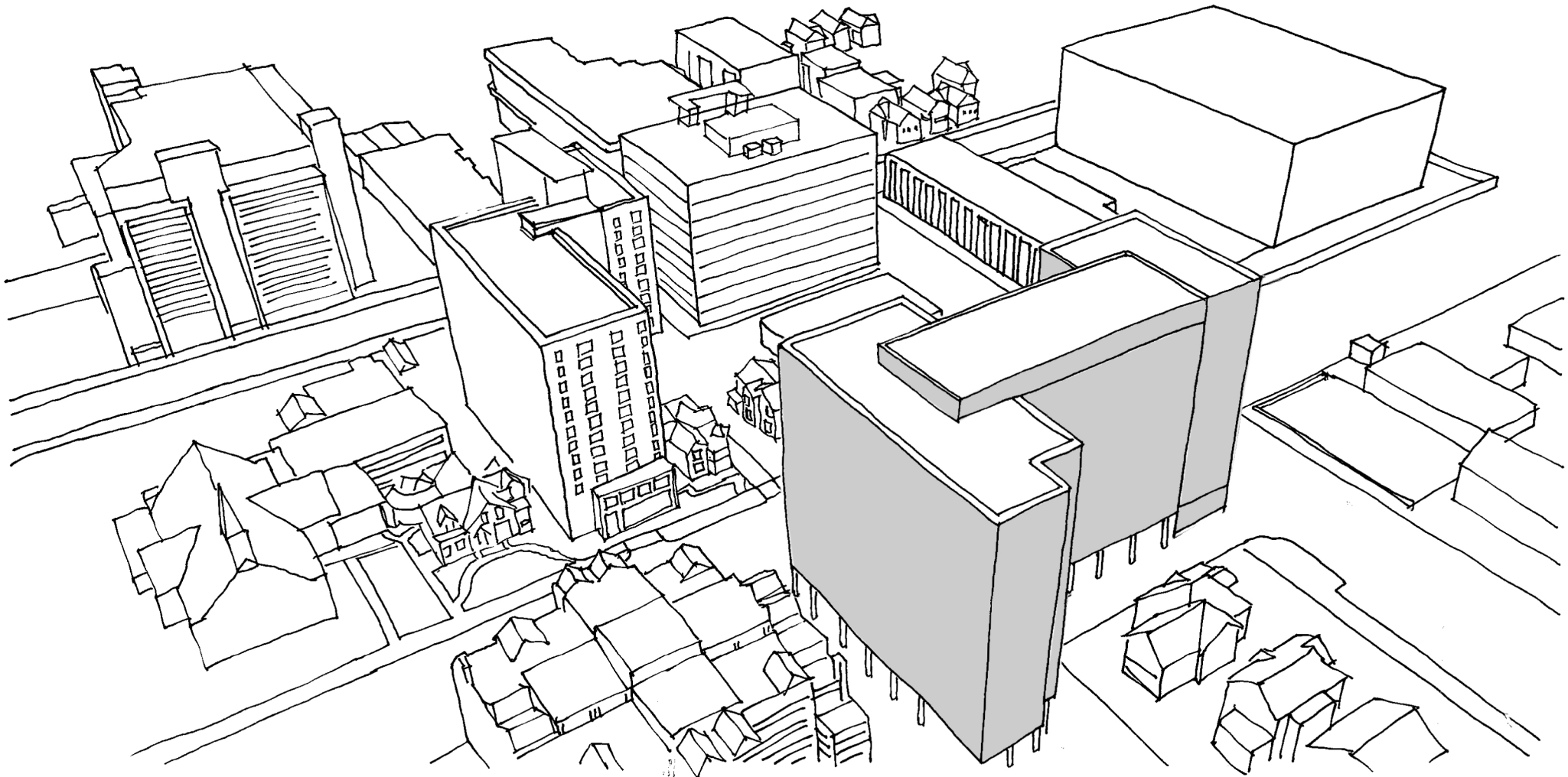


413 East Huron Street



the FACTS.

STATEMENT OF PURPOSE



413 E. Huron proposes a 513-bed, 14-story, 263,504 gross square foot building on the north east corner of Division and Huron streets in Ann Arbor.

Reviews of the site plan for the proposed 413 E. Huron development have identified a number of unresolved issues that require further study. This document identifies those issues and connects them to the legal framework guiding City Council's responsibility when considering site plans.

This fact book has been created by representatives from eight neighborhood associations and residents of all the city's wards.

