

## MEMORANDUM

TO: City Planning Commission and City Council  
FROM: R4C/R2A Zoning District Advisory Committee  
SUBJECT: **Review of Proposed R4C/R2A Recommendations**  
DATE: December 6, 2013

### **Background**

In 2009, the Ann Arbor City Council appointed a citizen advisory committee to identify potential zoning changes to address community concerns about redevelopment in the R4C and R2A zoning districts. The R4C/R2A Zoning District Advisory Committee (AC) met through early 2012 soliciting input from a broad selection of stakeholders, gathering facts, and identifying potential solutions.

In May 2012, Planning Staff wrote the R4C/R2A Zoning District Study Advisory Committee Recommendation Report (Attachment A), containing recommendations attributed to the R4C/R2A committee's deliberations.

In June 2012, Planning Staff presented the AC report to City Council. The Planning Commission's Ordinance Revisions Committee (ORC) reviewed the report and made a report of its own to deliver to City Council (Attachment A).

After discussing the recommendations made in the May 2012 AC report, the ORC examined other possible planning tools and expanded the scope of the committee goals beyond what the AC had considered. The ORC made its own recommendations in an April 2013 report to Council. In summary, the ORC confirmed some of the AC report's recommendations and made additional changes of its own.

Because the ORC report recommended changes not endorsed by the AC and because it was brought to the attention of City Council that some of the recommendations in the AC report of May 2012 did not reflect votes taken by the AC, a reconstituted R4C/R2A committee was appointed on July 1, 2013 and met for four meetings: August 14, August 28, September 11, and September 25, 2013.

### **Members of the Reconstituted R4C/R2A Committee**

Sabra Briere (Council and Planning Commission representative)

Wendy Carman (Ward 2)

Ray Detter (Ward 1)

Jay Holland (Rental Properties Owner Representative)

Nancy Leff (Ward 4)

Carl Luckenbach (Ward 2)

Ethel Potts (Ward 5)

Ellen Rambo (Ward 3)

Ilene Tyler (Ward 1)

Julie Weatherbee (Ward 4 and Chair)

## **Report**

The following report from the AC responds to both the May 2012 AC report and the April 2013 Recommendations by the ORC committee.

This report addresses issues and assumptions in the original staff-written document from the AC, responds to some of the issues raised by the ORC, and addresses issues that arose after further discussion. As in any committee, there was not unanimous agreement on all items, however, the report below reflects the opinions of the majority.

**Phase 1 and Phase 2:** Of particular interest to the AC was the ORC's recommendation of a Phase 1 and Phase 2 implementation. The Phase 2 suggestions presented by the ORC, particularly the "group housing" district, were not acceptable to the AC. The ORC's Phase 2 recommendation to rezone a large section of R4C was far too overreaching and unsupported by evidence that it was necessary. There are ways to address existing issues without potentially causing many more by this wholesale rezoning.

If there is an interest in increasing co-op housing options, the Planning Commission should look into ways to establish and make co-ops more compatible with existing zoning without resorting to rezoning entire neighborhoods. Similarly, if there are homes that would be better used in a manner more consistent with the era in which they were built (large structures that shouldn't be broken into multiple units), these structures should be able to receive special exceptions, rather than rezoning an entire neighborhood(s).

The AC did agree that it was valuable to be able to take Phase 1 "immediate" and Phase 2 "long-term" steps in the zoning effort and we have noted items that could or should be implemented in a Phase 1 and Phase 2 approach.

Because this reconstituted group met only four times, there are some existing recommendations that we did not have enough time to fully explore. We have noted those in the report. In addition, we feel strongly that, although enforcement of existing community standards might be outside the scope of the report, the issue needs to be addressed.

**Enforcement of Community Standards:** Many of the problems that seem to arise in R4C (and R2A)-zoned areas have more to do with enforcement than inappropriate zoning. Occupancy, parking, trash pickup, rental codes, and noise violations are all issues that shouldn't be addressed by zoning. We have agreed-upon community standards, we need to enforce them.

