

**Zoning Board of Appeals
June 27, 2012 Regular Meeting**

STAFF REPORT

Subject: ZBA12-011, 306-310 Spring Street, 418 Miller Road

Summary: Raymond Knight is requesting the following:

1. Permission to alter a non-conforming structure (Chapter 55, Zoning, Section 5:87), from the Zoning Board of Appeals in order to allow expansion of an existing non-conforming structure,
2. A variance from Chapter 63 (Storm Water Management and Sedimentation Control) in order to provide first flush and bankfull detention on the subject property within the floodplain.

Background:

The subject site includes three contiguous parcels under the same ownership at the northeast corner of Miller Avenue and Spring Street, having a total of 17,812 square feet. One parcel, address 418 Miller Avenue, contains a small neighborhood grocery store and is zoned C1 (Local Business) and M1 (Light Industrial). One parcel contains two single-family dwellings, addresses 306 and 308 Spring Street, and approximately half of the 14-space parking lot of the store in its rear yard, and is zoned R2A (Two-Family Dwelling) and M1. One parcel, address 310 Spring Street, has no building but has the other half of the store's parking lot, and is zoned R2A and M1. All three parcels are entirely within the 100-year floodplain of Allen Creek.

Description and Discussion:

The petitioner is requesting City Council approval of a rezoning of 306-308 and 310 Spring Street from R2A and M1 to C1 so that the building at 306 Spring Street can be converted into a bakery, as well as approval to construct a 1,200-square foot addition to the existing grocery store and expansion, reconfiguration, and improvement of the existing parking lot. The portion of 418 Miller Avenue currently zoned M1 is requested to be rezoned to C1.

A 1,200 square foot addition is proposed to be constructed to the east side of the commercial structure at 418 Miller, to match the 0 foot setback of the existing structure. The required setback for the proposed C1 district is 10 feet, therefore permission to alter a non-conforming structure is required from the Zoning Board of Appeals.

As part of the site plan that was submitted with the rezoning, the petitioner will make improvements to the parking lot, including right-of-way screening and a conflicting land use buffer. Rain gardens and oversized pipes are being provided to handle the full requirement for

storm water management of the first flush and bankfull storm volume. However, storm water detention is prohibited from being located within the floodplain. The variance is required in order to allow this detention within the floodplain.

On June 19, 2012 the Planning Commission recommended approval of the site plan and rezoning for this project, contingent upon a permission to alter a non-conforming structure and a variance being granted by the ZBA for providing required storm water detention in the floodplain.

Standards for Approval - Permission to Alter a Non-Conforming Structure:

The Zoning Board of Appeals has all the power granted by State law and by Section 5:98, from the City of Ann Arbor Zoning Ordinance. The following criteria shall apply:

The alteration complies as nearly as practicable with the requirements of the Zoning Chapter and will not have a detrimental effect on neighboring property.

The petitioner is proposing to construct a 1,200 square foot addition to the existing commercial building. The 16-foot long addition would be constructed in between the existing building which is located directly on the front property line along Miller Road (0 foot setback) and the adjacent railroad bridge, which is also located directly on the property line (0 foot setback). If the addition is setback 10 feet, it would create a 10 foot by 16 foot 'inset' in the streetscape along Miller. This 'inset' will not meet the intention of the zoning ordinance and would only serve to create a 'dead zone' wedge in between neighboring structures. The proposed addition is not visible from any residential structures. Maintaining the 0 foot setback along Miller complies as nearly as practicable with the zoning ordinance and will not have a detrimental effect on neighboring property.

Since the area to be occupied by the addition currently is zoned M1, this action should be conditioned upon Council approval of the proposed C1 zoning.

Standards for Approval – Variance from Chapter 63 (Storm Water Management and Soil Erosion Control and Sedimentation Control):

The Zoning Board of Appeals has all the power granted by State law and by Section 5:99, Application of the Variance Power, from the City of Ann Arbor Zoning Ordinance and Chapter 63, Section 5:566. The following criteria shall apply:

The Zoning Board of Appeals shall have the authority to interpret this chapter and may in specific cases grant variances to these requirements providing such variance is in harmony with the general purpose and intent of the requirements. The procedural requirements for appeals under Chapter 55 shall be applicable to

appeals under this chapter. In addition to the procedures of Chapter 55, when variances are requested from the storm water management system section of this chapter, the applicant shall show that storm water management systems have been provided to the maximum extent feasible with the goals of meeting the rules of the WCWRC (Washtenaw County Water Resources Commissioner).

The proposed rain gardens and pipes to provide storm water management are located within the 100-year floodplain, which is prohibited by City Code. A variance must be granted from Chapter 63 (Storm Water Management and Soil Erosion and Sedimentation Control), Section 5:653 and 5:654(2)(a) of the Ann Arbor City Code and Part 2, Section III, #13 of the Rules of the Washtenaw Water Resources Commissioner. This variance request has been reviewed and is supported by staff responsible for floodplain and storm water review because 1) the entire site is within the 100-year floodplain and there is no other option for locating the proposed rain gardens or any other type of storm water management system; and 2) the request meets the general purpose and intent of the storm water section as storm water management is being provided to the maximum extent possible according to the rules of the WCWRC.