9 unresolved legal issues relating to the 413 East Huron site plan are unresolved.

STATE LAW

Michigan's Zoning Enabling Act, Act 110 of 2006 is the **applicable statute** that dictates the site plan approval process, as defined here:

"Site plan" includes the documents and drawings required by zoning ordinance to ensure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.



Section 203 of the Zoning Enabling Act:

*A zoning ordinance shall be based upon a plan designed to promote the public **health, safety, and general welfare**, to encourage the use of lands in accordance with their character and adaptability, to limit the improper use of land ... to ensure that uses of the land shall be situated in appropriate locations and relationships ... to provide **adequate light** and air, to **lessen congestion** on the public roads and streets A zoning ordinance shall be made with reasonable consideration of the **character of each district**, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building, and population development.*

This Fact Book documents the many ways the proposed 413 E. Huron development does not meet these requirements.

FACT 1:
The 413 East Huron site plan is not in compliance with applicable Michigan statutes.

CITY CODE

Ann Arbor's City Code identifies the standards for approving a site plan in Chapter 57, Section 5:122(6):

*Standards for site plan approval. A site plan shall be approved by the appropriate body **after** it determines that: (a) The contemplated development would comply with all applicable state, local and federal law, ordinances, standards and regulations; and (b) The development would limit the disturbance of natural features to the minimum necessary to allow a reasonable use of the land, applying criteria for reviewing a natural features statement of impact set forth in this Chapter; and (c) The development would not cause a public or private nuisance and would not have a detrimental effect on the public health, safety or welfare.*

The remaining sections of this fact book document specific ways the proposed 413 E. Huron site plan is not in compliance with this code and therefore does not meet its standards for site plan approval.



FACT 2:
Site plan is not in compliance with Ann Arbor city codes and ordinances.

CITY CODE:

Citizen Participation Report

Chapter 55-Zoning, Article XII (Citizen Participation), Section 5:110 (Citizen participation for petitions that require public hearings), Final Citizen Participation Report.

The petitioner shall provide ... A written summary of comments, concerns, issues, and problems expressed by citizen participants; a statement of how the petitioner has addressed or intends to address these concerns, issues or problems, or why a concern, issue or problem cannot or will not be addressed.

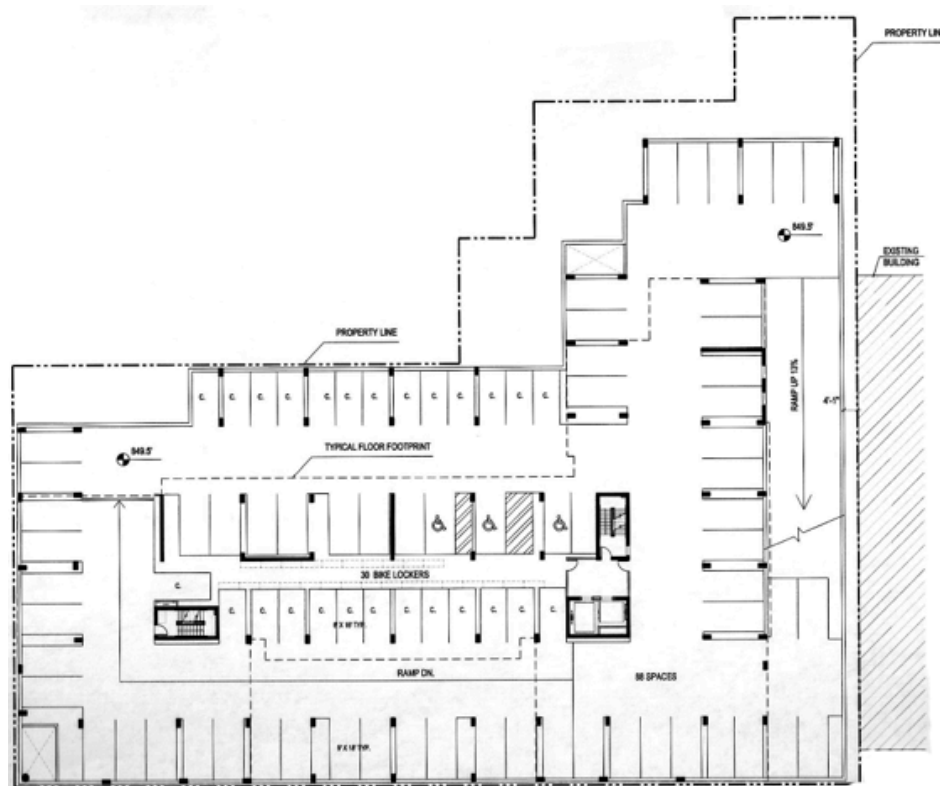
The developer's Citizen Participation Report failed to accurately represent citizen concerns and why these would not be addressed in their design.

