



City of Ann Arbor
Formal Minutes - Final
Planning Commission, City

301 E. Huron St.
Ann Arbor, MI 48104
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Tuesday, February 3, 2015

7:00 PM

City Hall, 301 E. Huron St., 2nd Fl.

10-b 15-0137

The following amendments are proposed to the Zoning Map and Zoning Ordinance to implement recommendations from an evaluation of the 2009 Ann Arbor Discovering Downtown (A2D2) zoning changes:

- Rezoning of 336 East Ann Street from D1 (Downtown Core) to D2 (Downtown Interface) base zoning district;
- Rezoning of 219 North Fifth Avenue and 211 East Huron Street from East Huron 2 to East Huron 1 character overlay district;
- Text amendments to the East Huron 1 character overlay district to create area, height and placement requirements for D2 zoning; and
- Text amendments to the East Huron 1 character overlay district requirements for D1 zoning to reduce the maximum height from 150 feet to 120 feet, establish a maximum tower diagonal dimension, and establish a side setback requirement.

Staff Recommendation: Postponement

DiLeo presented the staff report.

PUBLIC HEARING:

Ray Detter, 120 N. Division, Ann Arbor, said out of the long and arduous process came the importance of context, which is part of the Downtown Plan. He said there is much of the discussion that he supports and others support, acknowledging that much work has gone into these new changes. He said in the amendment to rezone 336 E. Ann Street, the property is unique in that it faces Ann Street, with multi-family to the north and offices to the east, as well as on the corner; and it should have been zoned D2 in the first place, with a 60 foot maximum height. He said the current proposal is to provide no minimum and 10 foot maximum front setback. He said on the other side of the street it is all lined with historical residential houses and it seemed to him and others that we need more rather than the simple limitation on the maximum. He said many people believe we should do a 10 foot minimum required setback which matches

the houses on the other side otherwise you will have a structure sticking right to the sidewalk. He said he also wanted to mention lowering the height from 150 to 120 feet on the properties on the north side of E. Huron Street and require a maximum of 130 feet tower diagonal. He said he didn't have a clear image of setbacks in regards to what is expected. He said he hoped to soon have a provision that any building constructed on that site provide at least a 25 foot separation from the east side of Sloan Plaza, otherwise we are not respecting the context of the residential building next door.

Steve Kaplan, 406 N. Division Street, thanked the Commission for their work, adding that he felt the issues had been covered well by Ray Detter. One of lessons learned by 413 E. Huron is that it is always possible to add beyond what is permitted by zoning, but what is never possible is to rein in something that has already been promised by too generous zoning, and we get by-right development, which he felt no one liked in its iteration at 413 E. Huron Street. He said he is happy to see that we are in a much safer spot with what could get built in some of these spots in the future.

Ethel Potts, 1014 Elder Blvd., said she was not making comments at this time since she needed more time to review the report. She said the Commission's job of making revisions in D1 and D2 has just begun and is not finished with this group, and there are other sensitive areas that need changing to D2, like across from Hill Auditorium, like near the historical Congregational Church at State and William and along Washtenaw Avenue, and to introduce commercial to that as a requirement would be a great mistake, as our code says now. She said revising the retail requirements for D1 and D2 has hardly begun. She said we call D2 a buffer but it was not designed that way; strengthening of design guidelines has not begun. She read from a statement dated March 2009, adding that sadly her predictions over these zonings came true and that D1 and D2 need fixing.

Tom Stulberg, 1202 Traver Street, said he is a resident of the Broadway Historic District and a property owner in the Old West Side historic district, as well as the current Chair of the Historic District Commission. He said he was speaking as an individual and not as a representative of that body tonight. He said there is a lot to like about the changes proposed and the progress that had been made is wonderful. He said he felt the consultant did a great job and we are well on our way to some good changes in the zoning. He said he wanted the Commission to consider something in regards to historic districts; the Historic District Commission reviews

properties that are in a historic district but they have no say over properties adjacent to historic districts, and some times the pains that they go through for property in historic district in regards to size, scale and massing can get tossed out when there is a building right next door to the historic district that is considerably different in size and massing and considerably affects the streetscape and setbacks that are considerably different. He asked that whenever the Commission consider zoning, that they consider nearby historic districts.