## **Review of Proposed R4C/R2A Recommendations**

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The reconstituted AC identified the following priorities in the R4C zoning:

- Minimum Lot Size
- Maximum Lot Size
- Lot Area per Dwelling Unit
- Minimum Lot Width
- Front Setbacks
- Rear Setbacks
- Side Setbacks
- Parking Requirements
- Land Use Buffers
- Proposed Rezoning of Select Areas
- Use of Overlay Zoning
- Lot Combination Recommendations
- Non-Conformance Changes

In addition, we addressed:

- R2A Recommendations

Within each of these categories, we have listed the following sections:

- AC Recommendation
- ORC Recommendation
- Justification of AC Recommendation
- Proposed Next Step(s)

## Minimum Lot Size

- **AC Recommendation**
  - Change the current minimum required lot size of 8500 sq ft to 4350 sq ft
- **ORC Recommendation**
  - The AC and the ORC agree on this recommendation
- **Justification of AC Recommendation**

The following is a summary of deliberations from the previous AC report:

- The current 8500 sq ft minimum lot size renders 83% of R4C lots non-conforming for minimum lot size
- The proposed change will bring 54% of lots, which are non-conforming due to lot size, into conformance
- This change maintains the permitted maximum density of 20 units/acre and the required 2175 sq ft/unit
- This proposed change preserves the position of R4C districts in the density hierarchy of multiple dwelling unit districts, with only R4D districts being more dense
- Reducing the minimum lot to 4350 sq ft will provide relief to owners of lots smaller than 8500 sq ft, by reducing the need for ZBA approval for many changes they might want to make to the property
- The remaining 38% of R4C lots, which are under 4350 sq ft, will remain non-conforming due to lot size
  - Alterations will still be allowed with ZBA Approval
- Alterations may be allowed without ZBA approval if they meet all of these requirements
  - The structure has only one unit (single family use)
  - If alterations do not include new units
  - If alterations themselves conform to all the requirements of the chapter: for example, the alteration must fit within the setbacks, maximum occupancy must not be exceeded, etc.
- **Proposed Next Steps**
  - Implement the AC recommendation as part of Phase 1

## Maximum Lot Size

- **AC Recommendation**
  - Create a maximum lot size of 6,525 sq ft
  - The new maximum will apply only to lots created after the passage of the new ordinance
- **ORC Recommendation**
  - The ORC felt that, due to the wide variety of lot sizes in the R4C district, this requirement might unduly limit appropriate redevelopment
- **Justification of AC Recommendation**
  - A maximum lot size preserves the character of neighborhoods by preventing the destruction of the current housing stock
  - Setting of maximum lot size in R4C is not open to interpretation
  - The 6525 sq ft maximum is approximately the average R4C lot size
  - Maximum size is enforceable and legal per Jeff Kahan, City Planner (Attachment B)
- **Proposed Next Steps**
  - Implement the AC recommendation as part of Phase 1

## Lot Area per Dwelling Unit

- **AC Recommendation**
  - Change the current required lot area per dwelling unit of 2175 sq feet per unit to
    - 2175 sq ft per dwelling unit (0-4 bedrooms)
    - 3000 sq ft per dwelling unit (5 -6 bedrooms)
- **ORC Recommendation**
  - The AC and the ORC agree on this recommendation
- **Justification of AC Recommendation**
  - This maintains the 20 unit/acre and 2175 sq ft per unit requirements, but de-incentivizes creation of 5-6 bedroom units
- **Proposed Next Steps**
  - Implement the AC recommendation as part of Phase 1

## Minimum Lot Width

- **AC Recommendation**
  - Change the current requirement of a minimum lot width from 60 ft to the platted lot width
  - If a lot is not a platted lot, then set the minimum lot width to 40 ft
- **ORC Recommendation**
  - The AC and the ORC agree on this recommendation
- **Justification of AC Recommendation**
  - Most of the R4C District was platted prior to the establishment of the 60 ft minimum lot width requirement and many were platted with lot widths of less than 60 ft
  - The committee has set as a goal to preserve the streetscapes in the R4C
  - Considering the original platted lot width as conforming will help to preserve the streetscape and reduce the necessity to obtain ZBA approval for changes to properties that are not 60 ft wide, but match the other lot widths in a neighborhood
  - Requiring a minimum lot width of 40 ft for non-platted lots is intended to discourage lot splits or lot combinations that leave non-conforming orphan parcels that do not match the streetscape
  - A 40 ft lot width is the same lot width required for R1D and would allow at least a single family use to be established on a 40 ft wide lot
- **Proposed Next Steps**
  - Implement the AC recommendation as part of Phase 1