FACT 3:
The developer's
Citizen Participation
Report failed to
include required
detail.

CITY CODE: Parking

Chapter 57, Section 5:122 (6) (a):

The contemplated development would comply with all applicable state, local and federal law, ordinances, standards and regulations.



Underground parking plan.

Underground parking structure is a special use and requires a separate approval process.

*Because the applicant has never applied for a special exception use permit for the parking structure portion of its mixed use development, and because the necessary ordinance procedures for review of a special exception use permit have not been followed, **the site plan approval must be denied.***

Letter to Mayor and City Council

March 18, 2013

Susan E. Morrison, Rentrop & Morrison, P.C.

Chapter 55, Section 5:104:

Special Exception Uses ... may be allowed but are subject to review and approval by the Planning Commission.

FACT 4:
Special exception
use for underground
parking was not
approved.

CITY CODE: Natural Features

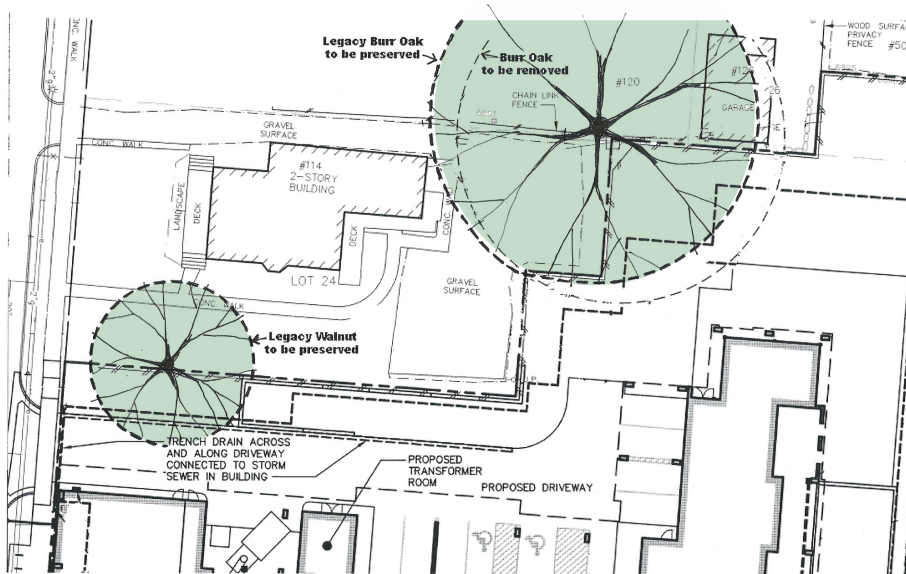
Chapter 57, Section 5:122 (6) (b):

The development would limit the disturbance of natural features to the minimum necessary to allow a reasonable use of the land, applying criteria for reviewing a natural features statement of impact set forth in this Chapter.

The trees' root structure extends onto the adjacent property and will be significantly disturbed by the proposed construction.

Chapter 57 of the City Legal Code, the Subdivision and Land Use Control Ordinance, Land Development Regulations and Natural Features Guidelines cites the: *"grove of Burr Oaks in the vicinity of St. Andrews - the only remaining trees of the savanna called Ann Arbor."* The language specifies, *"preserve and protect all remaining native forest fragments to the fullest extent possible."*

A professional arborist stated the Burr Oak *"will die within five years if the project is constructed as proposed."*



Plan view of legacy trees.

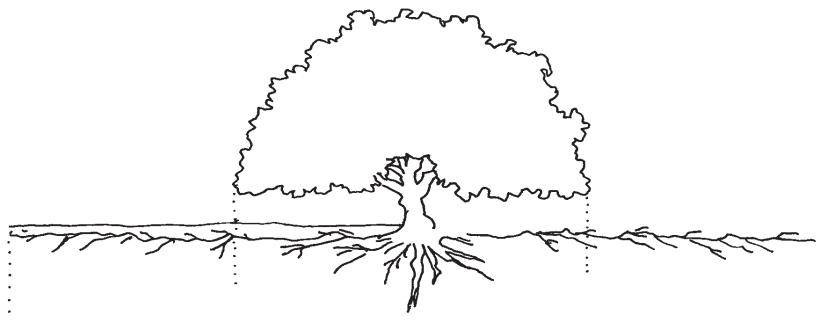


Diagram showing the expanse of root structure in relation to a tree.

