

Mayor Hieftje and Members of City Council,

We only ask that you respect our vision for Ann Arbor as you look at options before you.

We agree with Karen Kafantaris, AARP Michigan's associate state director for livable communities:

"Livable communities are not just about serving older residents. Livable communities serve residents of all ages and we must consider all ages at every stage of the planning process -- not just planning for older adults with younger residents as an afterthought."

We support "livability." Partners for Livable Communities defines this as

"the sum of the factors that add up to a community's quality of life—including the built and natural environments, economic prosperity, social stability and equity, educational opportunity, and cultural, entertainment and recreational possibilities."

We remember the Introduction to the Downtown Ann Arbor Design Guidelines when first proposed:

"New development should be sensitive to the traditional context of downtown Ann Arbor. Although such development may be larger or taller than that seen traditionally, or incorporate contemporary design elements, it should also respect the design context and traditions of the character district, block and street in which it is located."

That document made respectful reference to the 1988 Downtown Plan, the 1992 Central Area Plan and the 2006 Recommended Vision and Policy Framework. The north side of East Huron was proposed to be D2 at that time.

We believe that the matter before you is primarily about respect and about balance.

We have an expectation that a promised review of A2D2 provisions will be made now. Council made that provision when enacting current zoning. We have relied on this.

We ask that Council review the D1 and D2 zoning, the citizen participation process and the design review board provisions which grew from but did not always agree with the Ann Arbor Discovering Downtown recommendations.

We have heard near property owners to downtown raise concerns under Chapter 103 of the City Code

"Historic preservation is hereby declared to be a public purpose and the city may hereby regulate the construction, addition, alteration, repair, moving, excavation, and demolition of resources in historic districts within the city as provided in this chapter.

We join preservation issues with questions asked and open for answer at the citizen participation meetings under Chapter 55 which covers "early and effective citizen participation." (Sec. 5:110(1)/(2).)

We urge consideration of points raised by Design Review Board exams and the efficacy of rendering this blue ribbon advice voluntary.

We would welcome more formal guidance for staff in shepherding projects.

We note the intent is to balance these and other rights by turning to Chapter 57 of the City Code:

“This chapter is intended to require City review and approval of the development of certain buildings, structures and land uses and the creation of new lots, all of which can be expected to have a significant impact on adjacent parcels and land uses, traffic patterns, natural features and the character of future development. It is further the intent of this chapter to provide for the preservation and management of significant natural features through City review, as well as to achieve harmonious relationships of buildings, structures and uses, both within a site and with adjacent sites; safe and convenient traffic movement, both within a site and in relationship to access streets; and appropriate public and private infrastructure.”

We applaud the advisors who have shared a summary of the city’s responsibilities from the publication “Michigan Zoning, Planning, and Land Use,” December 2012, page 314:

“Generally, a municipality can change the zoning of land at any time so long as the statutory amendment procedure is followed and the new zoning is reasonable...”

Many people buy property believing they have a right to rely on the zoning of that property and that they have a justifiable expectation that the zoning of the land around them will remain unchanged. But landowners do not have a vested interest in the current zoning classification of their land or their neighbors’ land that will remain unchanged. [Cites omitted.]

A Michigan landowner does not acquire a vested right to a particular land use until it has made substantial physical improvements to the land pursuant to a validly issued building permit. [Cites omitted.]

The substantial improvements also must be made under authority of a building permit in order for the landowner to acquire a vested interest in the current zoning. [Cites omitted.]”

Further, with respect to “bad faith” from the same resource at page 315:

“The second exception to the general rule that the court will apply the ordinance in effect at the time of the court’s decision is for ordinance amendments passed in bad faith and with unjustifiable delay. The test of bad faith is whether the amendment was enacted for the purpose of manufacturing a defense to a lawsuit... The court will consider the timing of the ordinance amendment in relationship to the property owner’s application, the significance to the amendment in relationship to the expressed goals of the community, the application of the amendment to similar property owners, the reach of the regulation beyond the litigation, and the relationship of the ordinance amendment to a view of the total circumstances, among other things. The fact that the property owner’s application motivated the change, is not, in itself, dispositive of the question. The issue of bad faith is factual and will be determined by the trier of fact after consideration of all relevant factors.”

Let’s not go farther until we have balanced our vision with our zoning.

*Sincerely, Christine Brummer, Kathleen Canning, Jack Eaton, Catherine Glorie, Barbara Hall, Vicki Honeyman, Kitty B. Kahn, Nancy Leff, Barbara Murphy, Wyan Stevens and Allison Stupka*