes, including owner-occupied homes on arterial streets. A ground floor commercial requirement would make these homes

non-conforming uses and prevent new housing construction unless retail is included. Forcing residents to include retail spaces in their homes would be overly controlling and bizarre.



Homes on Miller, an arterial street, that would become non-conforming uses.

I suggest removing all references to “active first floor commercial” on page 102. I do not support active-use requirements, but if the commission is set on including them, it could do so at the time of zoning in a selective way. There is no advantage to putting these requirements in the plan now, as they are more likely to antagonize residents rather than reassure them.

Summary

Creating a “Flex” zoning category that may permit housing is a step forward compared to current zoning for the designated areas, which bans housing outright. But the description of the district is ambiguous and could mean:

1. The city will not rezone the Flex areas until large, unspecified infrastructure improvements are made.
2. The new Flex zoning district will restrict residential uses for an unspecified period to reserve space for research and industrial uses.

This ambiguity could prevent housing construction in some of the potentially most housing-productive areas of Ann Arbor. To resolve this ambiguity, we suggest the Commission eliminate the Flex category and instead include the areas marked Flex in the Transition category.

This change is important because developers are currently planning hundreds of units of housing in the areas marked Flex. Oxford is planning to propose an ~800 unit mixed-use development in Research Park adjacent to S. State that would include both market-rate housing and subsidized housing managed by the Housing Commission. According to the developer, planning staff has been resisting the development, partly because of claims about insufficient road infrastructure.

A Flex district would discourage developments like this one, while the Transition district would welcome them. Eight hundred units could be more new housing than gets built in the Low-Rise residential districts in a decade, so removing the Flex district is one of the most important changes needed in the plan.

Risks of Including a Flex District

1. Delays

[Page 116](#) suggests that rezonings to Flex will be delayed until after the city makes large infrastructure improvements that are not described or planned for. The "gradual and strategic" language suggests selective rezoning in response to proposals, rather than proactive rezoning of these areas soon after the plan is completed. This reactive process fails to provide the certainty that is necessary to encourage housing production.

2. Residential Restrictions

The plan also endorses the argument that "employment-based" land uses should be protected from housing with zoning restrictions:

"Without intentional zoning, industrial and employment-based land uses struggle to compete with housing development, which commands higher land values. If left solely to market forces, the city risks losing valuable job-generating spaces" [Page 116](#)

The argument that housing will crowd out jobs has never made sense, for all the reasons we described in our [Restrictive Districts Memo](#). Planning Commission vigorously [rejected](#) the concept of a district designed to protect employment from housing at its January 21st meeting. However, it appears that this same argument is being used to create a new zoning district that restricts housing.

On [page 102](#), there is a table showing how these different categories will be zoned in the future.

The row for Transition says "New mixed-residential district that self regulates height when adjacent to established residential district," while the row for Flex says "Consolidate into new district that is more flexible and permissive."

The difference implies that the Flex district will get a separate zoning district that is not mixed-residential. A different row in the same table says the Flex district will allow "housing -- where infrastructure allows."

Taken as a whole, the table calls for a Flex zoning district that restricts housing unless some unspecified infrastructure standards are met.

The Safe Alternative

There is a simple way for the city to avoid vagueness, delays, and restrictions on housing and mixed-use development -- cut the Flex district from the plan, and instead put the affected areas in Transition. With this revision, South Industrial, North Main, and Research Park, and Industrial Park will be included in a flexible mixed-use zoning district that allows light-industrial uses -- an ideal outcome consistent with the plan's affordability, equitability, and sustainability goals, public feedback, and the commission's clear instructions.

The city will continue to require developers to pay for whatever infrastructure improvements are needed to support their new developments. A lack of existing infrastructure is not a reason to exclude housing development but instead is a reason to encourage developments that pay for infrastructure improvements that benefit all residents.