FACT 5:
Construction will kill
a 250 year old legacy
Burr Oak tree.

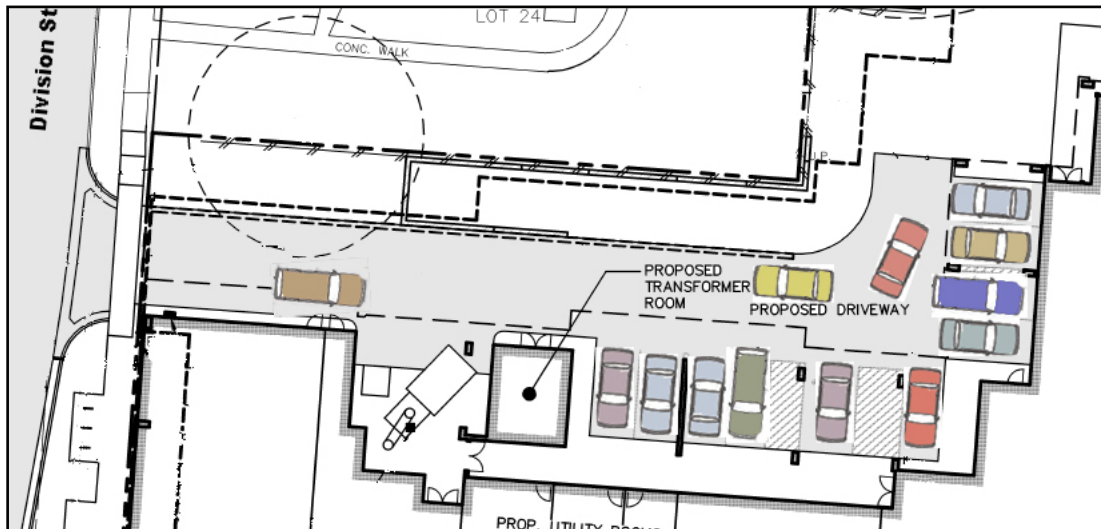
CITY CODE: Traffic Impact

Chapter 57, Section 5:122(6) (c)

Standards for site plan approval. A site plan shall be approved by the appropriate body after it determines that: . . . (c) The development would not cause a public or private nuisance and would not have a detrimental effect on the public health, safety or welfare.

The Developer's traffic impact study is inadequate.

- No off-street drop-off area on Huron Street
- Lack of provision for move-in/move-out student drop off days
- Acute 81 degree turn-in for auto entry is a traffic hazard
- Traffic delays for cars entering underground parking
- Cars leaving the underground ground will impede Huron Street's 23,000 cars per day
- Cars going east will cut through Ann Street residential area.

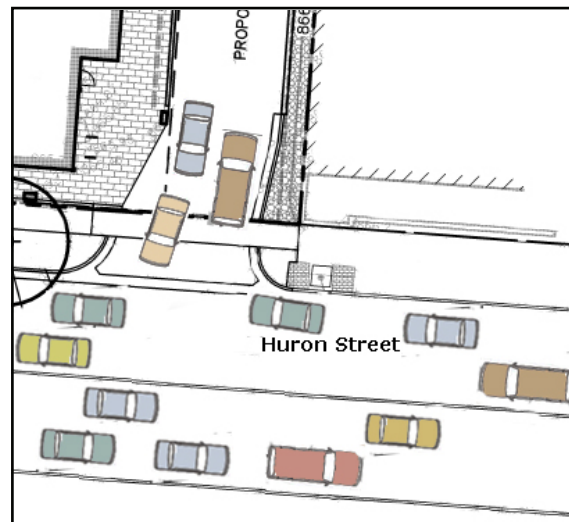


Drop-off area requires
3 point turn.