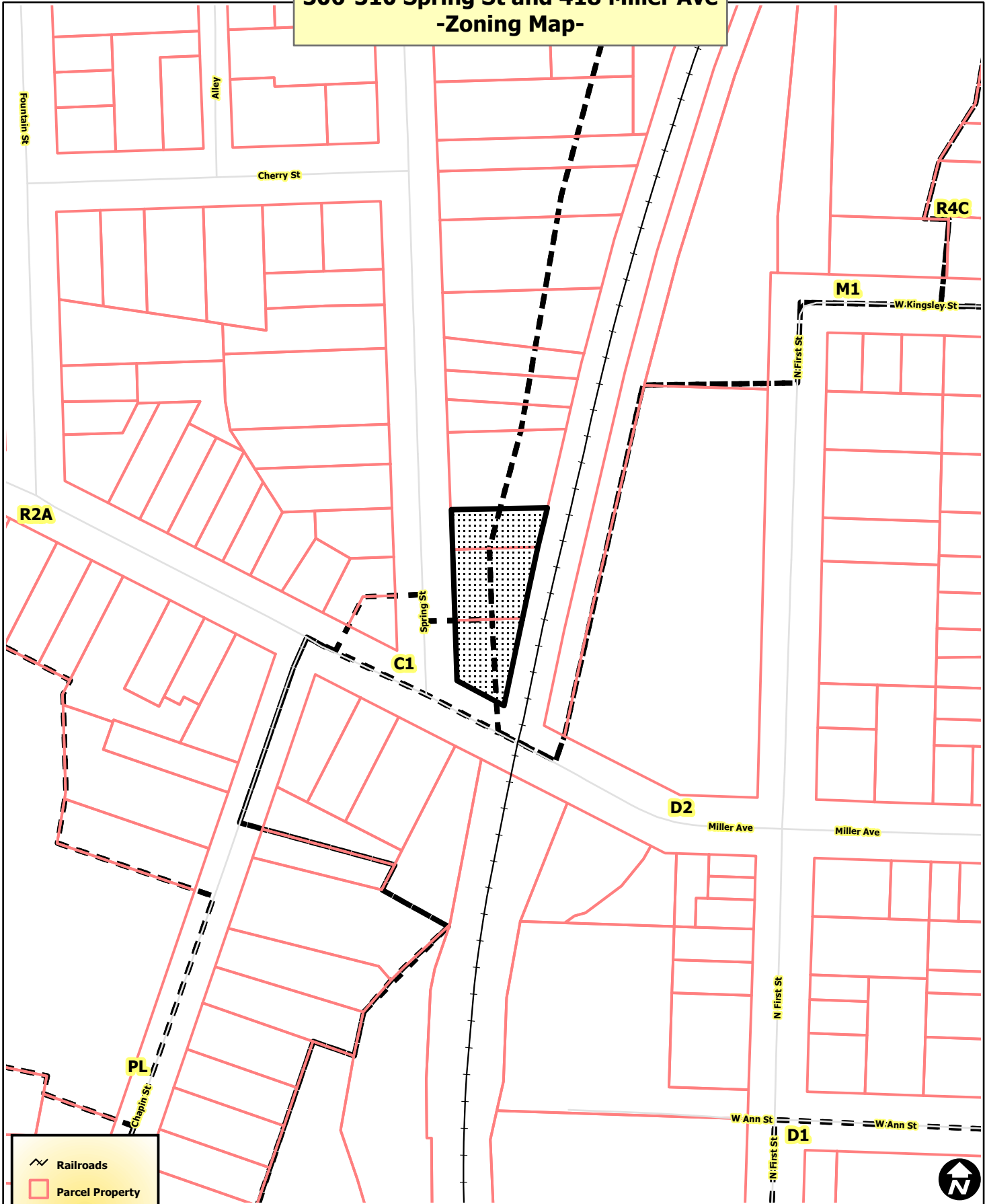
It should be noted that this variance request from Chapter 63 of the Ann Arbor City Code is not a variance from flood resistant construction standards, found in the Michigan Building Code, which City staff strongly oppose out of concerns for jeopardizing the City's standing in the National Flood Insurance Program.

Respectfully submitted,



Matthew J. Kowalski, AICP
City Planner

306-310 Spring St and 418 Miller Ave -Zoning Map-





	Railroads
	Parcel Property
Zoning	
	Township
	Zoning



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Map Created: 4/24/2012

306-310 Spring St and 418 Miller Ave -Aerial Map-



 Railroads
 Parcel Property



City of Ann Arbor Map Disclaimer:
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 This map complies with National Map Accuracy Standards for mapping at 1 inch = 100 Feet. The City of Ann Arbor and its mapping contractors assume no legal representation for the content and/or inappropriate use of information on this map.
 Map Created: 4/24/2012



APPLICATION FOR VARIANCE OR NON-CONFORMING STRUCTURE
ZONING BOARD OF APPEALS

Section 1: Applicant Information

Name of Applicant: RICHARD E. FRY FAIA
Address of Applicant: 117 N. DIVISION ST.
734 913 9022
Daytime Phone: _____
Fax: 734 913 9022
dick@fryarchitecture.com
Email: _____
Applicant's Relationship to Property: ARCHITECT

Section 2: Property Information

Address of Property: 418 Miller Ave
Zoning Classification: C-1
Tax ID# (if known): _____
*Name of Property Owner: Ravmond Knight

**If different than applicant, a letter of authorization from the property owner must be provided.*

Section 3: Request Information

Variance

Chapter(s) and Section(s) from which a variance is requested:

chapter 55, section 5:87(1)(a)

Required dimension: _____ PROPOSED dimension: _____

Request permission to alter a nonconforming structure

Example: Chapter 55, Section 5:26

Example: 40' front setback

Example: 32'

Give a detailed description of the work you are proposing and why it will require a variance (attach additional sheets if necessary)

Since the proposed addition does not increase the nonconforming setback we do not need a front setback variance, but we do need permission to alter a nonconforming structure.

Section 4: VARIANCE REQUEST (If not applying for a variance, skip to section 5)

The City of Ann Arbor Zoning Board of Appeals has the powers granted by State law and City Code Chapter 55, Section 5:98. A variance may be granted by the Zoning Board of Appeals only in cases involving practical difficulties or unnecessary hardships when ALL of the following is found TRUE. Please provide a complete response to each item below. These responses, together with the required materials in Section 5 of this application, will form the basis for evaluation of the request by staff and the Zoning Board of Appeals. (continued...)

1. Are there hardships or practical difficulties to complying with the ordinance? Are these hardships or practical difficulties an exception or unique to the property compared to other properties in the City?

2. Are the hardships or practical difficulties more than mere inconvenience, inability to obtain a higher financial return? (explain)

3. What effect will granting the variance have on the neighboring properties?

4. What physical characteristics of your property in terms of size, shape, location or topography prevent you from using it in a way that is consistent with the ordinance?

