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November 10, 2021

HONORABLE CITY COUNCIL

RE: The request of the Planning and Development Department and the Eastern Market Partnership to amend Chapter 50 of the 2019 Detroit City Code, Zoning, to repeal the SD3 Special Development District, Technology and Research zoning classification to renumber regulations for the SD1 Special Development District, Small-Scale, Mixed-Use and the SD2 Special Development District, Mixed-Use zoning classifications and to create an MKT (Market and Distribution District) zoning classification, to set intensity and dimensional standards to preserve the historic character of the area, define screening and setback requirements, provide for a site plan review processes, and, to adopt provisions to implement the Eastern Market Neighborhood Framework and Stormwater Management Network Plan.

Additionally, the request is to amend Chapter 50 of the 2019 Detroit City Code, Zoning, by amending Article XVII, *Zoning District Maps*, Section 50-17-5, *District Map 4* and Section 50-17-13 *District Map No. 12*, of the Detroit Zoning Ordinance to show an SD1 (Special Development District, Small Scale, Mixed-Use) SD2 (Special Development District, Mixed-Use), MKT (Market and Distribution District) zoning classification where the R2 (Two-Family Residential District), R3 (Low Density Residential District), B4 (General Business District), B6 (General Services District), M3 (General Industrial District), and M4 (Intensive Industrial District) zoning classifications are currently shown on the area bounded by Superior Street, Joseph Campau Street, Gratiot Avenue and the I-75 Chrysler Freeway (**RECOMMEND APPROVAL**).

REQUEST

The aforementioned request that is before this Honorable Body is complimentary to a proposed Master Plan amendment for the subject area.

The proposal seeks to accomplish the following:

- Eliminate the current SD3 (Special Development District, Technology and Research District) zoning classification provisions
- Replace the SD3 district with the MKT (Market and Distribution District) zoning classification
- Set building height limits to preserve the historic character of Eastern Market
- Define screening and setback requirements
- Provide for a site plan review process

- Set forth other provisions to implement elements of the Eastern Market Neighborhood Framework and Stormwater Management Network Plan
- Show an SD1 (Special Development District, Small Scale, Mixed-Use), SD2 (Special Development District, Mixed-Use), and MKT zoning classification where the R2 (Two-Family Residential District), R3 (Low Density Residential District), B4 (General Business District), B6 (General Services District), M3 (General Industrial District), and M4 (Intensive Industrial District) zoning classifications are currently shown for the area bounded by Forest Avenue, Joseph Campau Street, Gratiot Avenue and the I-75 Chrysler Freeway.