Chris Crockett, 506 E. Kingsley, said she supports the previous speakers. She said we have made references to context in our character districts, but these need to be strengthened, particularly on properties adjacent to historic districts, which was totally disregarded on the development of 413 E. Huron Street. She said she doesn't believe there is any person in Ann Arbor that is pleased by what they see there, what a hulk is going up on that site, how ominous it is and how off putting it is. She said in that case the developer was able to define what the context was, what the overlay was, so we have to be very clear that we write that definition and how important it is to what is developed. She reiterated what Detter said about 336 E. Ann, in that this very modestly sized site should have a minimum setback of 10 feet, and should be consistent with the lawns of the houses in the historic district next door. She said you can see how jarring it is to have a building coming out to the sidewalk as in 413 E. Huron, for pedestrians as well as vehicles. She asked that the Commission take these things under consideration in making this a better zoning for the area.

Dorothy Nordness, 114 Eighth Street, agreed with the previous speaker in that so many buildings recently built in Ann Arbor go up to the sidewalks and cut out the light from the residential buildings nearby. She thanked those who put in hours to come up with the suggested specific requirements, noting that we need more requirements than suggestions for the developers, since their approach is let's get as much money out of this as we can. She said our approach should be to get as much out of the design as possible, and with what fits with our City and is satisfying to look at and fills the needs of the building being put in. She said setbacks from street and setbacks of height are very important. She said she wanted to add her name to communication that had gone to Council regarding zoning and she also thanked the Commission for slowing down the process, taking time to get it right this time and listening to more public input.

Cy Hufano, 505 E. Huron, Unit 402, said he is a resident of Sloan Plaza

and felt that his concerns about setbacks have been covered by previous speakers. He asked them to consider the narrow 10 foot setback when walking between The Varsity of Ann Arbor and the parsonage. He said he has lived here 68 years and that all work that one does is focused on being 50% technical and 50% being socio-behavioral. He said in the work that he does he sees that the socio-behavioral work gets ignored and what ends up happening is all kinds of strife and all kinds of difficulties within organizations. He asked the Commission to weigh the balance between technical when measuring footage, diagonals and all those technical things and what are the implications that you are promoting that will have socio-behavioral impacts on people because after all, don't we live here in a community with people and isn't that first and foremost. He said unfortunately what seems to be happening is that becomes not only secondary but almost becomes an afterthought.

Jeff Crockett, 506 E. Kingsley Street, said he was pleased with the efforts of the Planning Commission and the results so far. He said one concern he has is the lack of protection for landmark trees, referencing 413 E. Huron Street. He said there is very little protection for landmark trees; there is a mitigation procedure that basically allows developers to take down landmark trees for a minimal consequence. He said mitigation is really not protection for landmark trees and trees on adjoining lots. He urged the Commission to look at the landmark trees protection because we are the City of trees, we should offer better protection than what is currently offered.

Joan French, 505 E. Huron, Unit 606, said she hopes that when Campus Inn expands, she hopes the setbacks will be such that it won't affect those on the east side of Sloan Plaza, since half of her views are currently affected. She thanked the Commission for all their time and consideration on the topic.

Doug Kelbaugh, 223 E. Ann, Unit 13, thanked the Commission on their thorough job on such tedious issues. He said maybe Council would need to expand the charge regarding D1 and D2, noting that he believed we are still exposed on East Thayer and vulnerable to abuse. He said Panera Bread could be torn down and a 180 feet tall building could shoot up from that corner, towering over Hill Auditorium. He said there could be a building as tall as the Bell Tower Hotel.

Noting no further speakers, the Chair closed the public hearing, unless the item is postponed.

Moved by Clein, seconded by Adenekan, that the Ann Arbor City

Planning Commission hereby recommends that the Mayor and City Council approve the staff-initiated rezoning of 336 East Ann Street from D1 (Downtown Core) to D2 (Downtown Interface) base zoning district, and

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the staff initiated rezoning of 219 North Fifth Avenue and 211 East Huron Street from Main Street to East Huron 1 character overlay zoning district, and the Municipal Center block from East Huron 2 to East Huron 1 character overlay district, and

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve amendments to Chapter 55, Zoning Ordinance, Section 5:10.20(3), Building Massing Standards, to add a definition of “maximum tower diagonal,” and

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve amendments to Chapter 55, Zoning Ordinance, Table 5:10.20A regarding area, height and placement, including the addition of a maximum tower diagonal standard, for the East Huron 1 and East Huron 2 character overlay zoning districts.