5. Is the condition which prevents you from complying with the ordinance self-imposed? How did the condition come about?

Section 5: ALTERATION TO A NON-CONFORMING STRUCTURE

Current use of the property Knight's Market, zoned C-1 (neighborhood grocery store)

The proposed change is allowed in accordance with Structure Non-Conformance, Section 5:87 (1) (a) & (b), which reads as follows:

(1) A non-conforming structure may be maintained or restored, but no alteration shall be made to a non-conforming structure unless one of the following conditions is met:

- a. The alteration is approved by the Zoning Board of Appeals upon finding that it complies as nearly as practicable with the requirements of this Chapter and that it will not have a detrimental effect on neighboring property.
- b. The alteration conforms to all the requirements of this Chapter and is made to a building which will be a single-family dwelling on completion of the alteration and is located in an R1, R2, R3, or R4 district.
- c. The structure is considered non-conforming due to the following reasons

(continued)

	<u>Existing Condition</u>	<u>Code Requirement</u>
Lot area	5,831sf	2,000sf MIN
Lot width	62.56 FT WIDE	20 FEET
Floor area ratio	37 %	100%
Open space ratio		
Setbacks	FRONT 0 FT SIDE 17 FT REAR 22 FT TO NORTH	FRONT 10 FT MIN-SIDE 0 FT REAR 30 FT MIN
Parking	14 EXISTING 17 PROPOSED	MIN 15 MAX 17 17 PROVIDED
Landscaping	LACKING INTERIOR ISLANDS	"PER CODE" URBAN FOREST& NATURAL RESOURCES
Other		

Describe the proposed alterations and state why you are requesting this approval:

WE PLAN TO CONSTRUCT A ONE STORY PERMANENT STRUCTURE TO REPLACE THE NON-COMPLYING TEMPORARY TRAILER. WE ARE REQUESTING THIS APPROVAL BECAUSE WE ARE ALTERING A NON CONFORMING STRUCTURE.

The alteration complies as nearly as is practicable with the requirements of the Chapter and will not have a detrimental effect on neighboring property for the following reasons:

THE ADDITION WILL REPLACE AN "EYESORE TRAILER", REMOVE PORTIONS OF THE SITE FROM DRAINING ONTO

MILLER AVE AND BE DIRECTED TO THE NEW "RAIN GARDEN" DETENTION SYSTEM. THE ADDITION WILL BE PLACED IN A "DEAD SPOT" ON THE SITE, WHICH IS IN BETWEEN THE EXISTING BUILDING AND THE RAISED RAILROAD TRACK EMBANKMENT.

THEREFORE IT WILL NOT BE VISIBLE TO THE RESIDENCES IN THE NEIGHBORHOOD.

Wherefore, Petitioner requests that permission be granted from the above named Chapter and Section of the Ann Arbor City Code in order to permit

CONSTRUCTION OF A NEW ONE STORY, 1,130 SF BUILDING ADDITION TO KNIGHT'S MARKET.

Section 6: Required Materials

The following materials are required for all variance requests. Failure to provide these materials will result in an incomplete application and will delay staff review and Zoning Board of Appeals consideration of the request. The materials listed below must accompany the application and constitute an inseparable part of the application.

All materials must be provided on **8 1/2" by 11" sheets.** (Continued.....)

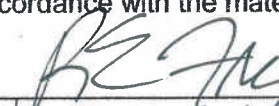
- Survey of the property including all existing and proposed structures, dimensions of property, and area of property.
- Building floor plans showing interior rooms, including dimensions.
- Photographs of the property and any existing buildings involved in the request.
- Any other graphic or written materials that support the request.

Section 7: Acknowledgement

SIGNATURES MUST BE SIGNED IN PRESENCE OF NOTARY PUBLIC


I, the applicant, request a variance from the above named Chapter(s) and Section(s) of the Ann Arbor City Code for the stated reasons, in accordance with the materials attached hereto.

734 913 9022
 Phone Number
 dick@fmarchitecture.com
 Email Address



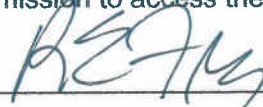
 E. E. FRY
 Signature
 Print Name

I, the applicant, hereby depose and say that all of the aforementioned statements, and the statements contained in the materials submitted herewith, are true and correct.



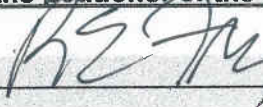
 Signature

Further, I hereby give City of Ann Arbor Planning & Development Services unit staff and members of the Zoning Board of Appeals permission to access the subject property for the purpose of reviewing my variance request.



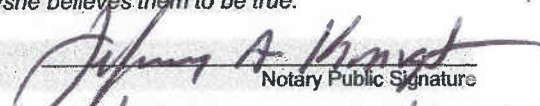
 Signature

I have received a copy of the informational cover sheet with the deadlines and meeting dates and acknowledge that staff does not remind the petitioner of the meeting date and times.



 Signature

On this 30th day of MAY, 2012, before me personally appeared the above named applicant and made oath that he/she has read the foregoing application by him/her subscribed and knows the contents thereof, and that the same is true as to his/her own knowledge except as to those matters therein stated to be upon his information and belief as to those matters, he/she believes them to be true.



 Notary Public Signature
 JEFFREY A. KNIGHT
 Print Name

2-23-2017
 Notary Commission Expiration Date

Staff Use Only

Date Submitted: _____ Fee Paid: _____
 File No.: _____ Date of Public Hearing _____
 Pre-filing Staff Reviewer & Date _____ ZBA Action: _____
 Pre-Filing Review: _____
 Staff Reviewer & Date: _____

APPLICATION FOR VARIANCE OR NON-CONFORMING STRUCTURE ZONING BOARD OF APPEALS

Section 1: Applicant Information

Name of Applicant: Raymond Knight

Address of Applicant: 2310 Dexter Rd

Daytime Phone: 734 665 8644

Fax: _____

Email: jeff.knight@cfglife.com

Applicant's Relationship to Property: Owner

Section 2: Property Information

Address of Property: 418 Miller Ave, 306-310 Spring Street

Zoning Classification: C-1, M-1, & R2A

Tax ID# (if known): _____

*Name of Property Owner: Raymond Knight

**If different than applicant, a letter of authorization from the property owner must be provided.*

Section 3: Request Information

Variance

Chapter(s) and Section(s) from which a variance is requested:

Storm Water Mgmt, chapter 63, section 5:653 and section 5:654(2)(a). Ann Arbor City Code & Part 2. Section III Retention & Detention Systems. #13 of the rules of the Washtenaw County Water Resources Commissioner.
Chapter 63 section 5:667

Required dimension:	PROPOSED dimension:
<u>N/A</u>	<u>N/A</u>
<u>N/A</u>	<u>N/A</u>
<u>N/A</u>	<u>N/A</u>