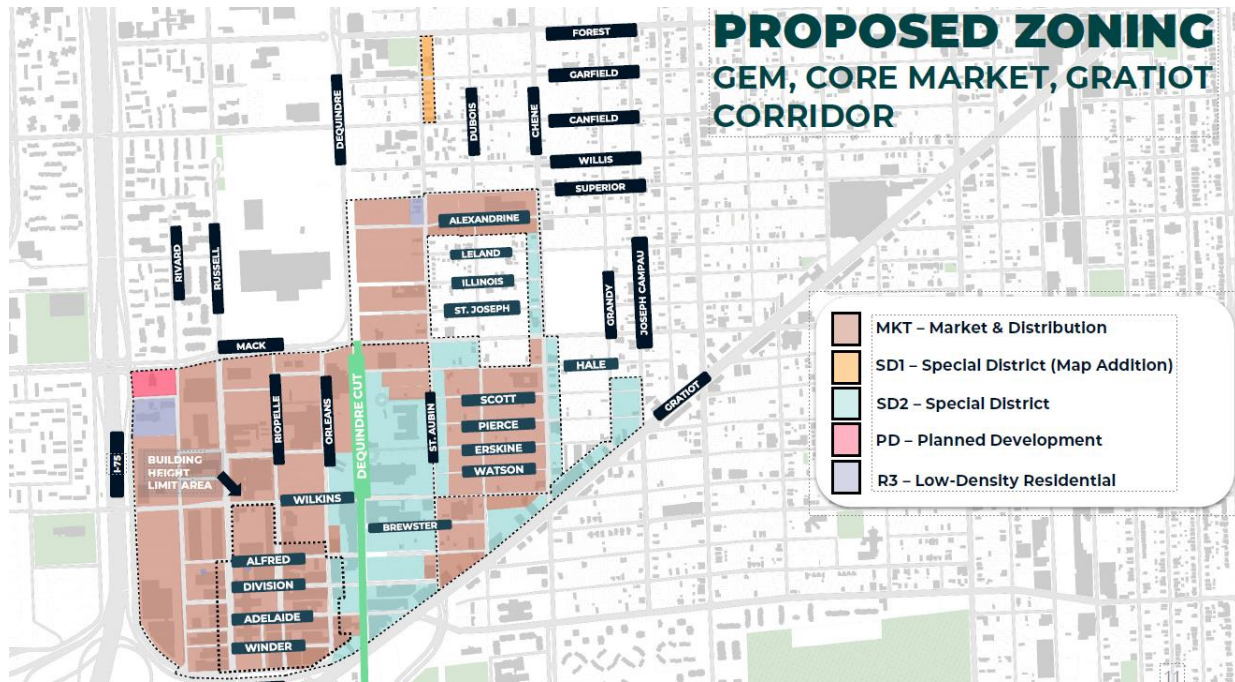


Image from updated PDD Eastern Market presentation

BACKGROUND

In 2011, the ¹Food Security and Modernization Act was enacted. Due to this act, many existing Eastern Market businesses are now out of compliance with food safety and production standards and are unable to modernize or expand at existing sites.

A 2019 Eastern Market Framework Study was conducted through a partnership of the Planning and Development Department (PDD), the Detroit Economic Growth Corporation (DEGC), The Nature Conservancy (TNC) and Eastern Market Partnership (EMP). The framework plan put forth recommendations regarding land use, stormwater management, design guidelines, and historic preservation for the study area.

As a result of the framework study, the area east of Eastern Market has been identified as a location in which these food production businesses should expand. The study team identified this area because of its proximity to Eastern Market, easy access, and established freight routes. The

¹ The Food Safety Modernization Act (FSMA) was signed into law by President Barack Obama on January 4, 2011. The FSMA has given the Food and Drug Administration (FDA) new authorities to regulate the way foods are grown, harvested and processed. The law grants the FDA a number of new powers, including mandatory recall authority, which the agency has sought for many years. The FSMA requires the FDA to undertake more than a dozen rulemakings and issue at least 10 guidance documents, as well as a host of reports, plans, strategies, standards, notices, and other tasks.

goal is to accommodate food-related businesses and establish a model where residents in the neighborhood may work in proximity to their residence. The plan is to help ensure Detroit remains a center of the food industry in the region and preserve a source of significant employment within the city. The neighborhood framework plan for Eastern Market has a vision with three goals for the area and are as follows: create jobs for Detroiters; improve the quality of life for residents; and retain the authenticity and function of Eastern Market.

PLANNING CONSIDERATIONS

Surrounding Zoning and Land Use

The zoning classification and land uses surrounding the subject area are as follows:

North: R3 & PD; Residential apartments and homes; McDonald’s restaurant

South: B2 & B4; Commercial and retail development; some underutilized parcels

East: R2 & B4; Residential; Detroit Edison Public School Academy field

West: I-75 Chrysler Freeway

Zoning

The proposed zoning districts for the subject area are the SD1, SD2, and the newly envisioned MKT. The proposed districts would replace the R2, R3, B4, B6, M4 and M5 zoning districts. The two maps included in this report show where the new zoning classifications are proposed.

SD1 Special Development District – Small-Scale Mixed Use zoning classification “is designed to encourage a complementary mixture of small-scale, pedestrian- and transit-oriented uses that are compatible in a neighborhood setting. It is intended to ensure a neighborhood character and place a proper balance of activities within walking distance of one another while serving the day-to-day needs of residents. Parking requirements are reduced in certain circumstances to promote use of transit and non-motorized transportation; shared parking and a district approach to parking are encouraged to lessen demand for off-street parking spaces. Certain establishments that serve alcohol for consumption on the premises are permitted without a spacing requirement in order to attract increased pedestrian traffic to the area.”

The SD2 Special Development District, Mixed-Use zoning classification “is designed to encourage a complementary mixture of more intensive pedestrian and transit-oriented uses that may be compatible with a neighborhood center or with a location along major or secondary thoroughfares. Parking requirements are reduced. Certain establishments that serve alcohol for consumption on the premises are permitted without a spacing requirement in order to attract increased pedestrian traffic to the area.”