COMMISSION DISCUSSION:

Bona offered context, as the only current Planning Commissioner that was around during the A2D2 discussion, of the earlier discussions about this area, which turned out to be very controversial during the A2D2 discussion. She said the thought was that all parcels neighboring residential properties should be zoned D2. She said one point of view expressed during the discussion was that there shouldn't be non-conforming situations and opinions were that they did not want to create non conformities. She said this was one of four items that went back and forth between City Planning Commission and City Council and passed by very close votes, noting that it has never been an easy area. She feels this area should have been zoned D2, but noted that she is only one Commissioner and that it seems that they are very close to reaching a compromise, although it may need some more work. She noted that speakers mentioned other sites the Commission should be looking at and she explained that there is a list and they are only on number 2 of that list so they haven't gotten there yet.

Bona said when zoning was originally proposed there were two options; either a height limit or a diagonal requirement. She said those two options work in opposition with each other, but they are putting them both here because they are trying to solve a difficult situation. She said with the diagonal they are trying to force towers to be tall and thin and not allow them to be short and fat, but when you have height limit, you are already constricting what can be done and could counteract the possibility to building out to what we say they can. She said there is a possibility that when imposed, parcels may not be able to maximize the Floor Area Ratio. She said generally speaking, she felt this proposal is a very good compromise and that some of the recommendations brought up this evening could help fine tune the matter.

Clein thanked the Ordinance Revisions Committee [ORC] for putting in a lot of hours on this issue over the last year, and thanked members of the public who have shared input and kept the issues on the radar for the Commission as well as City Council. He said it does seem like the tough lessons have been learned and we are benefitting from things that have happened in the past to amend those areas. He agreed that they are at a good point in reaching a compromise. He asked about the definition of tower diagonal and if tower was defined as the portion that extends about the streetwall, and streetwall is defined as a certain height in each character district.

DiLeo said yes, and in E. Huron the streetwall is a minimum of 2 stories and maximum of 3.

Clein asked how they ended up with a 130 foot diagonal requirement.

DiLeo said that dimension was included in the ENP report, as well as what was proposed in the earlier versions of the A2D2 zoning amendments that didn't make it all the way to the end.

Clein noted that the ENP report modeled several options and looked at several sites under consideration.

Clein asked for differences between the two E. Huron character overlay districts.

DiLeo said they are not defined differently. She said the original A2D2 zoning scheme proposed a East Huron character district, and as a compromise instead of splitting the base zoning of D2, Council split the character area.

Clein asked about the proposed 10 foot setback and if each district has setbacks based on street types.

DiLeo explained each parcel has a base zoning, character overlay and street designation which determines the building frontage. She said the UM Credit Union has secondary street frontage, and while it was not on the ENP's radar to address this designation in the evaluation report, it can be introduced at this time.

Rampson said there is a Primary Street frontage designation, with basically a 0 setback [0 to 1 minimum to maximum], and then there is a Secondary Street frontage designation that is the 0 to 10 with 10 maximum, but then it jumps up to the Front Yard frontage designation, which is 15 feet. She said this 5 foot difference in the Front Yard designation can either be changed for everything in the downtown or there may be another solution.

Mills asked about street wall height, noting that the minimum is two stories. She asked if they were to build something on the credit union lot would that mean that it would have to be two stories up at the road.

DiLeo said yes.

Mills asked about the public comment reference to having a 25 foot setback from Sloan Plaza. She asked if the current setback in a D1 district to a D1 district is zero and if they could build up to the property line.

DiLeo said yes, the zoning ordinance will allow for a zero setback, but the Building Code requires some setback when you have windows. She noted that there are some buildings in the downtown, such as Sloan Plaza, that have received variances to allow them to build up to the property line and put windows. She said the question has been raised if all other properties should be required to have setbacks when others have received variances.

Mills asked if this is similar to the hotel proposal.

DiLeo said yes, this is the situation at the One North Main building.

Mills said she shares Mr. Crockett's concerns about mitigating healthy landmark trees and that it does not seem right to her.

Adenekan thanked Bona for providing history on the topic and she thanked the community for making positive statements and giving lots of good suggestions. She said she felt everything was going to work out as they move forward. She said she too loves trees and feels Ann Arbor is all about trees and that we should think closely about the matter.