Example: 40' front setback

Example: 32'

Give a detailed description of the work you are proposing and why it will require a variance (attach additional sheets if necessary)

Because the entire site is within the 100 yr floodplain and there is no other option for locating the gardens we are required to have a variance from the storm water mgmt requirements.(this is not a floodplain variance)

THE ZONING BOARD OF APPEALS SHALL HAVE THE AUTHORITY TO INTERPRET THIS CHAPTER AND MANY IN SPECIFIC CASES GRANT VARIANCES TO THESE REQUIREMENTS PROVIDING SUCH VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE REQUIREMENTS. THE PROCEDURAL REQUIREMENTS FOR APPEALS UNDER CHAPTER 55 SHALL BE APPLICABLE TO APPEALS UNDER THIS CHAPTER. THE APPLICANT SHALL SHOW THAT STORM WATER MGMT SYSTEMS HAVE BEEN PROVIDED TO THE MAXIMUM EXTENT FEASIBLE.

~~Section 4: VARIANCE REQUEST (if not applying for a variance, skip to section 5)~~

~~The City of Ann Arbor Zoning Board of Appeals has the powers granted by State law and City Code Chapter 55, Section 5:98. A variance may be granted by the Zoning Board of Appeals only in cases involving practical difficulties or unnecessary hardships when ALL of the following is found TRUE. Please provide a complete response to each item below. These responses, together with the required materials in Section 5 of this application, will form the basis for evaluation of the request by staff and the Zoning Board of Appeals. (continued...)~~

- Survey of the property including all existing and proposed structures, dimensions of property, and area of property.
- Building floor plans showing interior rooms, including dimensions.
- Photographs of the property and any existing buildings involved in the request.
- Any other graphic or written materials that support the request.

Section 7: Acknowledgement

SIGNATURES MUST BE SIGNED IN PRESENCE OF NOTARY PUBLIC

I, the applicant, request a variance from the above named Chapter(s) and Section(s) of the Ann Arbor City Code for the stated reasons, in accordance with the materials attached hereto.

734-913-9002
 Phone Number _____ Signature
 dick@fryarchitecture.com R.E. FRY
 Email Address _____ Print Name

I, the applicant, hereby depose and say that all of the aforementioned statements, and the statements contained in the materials submitted herewith, are true and correct.

 Signature

Further, I hereby give City of Ann Arbor Planning & Development Services unit staff and members of the Zoning Board of Appeals permission to access the subject property for the purpose of reviewing my variance request.

 Signature

I have received a copy of the informational cover sheet with the deadlines and meeting dates and acknowledge that **staff does not remind the petitioner of the meeting date and times.**

 Signature

On this 30th day of MAY, 2012, before me personally appeared the above named applicant and made oath that he/she has read the foregoing application by him/her subscribed and knows the contents thereof, and that the same is true as to his/her own knowledge except as to those matters therein stated to be upon his information and belief as to those matters, he/she believes them to be true.

 Notary Public Signature
 JEFFREY A. KNIGHT
 Print Name

2-23-2017
 Notary Commission Expiration Date

Staff Use Only

Date Submitted: 5/30-2012 Fee Paid: 500.00
 File No.: ZBA12-011 Date of Public Hearing 6/27-2012
 Pre-filing Staff Reviewer & Date _____ ZBA Action: _____
 Pre-Filing Review: _____
 Staff Reviewer & Date: _____



Fry Architecture, PLLC.
413 East Huron Street
PO Box 7277
Ann Arbor, Mi. 48107

September 26, 2011

City of Ann Arbor Planning Department
Ann Arbor, Mi. 48104

Re:
Letter of Authorization

Planning Department,

Please be advised that Richard Fry, FAIA, Architect has our permission to represent the Ray Knight family as petitioner for our rezoning of 306,308, and 310 Spring Street.