Street Traffic Comparison at Student High Rises

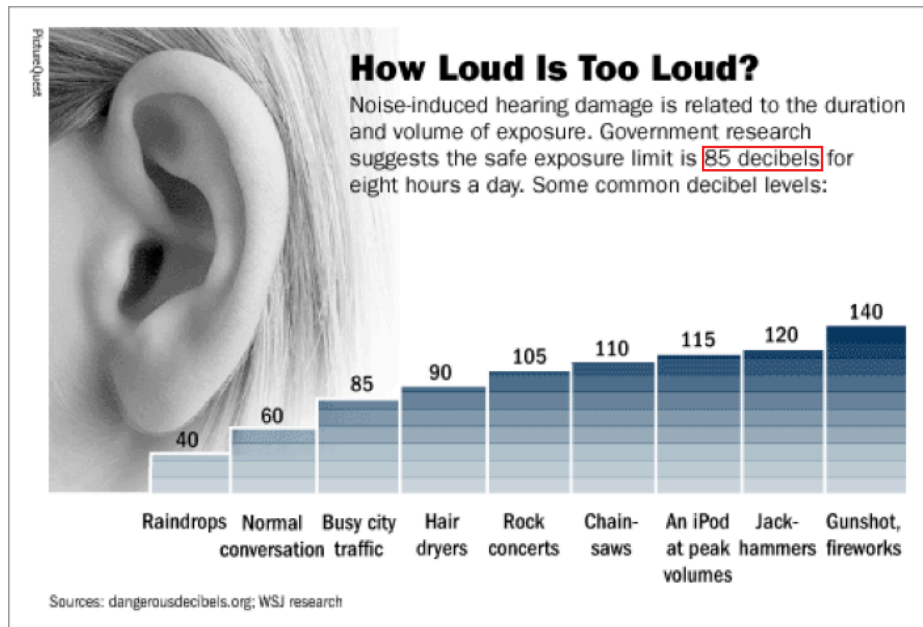
| | |
|----------------|--------|
| 413 East Huron | 24,745 |
| The Varsity | 3,884 |
| Zaragon West | 5,333 |
| Landmark | 6,895 |

Potential traffic
impact analysis.



FACT 6:
Proposed building
imposes a traffic
safety hazard.

CITY CODE: Noise



Ann Arbor City Code (Chapter 119, Section 9):

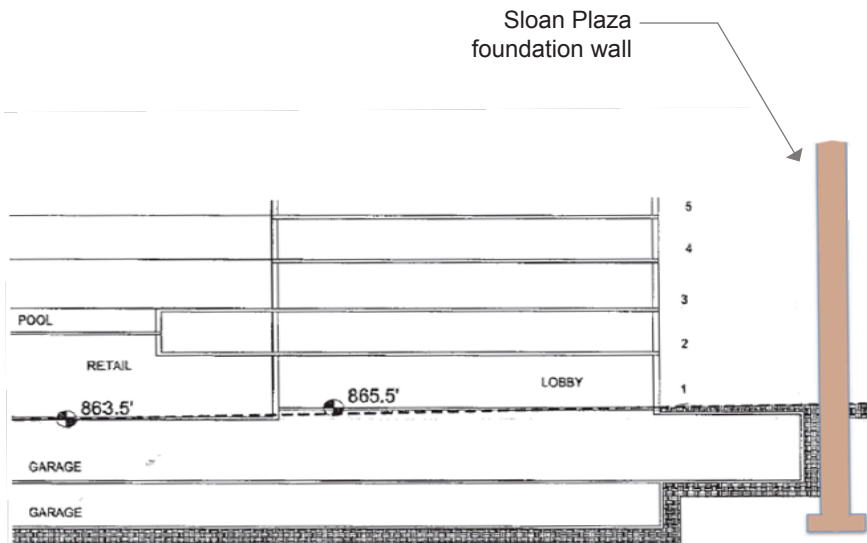
- Allows maximum daily noise level of 61 decibels (dB) at residential area
- Every 10dB represents doubling of noise level
- Construction exemption allows 105dB from 7AM to 8PM Monday-Saturday (13 hours)
- OSHA standards limit 105dB to no more than 1 hour per day

| OSHA Daily Permissible Noise Level Exposure | |
|---|-------------|
| Hours per day | Sound level |
| 8 | 90dB |
| 6 | 92dB |
| 4 | 95dB |
| 3 | 97dB |
| 2 | 100dB |
| 1.5 | 102dB |
| 1 | 105dB |
| .5 | 110dB |
| .25 or less | 115dB |

FACT 7:
Allowable construction
noise level is a health
hazard.

CITY CODE: Foundation Wall

- Sandy and gravelly soils under the site present a risk of structural failure
- The Developer's section drawing does not indicate conditions of the abutting property
- Depth of the new foundation wall relative to existing depth of Sloan Plaza's foundation wall is not shown



Section of Sloan Plaza wall next to new foundation wall for underground parking ramp.