## Front Setback

- **AC Recommendation**
  - There should be no change from existing regulations  
While the minimum front setback for R4C is 25 ft, the required minimum front setback in residential areas is averaged when there are other parcels within 100 ft of an R4C lot in question, see Chapter 55. Article IV section: 5.57: *In a residential zoning district, where the average of the established front setbacks of structures on all adjacent lots, which are located within 100 feet of either side of a lot and on which there are existing buildings, is greater than the required front setback specified in this chapter, a required setback line shall be provided on the lot equal to this greater average depth but not to exceed 40 feet. Where such average of the established front setbacks is less than minimum required front setback, the required setback line may be reduced to this lesser average depth, but in no case to less than 10 feet. For computing such average, an adjacent vacant lot shall be considered as having the minimum required front setback specified for that zoning district in which it is located.*

- **ORC Recommendation**
  - The AC and the ORC agree on this recommendation
- **Justification of AC Recommendation**
  - Setbacks should maintain neighborhood character and be reflective of existing streetscapes
  - The current averaged front setback helps preserve the existing streetscape
- **Proposed Next Steps**
  - Maintain existing code with respect to front setbacks

## Rear Setback

- **AC Recommendation**
  - Keep the existing required 30 ft setback
- **ORC Recommendation**
  - The AC and the ORC agree on this recommendation
- **Justification of AC Recommendation**
  - Open space and space for parking are needed
- **Proposed Next Steps**
  - Maintain existing code with respect to rear setbacks

## Side Setbacks

- **AC Recommendation**

The AC revised its original recommendation of maintaining the existing required 12 ft setbacks in favor of endorsing the smaller minimum side setbacks for smaller lots. However, the method or lot-size cutpoint for doing this was not agreed upon. Two possible options are listed below:

  - Option A: for lots of less than 6525 sq ft, the minimum setback per side at 5 ft for a total of 10 ft. For lots of 6525 sq ft or greater: retain the existing requirement for minimum setback per side at 12 ft for a total of 24 ft
  - Option B: Graduated set of side setbacks depending on lot size and lot width: allowing 5 ft for small narrow lots, and at least one of the 2 setbacks at 12 ft for wider, larger lots and 12 ft for both side setbacks for lots over 8500 sq ft
- **ORC Recommendation**
  - Side setback should be 5 ft for all lots less than 8500 sq ft
  - Side setback should be 12 ft for all lots of 8500 sq ft or greater

- **Justification of AC Recommendation**

The width of side setbacks are an important factor in the character of a neighborhood streetscape.

Option A:

- For lots less than 6525 sq ft, the 5 ft side yard setback will be the same width as for R1C and R2A, even though occupancy may be 50% greater
- This will provide relief to a large proportion of lots in R4C that are non-conforming due to side yard setback
- 6525 sq ft is the same cutpoint we recommended for “maximum lot size allowed for newly created lots,” which reduces the incentive to combine lots due to lowered standards
- Lots with 6525 sq ft or more can support at least 18 occupants and should have the greater setback

Option B:

- Permitting side setbacks to be, in part, dependent on the width of the lot, would recognize the effect of the size of a side setback on the shape and size of the building envelope
  - A 5 ft setback for the small narrow platted lots (such as those with less than 4350 sq ft and/or lot widths of up to 40 ft wide) treats these structures as any R1C or R2A structure, where the number of units within the R4C structure will most often be equivalent to those zones
  - Requiring a minimum of at least a 5 ft and a 12 ft side setback (for total of 17 ft) for larger and wider platted lots (such as those with more than 4350 sq ft but widths between 40 and 60 sq ft) will provide room for access to the rear yard, more open space, and better separation and buffering of neighboring properties for structures likely to have more occupants than usually found in single family or duplex uses
  - Requiring the minimum of 12 ft on each side of the lot for existing platted lots that are even larger and wider (such as those with more than 60 ft of lot width or those with at least 8500 sq ft) leaves in place the current standards