Sincerely,



Donald Knight



310 Spring

308 Spring

306 Spring

420 MILLER
EXISTING
MARKET

FREEZER

COOLER

TRAILER

EXISTING

25 MAY '12



Fry Architecture, PLLC.
413 East Huron Street
PO Box 7277
Ann Arbor, Mi. 48107

310 Spring

308 Spring

306 Spring

420 MILLER
EXISTING
MARKET

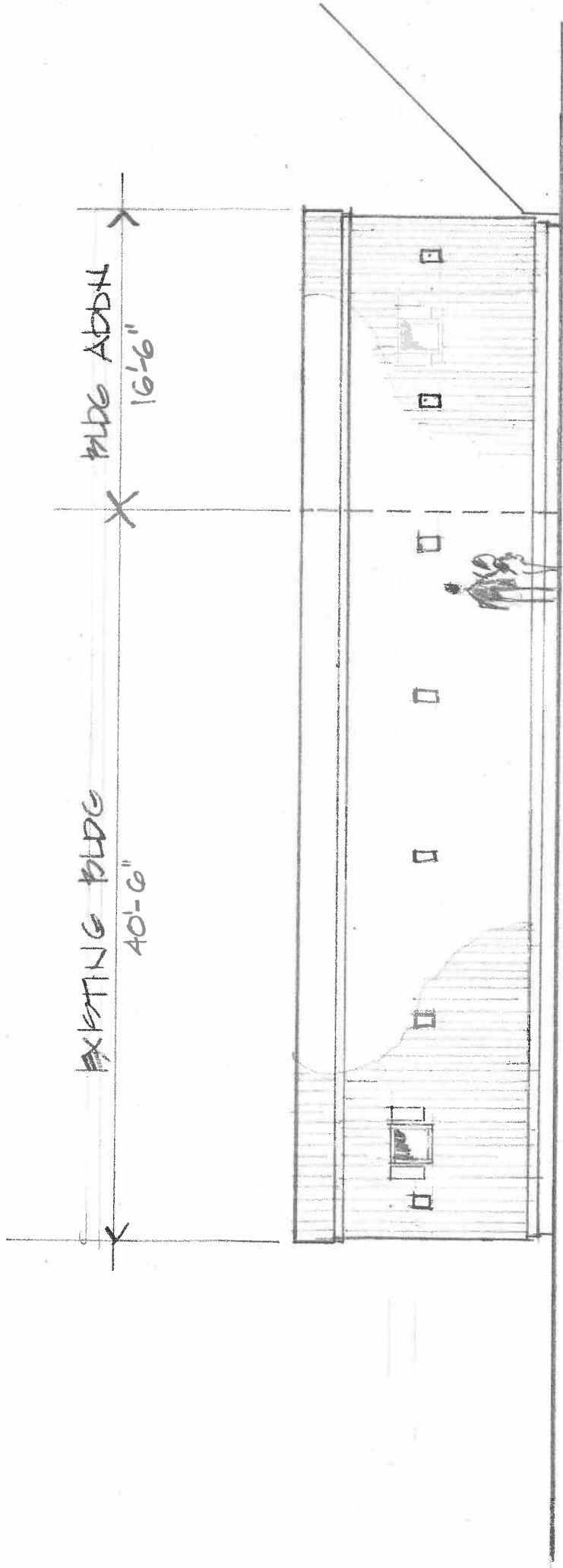
NEW
ADDITION

EXISTING W
ADDITION

25 MAY '12

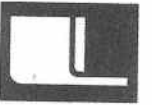


Fry Architecture, PLLC.
413 East Huron Street
PO Box 7277
Ann Arbor, Mi. 48107

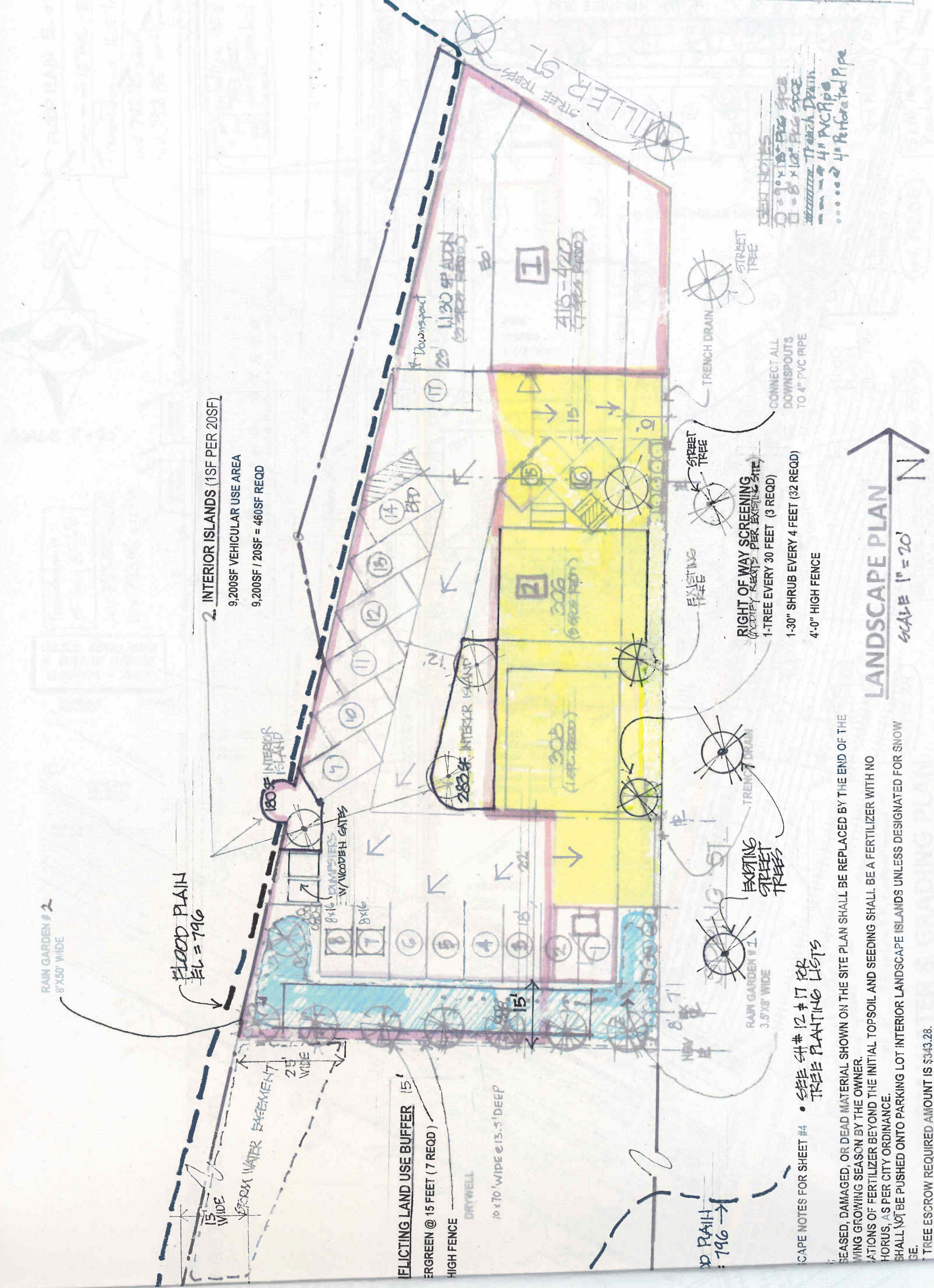


MILLER AVE BUILDING ELEVATION w/ ADDITION @ 1/8" SCALE

25 MAY '12



Fry Architecture, PLLC.
 PO Box 7277
 Ann Arbor, Mi. 48107
 Tel (734) 913 9022



2. INTERIOR ISLANDS (1SF PER 20SF)
 9,200SF VEHICULAR USE AREA
 9,200SF / 20SF = 460SF REQD

GEN NOTES
 ○ = 9" x 18" PVC SPCE
 □ = 8" x 10" PVC SPCE
 ▭ = Trench Drain
 ... = 4" PVC Pipe
 ... = 4" Perforated Pipe

RIGHT OF WAY SCREENING
 (MODIFY REQD'S PER EXISTING SITE)
 1-TREE EVERY 30 FEET (3 REQD)
 1-30" SHRUB EVERY 4 FEET (32 REQD)
 4'-0" HIGH FENCE

SCAPE NOTES FOR SHEET #4 • SEE SH # 12 & 17 FOR TREE PLANTING LISTS

SEAS, DAMAGED, OR DEAD MATERIAL SHOWN ON THE SITE PLAN SHALL BE REPLACED BY THE END OF THE WING GROWING SEASON BY THE OWNER. VARIATIONS OF FERTILIZER BEYOND THE INITIAL TOPSOIL AND SEEDING SHALL BE A FERTILIZER WITH NO HOURS, AS PER CITY ORDINANCE. SHALL NOT BE PUSHED ONTO PARKING LOT INTERIOR LANDSCAPE ISLANDS UNLESS DESIGNATED FOR SNOW GE. TREE ESCROW REQUIRED AMOUNT IS \$343.28.