Briere said she wanted to talk about the conflict between community values and private property, which was the case with the tree at 413 E. Huron, since it was in someone's backyard and not in the City's right-of-way. She said we now have the same problem with 336 E. Ann, and if we zone it D2, it will affect their ability to use the property for commercial development in the future. She said these are conflicts for which she doesn't have a solution. In her version of history, the reason 413 E. Huron was not zoned D2 was due to the property owner wanting to maximize the commercial value of that property. She said in an ideal world, one would have gradual changes in height, but since there is not enough horizontal space, there will not be gradual changes in height. She said she was having problems with mixing maximum height with diagonals and visualizing 400% Floor Area Ratios. She said the question becomes, what do our incentives incentivize, which will be a big concern for the next round of discussions involving premiums. She said she had sent a slew of questions to staff, and one of her biggest questions is what happens just outside of this area. She said there is one tiny parcel on Fourth Avenue, which is D1, allowing 180 feet height and she would like to know what is achievable on that site. She said she would like to know what does D2 zoning and 10 feet fronting Division look like. She said many people became confused when Sloan Plaza was rezoned to D1 because it was a residential building, and now they could have buildings constructed right next to Sloan Plaza with their windows becoming blocked. She said there aren't many landmark trees left in the downtown but there are still many on private property. She said her final issue is regarding solar energy and why isn't it being put on downtown buildings and how will the City address the shading issue created by tall buildings that block solar systems.

Franciscus said sun is not as plentiful as wind here in Michigan, and we have so many options that are more efficient than solar, given that the efficiency is limited for solar. She noted that wind turbines have overcome many problems and no longer need to be macro sized but can be micro. She said with solar, you have to leave it there to get return on the investment. She asked if the City has green spaces as a part of their requirement, adding that in Germany, new construction is required to

incorporate green space into their design to make it flow more and for ease of enjoyment.

DiLeo said the City only requires landscaping to buffer surface parking lots, conflicting land use buffers and interior parking lot landscaping.

Milshteyn asked about the maximum tower diagonal and if there were examples of where something like that was recently built so he could get a grasp of the impact.

DiLeo said the bulkiest building, the AT&T building across the street, has a diagonal of 200 feet with 7 stories. She said Ashley Terrace, at 202 W. Huron, has a maximum diagonal of over 200 feet and rises straight up. She said two buildings admired for their slenderness are the First National Building at 201 S. Main, with a maximum diagonal of less than 100 feet, and the 201 E. Washington building, with Wireless Toys and Sotinis as the grade level tenants, has a diagonal of less than 100 feet.

Rampson said if a diagonal were in place for the 413 E. Huron building, they would have had to do two towers, but then they would probably not have been able to get to their fullest Floor Area Ratio.

Milshteyn asked what about the diagonal of 413 E Huron.

DiLeo said she can check, but believes it is more than 130 feet and would be non-conforming.

Woods said this comes back to the noted context, and with the two examples provided, the AT&T building is in a different location from 413 E. Huron and the issue of shading becomes part of the dilemma.

Clein said he believed that the new Municipal Center would also not comply with the diagonal. He said it would be easy to walk away from this discussion with the thought that smaller is better, but that too could have unintended consequences, since building codes require bigger stairs, elevators, two means of egress, which takes up more room. He said if one were to take this citywide, one would need to get a variance or build a taller building. So, the dilemma becomes having taller towers, more city-like, or shorter, more squat, maybe 6 story buildings.

DiLeo said this is the dilemma expressed by the Ordinance Revisions Committee.

Clein asked if there is an alternative, such as building up to 6 stories, then the diagonal would not apply.

Bona noted the front yard setback should be looked at, while she was not sure if they were opening it up to be more complicated. She said the 15 foot minimum setback might not be so bad.

Bona explained that variances for buildings proposing windows on property lines is totally optional and a voluntary process by the builder. She said one example of a building not having windows is City Apartments. She explained that the only way to get a variance is to agree to fill in the windows if the property owner next door builds. She wanted it to be clear that the City does not have the responsibility to protect windows that are not universal rights to begin with. She said she has spoken to the leasing agent at Sloan Plaza and they have stated they are very clear with every tenant that the existing windows built at the property line will be filled in if and when a neighbor builds.

Bona further commented that the issue of mitigation of trees is a citywide issue and not strictly for the downtown or for these parcels. She said maybe the mitigation requirements are not strong enough if one can take tree down and plant new ones. She reiterated that most of the existing landmark trees are on someone's property and when work is being done that is impacting the root zone, what is to guarantee that the neighbor cannot take it down.

Woods asked if there were other questions for staff and if the Commission wanted to follow the recommendation to postpone taking action tonight.

DiLeo enquired if the Commission felt that the item needed to be further reviewed by the Ordinance Revisions Committee.

Bona said she was comfortable to have the item come back to the full Commission.

Mills clarified that the front yard setback change would come back before the Commission.

Milshteyn suggested in order to give staff some flexibility on the returning date that the motion state that the item should return to the Commission no later than the first meeting in April.

Moved by Briere, seconded by Clein, to postpone the agenda item to allow final details to be incorporated and should return to the

Commission no later than the first meeting in April.

On a voice vote, the Chair declared the motion carried.