Example

Lot Size	Less than 4350 Sq ft	4351-8499 Sq ft			8500 Sq ft Or more
Lot width	Any lot width	Up to 40 ft	41—59 ft	60 or more ft	Any width
Minimum side setback					
Largest side	5'	5'	12'	12'	12'
Least side	5'	5'	5'	12'	12'
Sum of 2	10'	10'	17'	24'	24'



- **Proposed Next Steps**
  - Discuss AC options within the ORC and make recommendations as part of Phase 1

## **Parking Requirements**

- **AC Recommendation**
  - Create a graduated parking requirement that is dependent on all of the following: unit type, maximum potential occupancy, # of bedrooms, required open space, and lot size
  - The parking requirement should not be reduced from the current requirement of 1.5 spaces per unit
- **ORC Recommendation**
  - Graduated Scale:
    - 1 space per unit (0-4 bedrooms)
    - 1.5 spaces per unit (5-6 bedrooms)
- **Justification of AC Recommendation**
  - AC does not agree with ORC proposed changes. However, given the short, 4 meeting schedule, the AC did not have sufficient time to undertake an in-depth review of the parking issue
  - The AC does not want less parking than currently required in R4C.
  - Addressing the parking issue is essential to resolving many problems with R4C zoning. Therefore, the AC requests that a parking committee be established as soon as possible to look at other options and ramifications of parking changes. This committee should have representation from R4C residents. Members of the AC who are interested in the parking issue should be offered an opportunity to serve on this parking committee. This committee should also look at more creative parking options, including, but not limited to, off-site parking, shared services (Zipcars), shared parking with other units, mandatory residential parking permits, and others
- **Proposed Next Steps**
  - Convene an R4C parking committee as soon as possible so this can be considered as part of Phase 1

## Land Use Buffers

A change to the Landscape Ordinance in 2011 expanded the conflicting land use buffer requirement in R4C districts to apply to the screening of buildings, in addition to vehicular use areas.

- **AC Recommendation**
  - This issue was not discussed by the AC and no stand was taken by the AC. However, the ZBA has only seen two variance requests, so it has not had a large impact
- **ORC Recommendation**
  - The ORC recommends that the conflicting land use buffer be returned to the pre-2011 requirement for screening of vehicular use areas only
- **Next Steps**
  - No AC proposal

## Proposed Rezoning of Selected Areas

- **AC Recommendation**
  - Rezone Davis/Hoover from R4C to R2A to reflect current housing pattern
  - Rezone R4C districts outside of the central area, especially large ones, to more appropriate zoning categories
- **ORC Recommendation**
  - No ORC recommendation
- **Justification of AC Recommendations**
  - The Davis/Hoover area
    - This area was first identified in 1992 for rezoning from R4C to R2A
    - Based on public feedback, the AC concluded that this area still warrants rezoning to an R2A district
  - R4C zoning districts outside the central area
    - R4C areas outside the Central area do not meet the intent of the R4C zoning district
    - Proposed changes to R4C will affect all R4C parcels, even those on the outskirts of the Ann Arbor
    - Motivations for the AC recommendations do not apply to parcels outside the Central Area
    - Other multiple family zoning district types exist to which these areas could be rezoned

- **Proposed Next Steps**
  - Begin process to change zoning for Davis/Hoover
  - Identify R4C areas outside of the Central area and rezone these to more appropriate zoning
    - This can be done independently of Phase 1 or Phase 2

## Use of Overlay Zoning

- **AC Recommendation**
  - The AC does recommend considering the creation of overlay districts on a neighborhood-by-neighborhood basis as a Phase 2 after Phase 1 recommendations have been adopted into the zoning code
  - However, the AC opposes the proposed group housing zoning district proposed by the ORC
- **ORC Recommendation**
  - Given the wide variety of neighborhoods in the R4C zone, the ORC focused on an area identified in the Central Area Plan for “group housing opportunities,” located generally south and west of Central Campus and to be implemented in Phase 2
  - After implementation of the Phase 1 recommendations for all R4C-zoned parcels, this Phase 2 initiative would rezone this area to allow for flexibility through use of premiums and floor area ratio limitations, in exchange for community benefits such as adherence to pedestrian-friendly and architectural design standards
- **Justification of AC Recommendation**
  - Protecting the existing development patterns and streetscapes was a major theme in the input gathered from the public
  - Due to the wide range of existing development patterns (including lot size, building massing density, and setbacks) in R4C neighborhoods, overlay districts could be used to protect and enhance the character of individual neighborhoods
  - There already exists zoning for group housing (R2B)
  - The existing character of much of the proposed group housing area is single-unit (or duplex), livable, functional, thriving, and dense. The proposed ORC change is contrary to the AC intent to keep existing character
  - Overlay districts should be used to establish neighborhood specific designs, massing, and placement guidelines; to prevent out-of-scale development; and to increase or decrease flexibility, not to rezone
- **Proposed Next Steps**
  - After Phase 1 recommendations are adopted, overlay districts should be developed only with active public participation from any neighborhood affected