LANDSCAPE PLAN
 SCALE 1" = 20'
 N

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of May 15, 2012

**SUBJECT: Knight's Market and Spring Street Properties Rezoning and Site Plan
(418 Miller Avenue, 306-310 Spring Street)
Project Nos. Z11-011 and SP12-007**

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve Knight's Market and Spring Street Properties Rezoning from R2A (Two-Family Dwelling) and M1 (Light Industrial) to C1 (Local Business) and Site Plan.

STAFF RECOMMENDATION

Staff recommends that the site plan be **postponed** to allow outstanding staff comments to be addressed and revised plans to be reviewed.

LOCATION

This site consists of three adjacent parcels at the northeast corner of Miller Avenue and Spring Street, is in the Central planning area, and is in the Allen Creek watershed.

DESCRIPTION OF PETITION

The subject site includes three contiguous parcels under the same ownership at the northeast corner of Miller Avenue and Spring Street having a total of 17,812 square feet. One parcel, address 418 Miller Avenue, contains a small neighborhood grocery store and is zoned C1 (Local Business) and M1 (Light Industrial). One parcel contains two single-family dwellings, addresses 306 and 308 Spring Street, and approximately half of the 14-space parking lot of the store in its rear yard, and is zoned R2A (Two-Family Dwelling) and M1. One parcel, address 310 Spring Street, has no building but has the other half of the store's parking lot, and is zoned R2A and M1. All three parcels are entirely within the 100-year floodplain of Allen Creek.

The petitioners request rezoning of 306-308 and 310 Spring Street from R2A and M1 to C1 so that the building at 306 Spring Street can be converted into a bakery, as well as approval to construct a 1,200-square foot addition to the existing grocery store and expansion, reconfiguration, and improvement of the existing parking lot. The portion of 418 Miller Avenue currently zoned M1 is requested to be rezoned to C1. The proposed work to the parking lot includes providing 17 vehicular parking spaces (three additional spaces), a designated snow pile storage area, solid waste and recycling container storage enclosure, right-of-way screening, conflicting land use buffer, and rain gardens for storm water management of the bankful storm volume. The useless curb cut on Miller Avenue will be removed and the curb and lawn extension will be restored. The temporary storage building at 418 Miller will be removed. 310 Spring Street will remain a single-family dwelling.

Each of the three parcels of the site is nonconforming in some manner. For example, the grocery store at 418 Miller Avenue does not conform to the minimum front setback requirements of the C1 zoning district, 306-308 Spring Street has less than the required minimum lot size of

the R2A zoning district, and 301 Spring Street has a nonconforming principal use – off-street parking. The proposed petition will address almost all of the existing nonconformities and make the site substantially conform to all zoning requirements and land development regulations. One notable nonconformity that will remain is the insufficient front setback of 418 Miller Avenue. Recent amendments to the area, height and placement standards of the C1 district reduced the minimum required front setback from 25 feet to 10 feet, making the existing grocery store more conforming but still a nonconforming structure.

CITIZEN PARTICIPATION

The petitioner held a meeting for interested citizens on Sunday, September 18, 2011, about three weeks prior to submitting this petition for approval. Invitations were sent to all residents and property owners within 1,000 feet of the site as well as all subscribers to the GovDelivery planning update service. Approximately 10 people attended the meeting. The full report provided by the petitioner is attached.

In general, the discussion involved how the use of 306 Spring Street will change and concerns regarding additional adjacent parcels owned by the petitioner (314 and 422 Spring Street, which are not included in the rezoning or site plan petitions).

COMPARISION CHART

		EXISTING	PROPOSED	REQUIRED/PERMITTED
Zoning		C1 Local Business, R2ATwo-Family Dwelling, and M1 Light Industrial	C1 Local Business	C1 Local Business
Gross Lot Area		418 Miller – 5,831 sq ft 306-8 Spring – 7,285 sq ft 310 Spring – 4,695 sq ft	17,812 sq ft	2,000 sq ft MIN
Floor Area Ratio %		418 Miller – approx. 37% 306-8 Spring – N/A 310 Spring – N/A	28% (5,136 sq ft)	100% MAX
Set-backs	Front	418 Miller – 0 ft 306 Spring – 4 ft 308 Spring – 8 ft	No change	10 ft MIN, 25 ft MAX
	Side	418 Miller – 17 ft to E 306 Spring – 10 ft to S 308 Spring – 3 ft to N 306 Spring – 40 ft 308 Spring – 45 ft	418 Miller – 0 ft to E 306 Spring – 40 ft to E 308 Spring – 45 ft to E	None
	Rear	418 Miller – 22 ft to N 306 Spring – 40 ft to E 308 Spring – 45 ft to E	418 Miller – N/A 306 Spring – N/A 308 Spring – 55 ft to N	30 ft MIN
Height		418 Miller – 1 story 306 Spring – 2 ½ stories 308 Spring – 1 ½ stories	No changes	35 ft MAX, 3-story MAX
Vehicle Parking		14 spaces	17 spaces	17 spaces MIN*
Bicycle Parking		None	2 class C	2 spaces MIN

* Vehicle Parking – a minimum of 14 spaces and a maximum of 16 spaces are required for the grocery store and bakery, and a minimum of 1 space is required for the single-family dwelling unit.

SURROUNDING LAND USES AND ZONING

	LAND USE	ZONING
NORTH	Vacant	R2A Two-family Dwelling
EAST	Railroad	M1 Light Industrial
SOUTH	Neighborhood commercial	C1 Local Business
WEST	Single and two family residential	R2A

HISTORY

418 Miller Avenue was built in 1901. 306 Spring Street was built in 1910. 308 Spring Street was built in 1913. Raymond Knight, Jr. worked at the grocery store, recalled to be Ty's Market, since the 1940's. Raymond and his wife Mary purchased the property and business in 1952 and the Knight family has continuously operated Knight's Market ever since. Raymond, Mary and their young growing family moved into 306 Spring Street by 1968 and live there until after the youngest child graduated high school. Knight family members remember the rear yards of 306, 308 and 310 Spring Street being paved for market parking in 1971 or 1972.