The proposed MKT Market and Distribution District zoning classification “is designed to encourage food-related uses such as production, processing and wholesaling, as well as transport, and similar activities essential to the commerce and health of the City. Limited supporting uses such as office, retail, service, and other uses normally desiring to locate in this type of district are also permitted. Within the greater Eastern Market Area, the focus is on the expansion of existing and the attraction of new food-related industries outside the historic Market core.

Provisions are made for vegetative setbacks along certain streets to be used for screening of warehouse and production uses from residential uses, as accessible open space, and to provide areas for possible on-site stormwater management. To avoid visually dominating existing buildings of historical character, building heights are limited around the historic Market core. To

avoid potentially overwhelming existing residential properties, building heights are also limited in areas likely to see large amounts of new construction.

Master Plan Consistency

The subject area is located in Neighborhood Cluster 4, the Middle East Central Neighborhood Area of the Master Plan of Policies. The current future general land use designations are Low/Medium Density Residential (RLM), Light Commercial (CN), and Industrial Port/Distribution (IDP). A master plan amendment is being proposed concurrently with the zoning map and text amendments.

The proposed future general land use designation is Mixed-Residential/Industrial (MRI). The MRI designation, if adopted, will accommodate new mixed-use development, food-related production facilities, and housing opportunities in the Greater Eastern Market area, as well as, allow for the Eastern Market Neighborhood Framework and Stormwater Management Network Plan.

COMMUNITY OUTREACH

There were a series of meetings held for the Eastern Market Framework Study which presented the overall goals and objectives of the project and engaged citizens in the area. Two virtual public meetings were held to present the proposed master plan and zoning ordinance recommendations. Many individual meetings were also held to engage stakeholders. Separate engagements were held for property owners and residents in the area. It should also be noted that two public hearings were held for this matter, one in November 2020 and one in April 2021.

The City, EMP, DEGC and Detroit Land Bank Authority (DLBA) have conducted engagement with community stakeholders specifically regarding the master plan and zoning amendments over the last year. That targeted engagement includes: ***Engagement with residents of the Greater***

Eastern Market (GEM)

Over two dozen meetings were held with the Grassroots Detroit and Kenyetta Block Club neighborhood groups and three residential meetings with the East Canfield community.

Engagement with Core Market property owners

Four business developer stakeholder or meetings were held, as well as numerous one-on-one discussions with individual businesses and stakeholders, and, outreach through multiple meetings at the Eastern Market Partnership and other means of communication.

Response to residents of the GEM

During these recent meetings and past engagements, resident stakeholders expressed that they want the City to provide more opportunities for retail and residential development, limit certain industrial uses and protect existing residential areas, provide access to jobs for residents and returning citizens, allow the sale of side lot parcels, and to create a partnership to help grow the neighborhood.

To address these issues, the City, DEGC, and EMP have:

- added more areas to the map amendment to allow for housing and retail opportunities
- limited the industrial uses allowed in M3 to seven food production and distribution uses in MKT that are low intensity
- required special land use hearings for certain uses that need additional review

- created alternative truck routes and also created height limits in the GEM to protect residents based on community feedback.

This process is also the impetus for Memorandum of Understanding (MOU) agreements that have been initiated between EMP and the various neighborhood groups. The MOUs outline numerous items such as funding for a home repair program, technical assistance, organizational capacity building, access to event space, and representation on the EMP board. Lastly, the City has been working with the Land Bank and residents to help initiate the process of residents obtaining side lots and land in the area for neighborhood-based initiatives.

Response to Core Market property owners

Core market property owners' remaining issues generally fall into two categories: objections to a height limit policy in the core market and the objection to conditional and prohibited uses. Generally, those that have been vocal in the core market do not want the zoning to change as proposed. Some have stated that they would like to keep the current M3 zoning regulations which allow a height limit of 80 feet and more intensive uses.

There is also at least one property owner and another prospective user that are advocating to allow marijuana uses in the core market. The CPC and City Council have heard the request of the marijuana advocates to allow for marijuana in the Core Market, however, due to recent court actions, staff is awaiting clarification and guidance from City Council on how to proceed with the request of adding marijuana uses to the MKT district. Consistent with this understanding the Commission has given staff direction to study this matter separately from the current ordinance that is before this Honorable Body.

To address other issues related to height and conditional uses, the City has attempted to compromise with property owners while still maintaining the original goals of the framework study, one of which is to protect the character of the market.