FACT 8:
Site plan does not explain how Sloan Plaza foundation will be protected from damage.

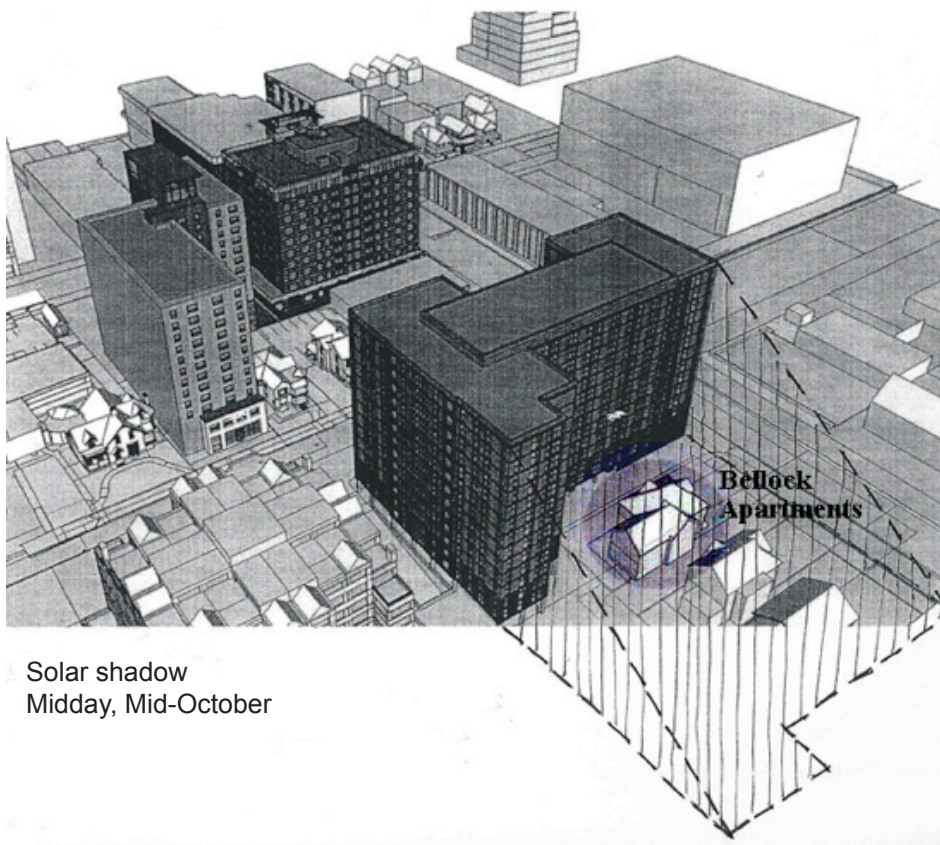
CITY CODE: Solar Access

Enabling law requires solar access:

- Michigan Zoning Enabling Act (MZEA), MCL 125.3203(1) prescribes requirements for a zoning ordinance: *"A zoning ordinance shall . . . ensure that uses of the land shall . . . provide adequate light and air."*
- Design Guideline A.2.2: *"Site designs should accommodate solar access and minimize shading of adjacent properties and neighborhoods."*
- Bellock apartment house will have shade at noon for nine months of the year.



Bellock 11-unit apartment house at 114 N. Division St.



Solar shadow
Midday, Mid-October

Comparative Distances from Structure to Nearest Residence

| | |
|-------------|--------|
| Campus Inn | 175 ft |
| Sloan Plaza | 120 ft |
| 413 E Huron | 65 ft |

FACT 9:
Lack of solar access on
adjacent properties is
violation of City Code.

Nine legal issues relating to the 413 East Huron site plan are unresolved.

FACT 1: The 413 East Huron site plan is not in compliance with applicable Michigan statutes.

FACT 2: Site plan is not in compliance with Ann Arbor city codes and ordinances.

FACT 3: The developer's Citizen Participation Report failed to include required detail.

FACT 4: Special exception use for underground parking was not approved.

FACT 5: Construction will kill a 250 year old legacy Burr Oak tree.

FACT 6: Proposed building imposes a traffic safety hazard.

FACT 7: Allowable construction noise level is a health hazard.

FACT 8: Site plan does not explain how Sloan Plaza foundation will be protected from damage.

FACT 9: Lack of solar access on adjacent properties is violation of City Code.