The adjacent properties, 308 Spring Street, 310 Spring Street, and 314 Spring Street (not included in the petition), were purchased by Knights in the 1970's and 1980's.

A site plan administrative amendment for a small addition to Knight's Market at 418 Miller Avenue, which also shows 306, 308, and 310 Spring Street, was approved on June 9, 1979, the most recent site plan approval on file. In 2003, city enforcement staff investigated an expansion of the vehicular use area on the properties and worked with the property owner on removal of some of that expanded area. Today, the current conditions of the subject site, in particular the extent of the vehicular use area, falls somewhere between the approved 1979 site plan and the conditions discovered prior to 2003.

PLANNING BACKGROUND

The Master Plan Land Use Element recommends continued commercial or office use for 418 Miller Avenue and continued single or two-family residential uses for 306-308 and 310 Spring Street. Land use goals specific to the Central planning area "encourage the preservation of existing small neighborhood grocery stores" (Goal A, Objective 2) but also note the importance of protecting "housing stock from demolition or conversion to business use" (Goal B, Objective 4).

The Flood Mitigation Plan notes that the City actively engages in comprehensive planning but the plans do not make specific recommendations for land uses in the floodplain and floodway that are based specifically on flood risk and vulnerability. The Flood Mitigation Plan also encourages removal of residential uses from the floodplain.

Prior to 2012, Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) showed extremely vague floodplain boundaries. Statements on the FIRM maps indicated the precise elevation of the floodplain but the graphical drawing on the maps often under- (sometimes over-) represented the extent of a floodplain. The stated elevation of the floodplain, not the graphic outline, governed the location of the floodplain when there was an apparent conflict. On April 3, 2012, FEMA issued new FIRM maps. These new maps slightly

revised some floodplain elevations based on data collected in the decades since the first FIRM maps were issued, but more importantly, provided significantly more precise graphics than the previous maps.

Prior to 2012, all three parcels in the subject site were in the Allen Creek floodplain because they were lower than the stated floodplain elevation. However, the maps showed the parcels outside of the floodplain outline. A portion of 418 Miller Avenue was also within the floodway of Allen Creek prior to 2012. The flood map modernization project revised only the stated floodway elevation of Allen Creek, the designated floodplain elevation remained the same. No part of 418 Miller Avenue is within the floodway and all three parcels are correctly shown inside of the graphical outline of the floodplain on the FIRM map.

SERVICE UNIT COMMENTS

Systems Planning – Additional information and revised plans were requested, including indicating the purpose of the Miller Avenue drive approach, showing removal the private-owned traffic signs placed in the Spring Street right-of-way on the site plan, and adding notes on the site plan regarding utilities. Review of the revised plans is pending.

Urban Forestry and Natural Resources – Some requirements of Chapter 62 Landscape and Screening were not fully addressed on the proposed plans. Revisions were requested involving the interior landscape island dimensions, lists and tables, and species selection. Review of the revised plans is pending.

Storm Water Management – Revisions to the proposed emergency overflow feature of the storm water management system were requested, and review of the revised plans is pending.

The proposed rain gardens to provide storm water management are located within the 100-year floodplain, which is prohibited. A variance must be granted from Chapter 63 (Storm Water Management and Soil Erosion and Sedimentation Control), Section 5:653 and 5:654(2)(a) of the Ann Arbor City Code and Part 2, Section III, #13 of the Rules of the Washtenaw Water Resources Commissioner. City staff supports this variance because the entire site is within the 100-year floodplain and there is no other option for locating the proposed rain gardens or any other type of storm water management system.

It should be noted that this variance request from Chapter 63 of the Ann Arbor City Code is not a variance from flood resistant construction standards, found in the Michigan Building Code, which City staff strongly oppose out of concerns for jeopardizing the City's standing in the National Flood Insurance Program.

Floodplain Management – The proposed site plan must provide cut and fill information to determine whether the existing and proposed encroachments in the floodplain will result in no net loss of flood storage capacity. Also, a natural features alternatives analysis due to the proposed disturbance and encroachment into the floodplain must be submitted. Review of revised plans with this information is pending.

The petitioner should note that a floodplain permit will be required from the Michigan Department of Environmental Quality prior to issuance of any building permits for the proposed addition to Knight's Market at 418 Miller Avenue.

Planning – The 2012 flood map modernization project now clearly shows what was previously unclear, that all of the parcels of the site are within the Allen Creek floodplain. The Flood Mitigation Plan was adopted in 2007, more recently than the future land use recommendations of the Master Plan Future Land Use Element which was based on the 1992 Central Area Master Plan.

Staff will offer a recommendation of support for rezoning of 306-308 and 310 Spring Street when all other outstanding issues and reviews for that petition and the accompanying site plan have been resolved for the following reasons:

- With the confirmation that the site is entirely within the Allen Creek floodplain by the flood map modernization project, it appears that the conditions have changed for this site since future land use plan recommendation for the site was adopted.
- While at least one goal for the Central planning area discourages expansion of commercial uses, many goals and actions encourage neighborhood shopping opportunities and supporting mixed-uses, pedestrian-friendly land uses, and less impactful development.
- Removing residential uses from the floodplain is encouraged by the Flood Mitigation Plan.
- The subject site is adjacent to a small commercial zoning district already, and has a natural boundary on the east to contain the district from future expansion.

Prepared by Alexis DiLeo
Reviewed by Wendy Rampson
5/10/12

Attachments: Parcel and Zoning Map
Aerial Photo
Site and Landscape Plan
Application for Changes in or Additions to the Zoning Chapter
Citizen Participation Report

c: Petitioner: Raymond Knight
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Petitioner's Agent: Richard E. Fry, FAIA
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Systems Planning
Project Nos. Z11-011 and SP12-007

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of June 19, 2012

**SUBJECT: Knight's Market and Spring Street Properties Rezoning and Site Plan
(418 Miller Avenue, 306-310 Spring Street)
Project Nos. Z11-011 and SP12-007**

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve Knight's Market and Spring Street Properties Rezoning from R2A (Two-Family Dwelling) and M1 (Light Industrial) to C1 (Local Business) and Site Plan, subject to permission from the Zoning Board of Appeals to alter a nonconforming structure and granting a variance to allow storm water management within a floodplain.