After the November 19th public hearing, City staff reevaluated the conditional uses and amended several uses that were previously conditional uses to be by-right. However, staff maintains that certain uses still need review, which the MKT ordinance reflects. All uses were evaluated through the scope of whether or not they would be compatible with the nature and character of the market.

Working with the EMP as it relates to height policy, the City has compromised by twice revising the core market's height limit. The first amendment was to modify from 45 ft. to 55 ft. to be consistent with the height of the existing market sheds. At the suggestion of EMP, the City staff provided for an increase in the height limit to 80 ft. if a food production or distribution use comprises 60% of the ground floor of the subject building. Some property owners still object to this compromise and seemingly wish to retain the current provisions of the M3 district. City staff does not recommend maintaining the current M3 provisions because there is a high likelihood that this could lead to the eventual transformation away from Eastern Market being the city's food hub as it is today. Higher rents for other retail users will almost certainly begin to displace the food industry that has existed in the market for over 100 years.

NOVEMBER 19, 2020 PUBLIC HEARING

At the public hearing held for this matter on November 19, 2020, there were 11 speakers. Three of those speakers were in support, seven speakers expressed concerns or questions, and one person spoke in opposition. Many of the speakers had concern or opposition to certain specific

elements of the proposal. A smaller number of speakers spoke in favor of the proposal. It was also noted that the issues which arose fell into two separate categories: those of property owners in the core market; and, those of residents in the GEM area.

APRIL 15, 2021 PUBLIC HEARING

At the April 15, 2021 public hearing on the proposed zoning amendments, 19 people provided public testimony. Out of those who spoke, 13 requested the addition of marijuana uses to the MKT District. There were three property owners of the core market that spoke in opposition, specifically to the height and use limitations. One person spoke in opposition to adding marijuana uses; one person spoke in opposition to the expansion of Eastern Market, and finally another person asked a question about Eastern Market Partnership's development plans for the area.

ANALYSIS

To analyze the major impacts of the proposed MKT district, staff offers the following:

Height Limitations/Restaurant Use

Height limitations near Market Sheds have been put in place for new structures and additions to existing structures to better align with the character of existing structures within the district. In the height restricted area, the height limit is 55 feet, but may be waived if a food products manufacturing, processing, distribution use comprises a minimum of 60% of the ground floor area.

In the discussion at the CPC public hearing, the question of restaurants being permitted became a focal point. It should be noted that restaurants are permitted as a matter of right in the height cap area of MKT regardless of a building's height. If a building is 55' or less, a standard restaurant is permitted as a by-right use.

However, under MKT as proposed, to receive the height bonus to 80 ft., a food products manufacturing, processing, or distribution use must comprise a minimum of 60% of the ground floor area. This means that if a developer wants to take advantage of the height bonus, it would limit the restaurant or other use to 40% of the ground floor area.

The purpose of this is to incentivize food-related uses on the pedestrian level of the market and to maintain the character. It is also being used to prevent the replacement of food industry uses with commercial and retail uses that have a much higher market price point. Developers can seek relief on height limits through the Board of Zoning Appeals if they feel they have no profitable business options due to the height restriction.

Non-conformities-City Recycling

City Recycling, a junkyard located at Mack and St. Aubin, will be rendered non-conforming by this proposal if adopted, because MKT does not permit used auto sales. The primary junkyard use that operates on the site is already non-conforming under the current M3 zoning district. So, a change to MKT would not affect the status of the junkyard use, but would impact the used auto sales activity. It is important to note that non-conforming uses may continue in perpetuity.

The reason for the proposed prohibition is to protect the surrounding residential neighborhood to the east from any of the more intensive M3 uses that are currently permissible if this user were to redevelop or sell the property. Some of the permissible uses such as chemical materials blending or compounding, high-impact manufacturing or processing, waste/scrap materials- indoor

storage- handling, and transfer tank storage of bulk oil or gasoline are uses that this text amendment is intended to protect against.

Marijuana in MKT

As stated previously, CPC is awaiting further updates from the courts and ultimately City Council on direction related to the adult-use marijuana ordinance provisions in order to know how to proceed with studying the practicability of marijuana uses in Eastern Market. It should be noted that marijuana spacing requirements from controlled uses would also have to be revised to allow opportunity for marijuana uses in the core market, because the existing controlled uses in the market eliminate most properties from being eligible.