One possible counterargument is that a separate Flex district would allow the city to enforce looser noise and nuisance standards than in other districts, and these looser standards would benefit certain industrial or government facilities. We feel that selectively loosening nuisance standards is not desirable—especially given the proximity of S. Industrial and Research Park to

residential neighborhoods and schools – but if the City is set on this action, it could apply different districts with different nuisance standards within the category of Transition.

Will Leaf has written about zoning for Real Estate Law Journal and can be reached at willeaf@umich.edu.

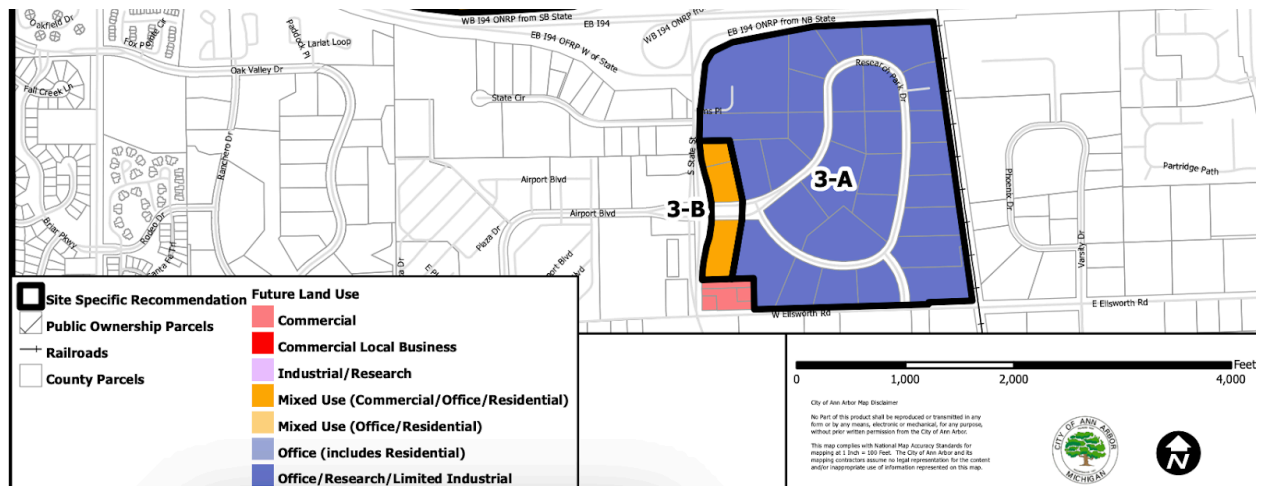
Jonathan Levine is a Professor of Urban and Regional Planning at the University of Michigan and can be reached at jnthnlvn@umich.edu.

Summary

At the last planning commission meeting, a person speaking at public comment said that Research Park was “not an appropriate place for residential,” and that there were no libraries, parks, schools, or stores there, and that allowing residential there was unsafe, because there is no pedestrian connection across I-94.

I drove down to Research Park last week and found that several of the above claims are not accurate. Research Park contains both stores and a school and there is a park within walking distance. The Mallets Creek Library is a five minute drive away, and the bus service is good.

Parts of Research Park are already zoned mixed-use and allow residential. The current South State Street Corridor plan calls for more land in the park to be zoned mixed-use. Rezoning the entire park Transition would have many benefits, whereas downzoning the mixed-use areas to “Flex” would be a step backwards.



South State Street Corridor Plan – Page 31.

<https://www.a2gov.org/media/5s3fx2o1/sssc-plan-august-2013.pdf#page=35>

I found out in February that Oxford has already met with city staff to ask for a rezoning to permit an 800 unit mixed-use development with both market-rate and rent-controlled affordable housing. I don't know the details of this proposal, and I do not support public subsidies for private development, but I believe the zoning code should welcome this kind of development, not forbid it.

Safety

It's true that there is no pedestrian connection across I-94, and the city should remedy this shortcoming by putting sidewalks on State Street where it crosses the highway. However, it does not follow that it is dangerous to live without pedestrian access across I-94. Residents of Research Park could walk to a large variety of destinations south of I-94, as I describe below. They could also take a bus to Briarwood or downtown with ease.