## Lot Combination Recommendations

- **AC Recommendation**
  - Lot combinations should result in lots that meet the R4C maximum and minimum lot size requirements listed above
- **ORC Recommendation**
  - The ORC recommended that lot combinations be required to receive Planning Commission approval as part of an associated site plan review. Review standards would be developed that the Commission would apply to determine if the combination and associated redevelopment is compatible with the surrounding area. Design and massing standards would also be developed
  - Require Planning Commission approval through case-by-case site plan review and approval standards to be developed based on compatibility, design, and massing standards
- **Justification of AC Recommendation**
  - The majority of the AC supported a limitation of some nature on lot combinations in the R4C district in order to help prevent destruction of existing housing stock that would disrupt the existing streetscapes
  - Initially, the majority of the AC recommended setting the maximum size of a newly combined lot in R4C at 6525 sq ft, which is the exact size that would permit 3 dwelling units
  - The AC requested an opinion from the City Attorney as to the legality of restrictions of any type on lot splits or lot combinations, but an opinion was not provided to us or to the ORC for their proposal
  - Requiring a site plan with all lot splits or lot combinations may be excessive
  - Best to have definite parameters, as vagueness will be interpreted as license
- **Proposed Next Steps**
  - Address the overall questions of whether Ann Arbor can put restrictions of any kind on the process of lot splits or lot combinations
  - Implement AC Recommendation as part of Phase 1

## Non-Conformance Changes

- **AC Recommendation**
  - Chapter 55, Section 5:87 (Structure Non-Conformance) should be revised to allow reconstruction of non-conforming structures in R2A and R4C districts when construction meets *all* of the following standards:
    - Allow the ability to re-construct a structure if damaged due to fire, flood, or other calamity
    - Reconstruction should not be allowed in the case of voluntary

- destruction or demolition due to neglect
    - Reconstruction must begin within 18 months after destruction
    - Once construction has started, it must be completed within 18 months
    - Require that replacement structures must be of same size, placement, massing dimensions of the original structure, and character as the building before destruction
    - This change would apply to non-conforming structures only and does not include non-conforming uses
- **ORC Recommendation**
  - The ORC supported the AC recommendation
- **Justification of AC Recommendation**
  - Many structures, which define the preferred streetscapes in R4C areas, were constructed before current zoning standards. As a result, they are non-conforming for lot size and /or setbacks
  - If these structures are destroyed, current regulations require any reconstruction to meet the standards in effect at the time of the reconstruction
  - This could force changes that are uncharacteristic of the original placement and massing, alter the streetscape, and are often a burden to the owner
- **Proposed Next Steps**
  - This change should be enacted now, independent of the other proposed changes

## **R2A Recommendations**

- **AC Recommendation**
  - The AC recommended no changes for the R2A zoning district
- **ORC Recommendation**
  - The ORC recommends further study to determine if the R2A lot size should be reduced to 6,000 square feet to allow opportunities for duplex conversions. This number is based on the lot size requirement prior to 1981, when it was increased to 8,500 sf
- **Justification of AC Recommendation**
  - The establishment of the 8500 sq ft minimum lot area in R2A was meant to provide a district with 2 dwelling units where the lot area/unit would be similar to R1D district (5000 sq ft minimum) except with a slightly higher density (set at 4250 sq ft/unit)
  - The AC did not receive public input suggesting that there were problems with the existing minimum lot size in the R2A District

- **Proposed Next Steps**

- There is no change needed or wanted by residents or homeowners in R2A districts

**ATTACHMENT A**

**Planning Commission Report**

## **AMENDMENT B**

**Letter from Jeff Kahan**