It is also important to understand that the MKT district is not only proposed in the market core, but also in areas adjacent to residences. Lastly, the CPC voted to recommend approval of the MKT ordinance without including marijuana uses. However, the CPC directed staff to study the feasibility of the matter and to have community engagement specific to this use and possibly to be considered separately, pending the final outcome of the adult-use marijuana ordinance in the courts.

Parking Requirement Elimination

Sec. 50-14-7 of this ordinance adds MKT to the short list of districts that have a parking exemption. Other areas that have a parking exemption include the B5 Major Business District, the Central Business District, and the New Center area.

The parking exemption will be a major incentive to development because of the opportunity to save major costs by providing fewer parking spaces (which can cost \$10-20k per space to develop) or, it can save on time by not having to seek waivers and adjustments if the developer desires variances.

Uses

The goal of the permitted uses that are allowed in MKT is to foster a district that permits the food production and distribution uses of the market to remain and grow. However, the district still allows for many non-food related by-right uses, including, but not limited to: lofts (the renovation of buildings for residential), office uses in a renovated building of any size through expansion of 200% of ground floor area, retail use up to 15,000 sf, and art galleries or museums. Uses that are prohibited are those that generally are not compatible with residential or food-related uses.

APPROVAL CRITERIA

Pursuant to Sec. 50-3-70 Approval Criteria, recommendations and decisions on an amendment of a zoning map in Article XVII of chapter 50 of City Code are based on consideration of all of the following criteria:

(1) Whether the proposed amendment corrects an error or meets the challenge of some changing condition, trend or fact;

The proposed rezoning is spurred by the need to give opportunity for retail and housing activity in the Greater Eastern Market area, while providing space for job creating businesses that are currently in the core market. Due to the Food Security and Modernization Act, many Eastern Market businesses are now out of compliance with food safety and production standards. The proposed rezoning and creation of the MKT district will allow these businesses to stay in the area while fostering a workforce to create a sustainable neighborhood.

(2) Whether the proposed amendment is consistent with the Master Plan and the stated purposes of this Zoning Ordinance;

The MRI master plan designation that is being considered concurrently will serve to make the proposed zoning scheme appropriate. The Master Plan amendment will accommodate new mixed-use development, food-related production facilities, and housing opportunities in the Eastern Market and the GEM area as well as the zoning districts that allow for these opportunities. PDD has produced the master plan amendment to accommodate the zoning proposal and the CPC has voted to recommend approval.

(3) Whether the proposed amendment will protect the health, safety, and general welfare of the public;

The proposed amendment aims to protect the health, safety and general welfare of the public in a few ways. The map amendment will rezone land that is currently M3, which allows for intensive industrial activity. The MKT district that is proposed to replace M3 will significantly reduce the intensive activity that is possible and limit it to seven food production and distribution uses, and retail and other commercial uses. The new zoning scheme will incorporate setbacks that will allow for green buffering and stormwater management that will serve to beautify, screen activity and mitigate stormwater run-off. Height limits have been set at 50 feet near residential homes, which will retain solar access for homes in the area. Truck routes have been established based on community feedback and will be a continued conversation.

(4) Whether the City and other service providers will be able to provide adequate public facilities and services to the subject property, while maintaining adequate levels of service to existing development;

Adequate public facilities and services have been considered during the process for this proposal and there are no foreseen difficulties in providing necessary services. The build-out of expected development is projected to happen over 10-20 years which allows for gradual enhancement of public services.

(5) Whether the proposed rezoning will have significant adverse impacts on the natural environment, including air, water, soil, wildlife, and vegetation and with respect to anticipated changes in noise and regarding stormwater management;

The proposed rezoning is not expected to have any significant adverse impacts on the natural environment. CPC and PDD worked extensively with the Buildings and Safety Engineering and Environmental Department (BSEED) in review of the proposal. After several conversations and review, the Environmental section of BSEED resolved any questions or concerns over the proposed rezoning. The department was satisfied that the certain permitted MKT uses would require closer scrutiny through special land use hearings.

BSEED was generally receptive of the proposed setbacks that will serve as a buffer space and other mitigation efforts. Stormwater management practices will not be adversely impacted, but instead should become more prevalent in the area as sites come online and utilize setbacks as an option to satisfy stormwater management requirements.