There are areas of Ann Arbor that are much less walkable than Research Park, like where I grew up, on Newport Rd north of the highway, where there are big sidewalk gaps on a moderately busy road and no shops at all. In contrast, Research Park has sidewalks, retail destinations, and minimal traffic. I am glad that my family was allowed to live off Newport Rd, even though the pedestrian infrastructure was bad. It would be unjust to exclude families from Research park, where the pedestrian infrastructure is better, just because there is no pedestrian route across I-94.

Where pedestrian and cycling infrastructure is lacking, the comprehensive plan should call for improvements, not ban housing.

Schools

There is a public school for children with special needs near the center of Research Park. It is called Progress Park. It is run by the Washtenaw Intermediate School District. After school hours, it serves as a public green space.



Some Geese walk by Progress Park and Sartorius

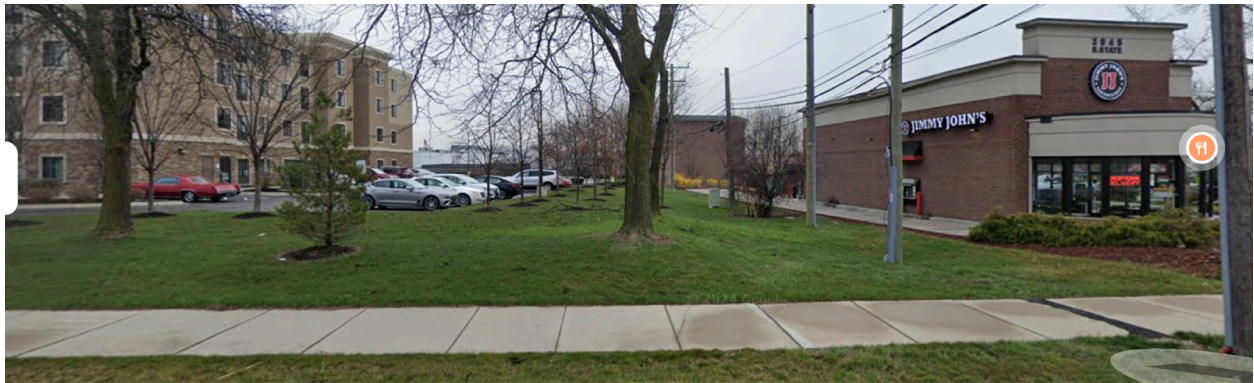
Parks

Aside from Progress Park, Pittsfield Township park is also within walking distance. There is also a giant undeveloped lot owned by the City just south of Research Park. Perhaps some of it could be converted to parkland at some point.



Shops

Many businesses are within walking distance, including Jimmy Johns, Tim Hortons, Costco, Zingermans Bake House, and Mothfire Brewery. All of these destinations are reachable by sidewalk. The medians and pedestrian islands at the roundabouts on Elsworth make it possible to reach these places without ever needing to cross more than two lanes of traffic at a time.



Walk Scores

Walk scores provide more evidence that Research Park is friendlier to pedestrians than many other parts of Ann Arbor.

- Newport West, where I grew up, has a [walk score of 4](#).
- The middle of Miller, currently marked Transition, has a [walk score of 32](#).
- The middle of Research Park has a [walk score of 40](#).
- South Industrial has a [walk score of 65](#).

If more housing and retail was allowed in Research park, I expect its score would shoot up.

Libraries

The Mallets Creek Library is a 5 minute drive away. AAATA Route 6 goes through Research Park and then onto Briarwood and the downtown library.

Route 6 map:

<https://www.theride.org/sites/default/files/2024-12/Route%206.pdf>

Potential Development

There are several empty lots in Research Park, and there is probably space for several thousand people to live within the park. With more housing and retail, the park could be a fun and lively neighborhood. The north side of the park is moderately noisy, because it is close to the highway, but the rest of the park is pleasant. There's no need to forbid people from living here. Please put Research Park in the Transition category.

