

## **PLANNING AND DEVELOPMENT SERVICES STAFF REPORT**

**For Planning Commission Meeting of June 5, 2018**

**SUBJECT: 1140 Broadway Rezoning to Add Conditions to C1A/R With Conditions Designation**

**File No. Z18-005**

### **PROPOSED CITY PLANNING COMMISSION MOTION**

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council accept the offer for a new condition to tie development in the C1A/R With Conditions district to the 1140 Broadway Planned Project Site Plan and revise the height limit condition by approving the amendment to the Conditional Zoning Statement of Conditions.

#### **STAFF RECOMMENDATION:**

Staff recommends that the **offer to amend** the Conditional Zoning Statement of Conditions be **accepted** because the additional and revised conditions provide further, rather than less, certainty and specificity for development of the site.

#### **PETITION HISTORY:**

The Planning Commission at its meeting on May 16, 2018 postponed consideration of this petition to allow additional time for neighbors and interested residents more time to review the proposed offer.

#### **ADDITIONAL STAFF COMMENTS:**

Staff has responded to several questions about the additional condition offered, to tie development of the site to the 1140 Broadway Planned Project Site Plan. The questions and staff's responses are summarized below for the benefit of the Planning Commission.

***Relationship of Land Divisions to Zoning District*** – Zoning designations run with the land, not an owner or developer. The C1A/R With Conditions (and With “Additional” Conditions if accepted) will remain in perpetuity for all 6.4 acres unless another zoning petition is submitted. Land within the C1A/R With Conditions district may be divided into smaller lots and/or a condominium may be established in accordance with State statutes and City ordinances, two of which are the Zoning Ordinance and Zoning Map. This means that land divisions that conform to the area (lot area and FAR), height, placement, access, and required development regulations of the C1A/R With Conditions

specifically and the Unified Development Code broadly will be approved. But those actions do not affect the zoning designation of the land and do not change the boundaries of the C1A/R With Conditions district.

***Relationship of Site Plan to Land Divisions*** – Site plans can include a single or multiple parcels. The 1140 Broadway Planned Project Site Plan as originally approved on December 4, 2017 was a plan for a single 6.4-acre parcel. The site plan has since been amended and superseded with the 1140 Broadway Planned Project Site Plan , approved May 17, 2018, for a two-parcel site covering 6.4 acres. Future land divisions, and future amended site plans to reflect the land divisions, are possible that still cover the 6.4-acre site.

***Relationship of Site Plan to Zoning District*** – Normally, a site plan is approved when it meets the specific requirements of the zoning designation of the land and the broad requirements of the Zoning Ordinance. But there is no perpetual relationship between the site plan and zoning district. Site plans can expire and new plans submitted, and new site plans can be submitted to supersede previously approved plans. Existing developments can be demolished and new, entirely different developments can be approved on the same site.

With a condition to tie a site plan to a zoning designation, then a perpetual relationship is established. Development of the named site plan becomes a requirement of that zoning district. The site plan may expire but only a new plan exactly matching the named site plan may be approved. Once built, if existing development in the district is demolished, only new development exactly matching the named site plan may be constructed. Changes to the site plan must conform to the Statement of Conditions. In the case of this C1A/R With Conditions “additional condition” petition, administrative amendments can be approved. The Unified Development Code contains a list of changes that can be approved with a Site Plan for Administrative Approval (see 5.29.6.F.)

***Relationship of Statement of Conditions and Development Agreement*** – Development agreements address needed improvements beyond the boundaries of the site plan, unique circumstances that are not addressed City Code, and establishing procedures. For example, upsizing a water main in the street fronting the site is a needed improvement beyond the boundary of the site plan. Unique circumstances could include donating land to the City for parkland. Submitting documents prior to issuance of a building permit is an example of a procedure. All of these things are related to the site plan and are triggered *if* the approved project is developed. However, there is nothing in City Code nor the development agreement that requires the project to be developed. If the site plan expires, so does the development agreement, and if a new site plan is submitted, a new development agreement will be prepared tailored to that new site plan – which may be for an entirely different concept.

The Statement of Conditions is a requirement of the zoning designation. Tying development of a named site plan to the zoning designation means the site plan now runs with the land. The conditions will not expire with the site plan and are not triggered

if the site plan is developed. Rather, tying the site plan to the zoning district requires *that* the site plan is developed.

***Declining the Offer*** – Declining the offer to tie the 1140 Broadway Planned Project Site Plan to the C1A/R With Conditions zoning designation means the current designation and entitlements to the land continue to apply. The C1A/R With Conditions zoning designation and Statement of Conditions is the zoning designation of the land and the only condition, or additional regulation, is related to maximum height.

The 1140 Broadway Planned Project Site Plan is and continues to be valid until December 4, 2020. Permits to construct the approved development may be issued until that time, and continuing after that date until completion of the project if the first permit is issued before December 4, 2020. If construction does not begin and the site plan expires, any site plans that conform to the current C1A/R With Conditions, including Statement of Conditions, as well as all applicable development regulations and meeting the standards for site plan approval will be approved.

Prepared by Alexis DiLeo  
Reviewed by Brett Lenart  
6-1-18

References: [May 16, 2018 Planning Staff Report Amended Statement of Conditions \(5-11-18\)](#)

c: Ron Mucha, Morningside Lower Town, LLC (Owner)  
Tom Covert, Midwestern Consulting, LLC (Petitioner's Agent)  
Systems Planning  
Project No. Z18-005