The goal of the Food Security and Modernization Act is to protect health in the food industry by modernizing facilities. The Food and Drug Administration and other agencies will perform

regular assessments of the food-related businesses that locate in the MKT district. Compared to the intensive uses currently permitted under M3, the industrial uses that are allowed in MKT are comprised of a short list shown below:

- Carbonic Ice manufacture (Dry Ice) – *with conditional approval only*
- Meat Products Manufacturing or Processing – *with conditional approval only*
- Canning Factories (excluding fish products)
- Brewing or Distilling of Liquors
- Brewing of 20,000 or More Barrels of Beer or Malt Beverage Per Year
- Coffee Roasting
- Dog or Cat Food Cannery or Manufacture (excluding rendering or the use of fish)

(6) Whether the proposed amendment will have significant adverse impacts on other property that is in the vicinity of the subject tract;

The proposed amendment is not expected to have an adverse impact on surrounding property. The efforts that are supplemental to the rezoning will help to mitigate any negative impacts before they might take place. In addition to the uses that require conditional land use hearings, the City has committed to hold an engagement process with the community for any site where City-owned land is proposed for purchase. Truck routes are being determined based on feedback from community.

(7) The suitability of the subject property for the existing zoning classification and proposed zoning classification; and

The proposed MKT district is appropriate for the market as it has been crafted specifically with the unique character of the Eastern Market in mind. The GEM is obviously a more sensitive area since it includes an area that is residential. However, based on the infrastructure that is being planned to create protections for residents, along with zoning protections, the area is suitable for the proposed zoning classification. The limited food-related uses in MKT are far more suitable in proximity to residences than the more intensive uses permitted in M3 today.

(8) Whether the proposed rezoning will create an illegal “spot zone.”

This rezoning will not create the circumstance that could lead to a court finding of an illegal spot zone.

Pursuant to Sec. 50-3-70 Approval Criteria Recommendations and decisions on all proposed text amendments of this chapter shall be based on the following criteria:

Recommendations and decisions on all proposed Zoning Ordinance text amendments shall be based on the following criteria:

(1) Whether the proposed amendment is consistent with the stated purposes of this Zoning Ordinance; (2) Whether the proposed amendment will protect the health, safety, or general welfare of the public; and (3) Whether the proposed amendment corrects an error or meets the challenge of some changing condition, trend or fact.

Staff believes that the proposed text amendment is generally consistent with the stated purposes of the zoning ordinance. The goal is to protect a major asset of the City of Detroit and surrounding region while also protecting the safety and quality of life concerns of property owners. The proposed amendment is seeking to meet the challenge of a changing dynamic in the area while preserving the area’s traditional character. Food-related businesses need appropriate

spaces in which to operate; residential land has sat vacant for many years; stakeholders want to preserve the values of the core market; some residents desire jobs; and there is demand for mixed-use housing and retail in the area. This text amendment seeks to provide the opportunity for all of these things to take place cohesively.

In addition to the general approval criteria, recommendations and decisions on Zoning Ordinance text amendments to add additional regulations or standards shall be based on the following criteria: (1) Whether the problem or issue the proposed amendment is intended to address may be addressed in another, more appropriate fashion; and (2) Whether the proposed amendment is easily enforceable.

The Eastern Market framework study explored many different options and this proposal represents the high-level vision of the study results. City staff have also explored the original concepts and made many modifications based on staff knowledge and community input. So, given the desired goals of this initiative, and taking into account the many differing points of view and interests, the current proposal is the most appropriate. The proposed amendment is enforceable based on similar practices that currently exist and consistency with related regulations.

CONCLUSION AND RECOMMENDATION

CPC believes that the text and map amendments have considered the interests represented by all participating stakeholders. Due to the complexity of the area and stakeholder desires, there may never be a perfect proposal, but all parties will hopefully feel that there are mutual benefits for all as a result of the compromises made on all sides of the issues. City staff, along with DEGC and EMC, have worked diligently to respond to the many concerns, while trying to achieve the goals that were set forth in the study framework. Those goals again are to create jobs for Detroiters; improve the quality of life for residents; and keep the authenticity and function of Eastern Market.

After hearing from dozens of stakeholders including, business owners, residents, developers and community groups, at various points of engagement including two separate public hearings, and based upon the information described in this report the CPC took action on this request on May 6, 2021. The City Planning Commission now recommends approval of this matter to Your Honorable Body.