STAFF RECOMMENDATION

Staff recommends that the rezoning be **approved** because of the changed and changing conditions in the area and City in general make the request reasonably necessary, and is consistent with land use plans and policies of the City.

Staff recommends that the site plan be **approved** because, subject to permission and variances granted by the Zoning Board of Appeals, the contemplated development would comply with all applicable state, local and federal law, ordinances, standards and regulations; the development would limit the disturbance of natural features to the minimum necessary to allow a reasonable use of the land; the development would not cause a public or private nuisance and would not have a detrimental effect on the public health, safety or welfare.

STAFF REPORT

This petition was postponed on May 15, 2012 to allow revised plans to be reviewed by staff.

Petition Summary – The petitioner requests three contiguous parcels under the same ownership at the northeast corner of Miller Avenue and Spring Street be rezoned to C1 (Local Business District). One of the parcels, at 418 Miller Avenue, is partially zoned C1 and partially zoned M1 (Light Industrial). Two parcels, at 306-308 and 310 Spring Street, are partially zoned R2A (Two-Family Dwelling) and M1. All three parcels are entirely within the 100-year floodplain of Allen Creek. The petitioner also requests site plan approval for an addition to the existing market at 418 Miller Avenue and expansion, reconfiguration and improvement of the existing parking lot spanning all three parcels.

An administrative land transfer has been separately requested to shift the lot line between 310 Spring Street and 314 Spring Street (also owned by the petitioner but not included in the rezoning or site plan petitions) eight feet north. The proposed rezoning and site plan includes the southern eight feet of 314 Spring Street and provides additional room for a full 15-foot conflicting land use buffer between the improved parking lot and the vacant, residentially-zoned land to the north.

Staff Review of Revised Plans – Revised plans were submitted for review the week before the May 15, 2012 Planning Commission meeting but staff was unable to provide confirmation that the revised plans addressed all previous comments prior to that meeting. However, all reviewers have since confirmed that the revised plans are acceptable.

Concerns About Future Commercial Expansion – The Planning Commission expressed concern that a national retailer, such as a convenience store franchise, fast food restaurant, or pharmacy, could redevelop the site in the future if the 17,812-square foot site was zoned C1. The C1 district allows up to 100% floor area ratio, meaning that the subject site could accommodate a building up to 17,812 square feet, although the C1 zoning would limit tenant spaces in the building to a maximum of 8,000 square feet. That much retail space requires between 58 and 63 off-street parking spaces. It is possible to maximize the allowable development on the site, but it would require virtually all off-street parking to be located below grade or in a multi-level structure. It is mostly likely financially impractical to develop to the maximum permitted, particularly in a flood plain.

Staff could identify only two comparable sites to the proposed development, as noted below.

- 704 South Main Street, 13,194 square feet, zoned C1, contains a 5,360-square foot one-store building and approximately 25 parking spaces. Current tenants are 7-Eleven and the Washtenaw Woodwrights. The site was originally developed in 1950 and has several nonconformities.
- 1606 Jackson Avenue, 15,540 square feet, zone C1, contains a 4,566-square foot one-story building and approximately 20 parking spaces. Current tenants include an independent convenience store. The site was originally developed in 1963 and has several nonconformities.

SERVICE UNIT COMMENTS

Planning – In arriving at a recommendation for the proposed rezoning, staff considered several competing city goals. City goals regarding preservation of neighborhood edges, supporting and expanding neighborhood commercial businesses and opportunities, removing residential uses from floodplains, and remedying benign nonconformities all come into play, sometimes working with and sometimes working against each other.

At least one goal specific to the Central planning area expressly discourages expansion of commercial uses. Other goals encourage supporting existing neighborhood commercial businesses (and even suggest rezonings or text amendments when existing neighborhood commercial is nonconforming) and facilitating modest expansions for the benefit of the surrounding areas. The few remaining locally owned, small, neighborhood-oriented businesses are one of the primary reasons our central neighborhoods remain so desirable, livable, and unique. However, significant challenges arise when these businesses become successful. Success typically means growth, and success often draws imitators. Growth of individual businesses, and more overall businesses, can threaten the delicate neighborhood balance.

The master plan's land use recommendations did not take into account floodplain management goals when they were originally developed, and information on floodplain boundaries before the map modernization project was not user-friendly to its most important stakeholders – property owners and master planners. It's now clear that, while none of the subject site nor the land north of the site is in the floodway anymore, the floodplain of Allen Creek extends much farther

north along Spring Street than previously realized. This is certainly a changed condition from what was understood when the City's master plans were developed and adopted.

The Flood Mitigation Plan encourages removing residential uses from floodplains. The proposed rezoning would expand the land use choices for these parcels from solely residential use to include local commercial and would satisfy floodplain policy. It is a neat and tidy solution for the two houses on the subject site but leaves unanswered questions for the vacant lots immediately north of the site and for the existing houses beyond.

Commercial creep is not a desirable situation, but when it has occurred, it can be hard to argue that improvements should be taken out and everything should be undone. The parking lot for the market that is in the rear yards of two residentially-zoned lots (306-308 and 310 Spring Street) has been in place for almost 30 years. In 1979, the Knights received site plan approval for an addition to their building, and the site plan clearly showed the parking currently in place. City officials have been successful in keeping the uses on this site from expanding further, but the fact is that the decision to functionally expand the commercial nature of this site was made long ago when the parking lot was originally installed.

In sum, for the past 30 years, 306-308 and 310 Spring Street have been operating as a single mixed use site containing both residential uses and local commercial. Staff considers the proposed rezoning to be improving the site conditions of an existing situation, supporting the continued success of an established neighborhood, and striking a balance between varied land use goals. Further, any future expansion of commercial in this area would require the type of debate that characterizes this request.

Staff supports the petitioner's request for the subject site to be entirely zoned C1 and approval of the accompanying site plan.

Prepared by Alexis DiLeo
Reviewed by Wendy Rampson
6/15/12

Attachments: May 15, 2012 Planning Staff Report

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