Respectfully submitted,

LAUREN HOOD, CHAIRPERSON



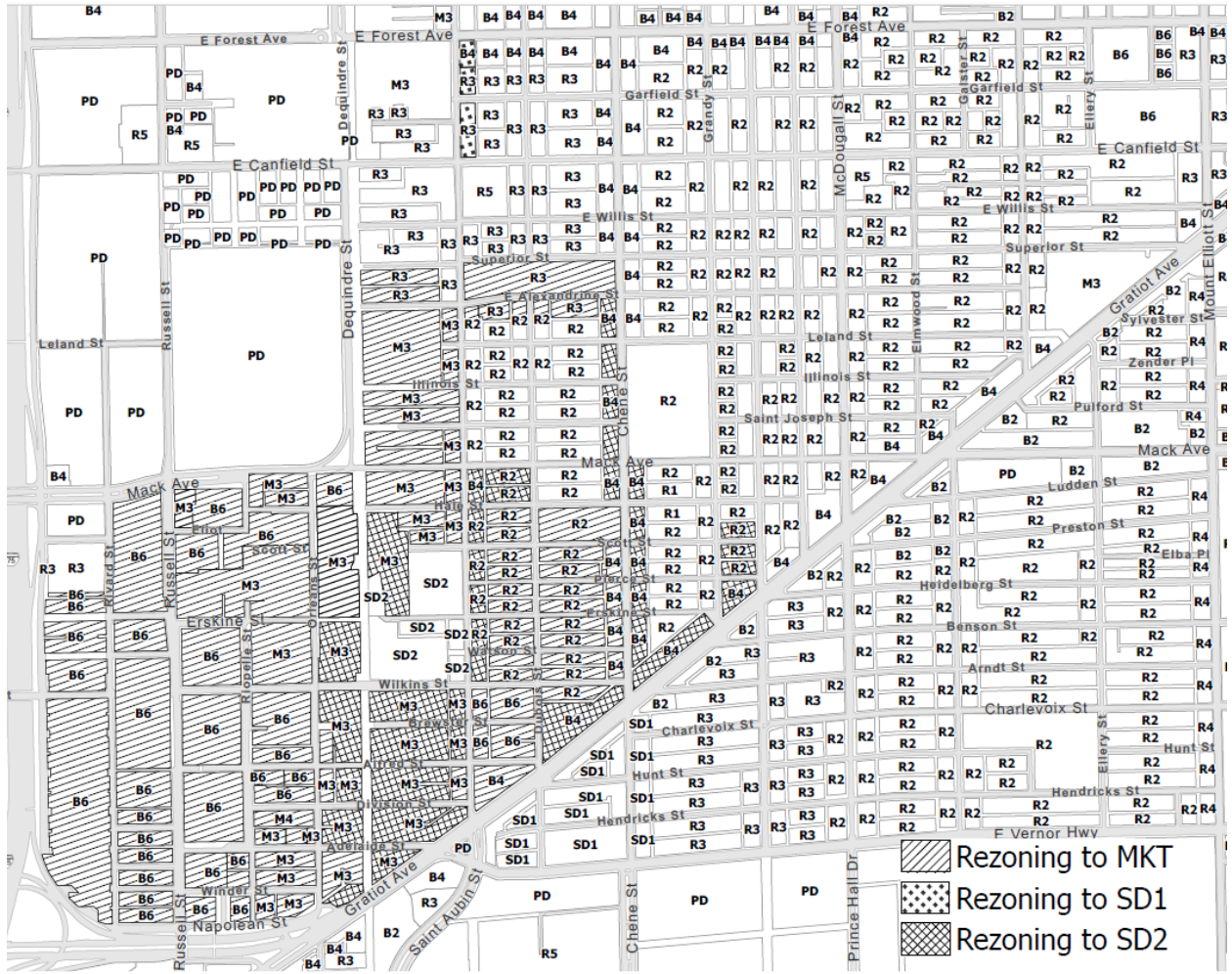
Marcell R. Todd, Jr., Director
Kimani Jeffrey, City Planner

Attachment:

Ordinance
Zoning Map

Cc: Antoine Bryant, Director P&DD
Katie Trudeau, Deputy Director P&DD
Karen Gage, P&DD

David Bell, Director BSEED
Lawrence Garcia, Corp. Counsel
Donald Rencher, Group Executive of Planning Housing and Development
Nicole Sherard-Freeman, Group Executive for Jobs Economy and Detroit At Work
Gail Fulton, Mayor's Liaison



Proposed PD Modification Site