

ANN ARBOR HISTORIC DISTRICT COMMISSION

Staff Report

ADDRESS: 201 Glen Avenue, Application Number HDC15-225

DISTRICT: Old Fourth Ward Historic District

REPORT DATE: December 10, 2015

REPORT PREPARED BY: Jill Thacher, Historic Preservation Coordinator

REVIEW COMMITTEE DATE: Monday, December 7, 2015

	OWNER	APPLICANT
Name:	Catherine Ann Development Company	J. Bradley Moore & Assoc. Architects, Inc
Address:	121 W. Long Lake Rd, Suite 300 Bloomfield Hills, MI 48304	4844 Jackson Rd, Suite 150 Ann Arbor, MI 48103
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BACKGROUND: The project site consists of five parcels in the Old Fourth Ward Historic District at 201, 213, 215, and 217 Glen Avenue, and 1025 East Ann Street. The 1925 Sanborn Fire Insurance Map shows a one-story, wood store at 211 Glen, and two-story, wood houses at 213, 215, and 217 Glen. 1025 East Ann was vacant. The store was removed by 1931. In 1934, the Silkworth Filling Station opened at 1025 E Ann, and a laundry opened at 1031 E Ann, both one-story buildings of unknown construction, which were removed sometime before 1950. By 2007, only the two houses at 213 and 215, and a non-contributing gas station (built in 1950) at 201 Glen remained. Those structures were demolished in that year as part of the Glen Ann Place PUD site plan project, which was approved by consent judgment in 2007. The consent judgment reflected the particular circumstances of that site plan and stated that it could not be relied on by other parties as precedent for the HDC's application of the City's historic district ordinance. After being extended by City Council and the HDC in 2010, that site plan expired in November of 2012.

On November 12, 2015 an application for a Certificate of Appropriateness for the same nine-story hotel project was denied by the HDC.

LOCATION: The site is located on the west side of Glen Avenue, and spans the area between Ann Street and Catherine Street.

APPLICATION: The applicant now seeks a Notice to Proceed to construct the same nine-story hotel with ground-floor retail and restaurant that was denied a Certificate of Appropriateness by the HDC on November 12, 2015. The application specifies Notice to Proceed subsections (a) and (d) as the basis for the application.

In addition to the application form and photos and drawings of the proposed hotel, the applicant

has provided a Baseline Environmental Assessment (BEA) for the site. The BEA report is included in the paper packet, but the report with exhibits is only available electronically on eTrakit at HDC15-225 due to its length (1,195 pages).

APPLICABLE REGULATIONS:

From Chapter 103 Historic Preservation:

8:407 Definitions.

- (13) *Notice to Proceed* means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource pursuant to a finding under section 8:416.
- (18) *Resource* means 1 or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features, or open spaces located within a historic district.

8:416. Notice to proceed.

The proposed work was denied a Certificate of Appropriateness at the November 12, 2015 HDC meeting. The HDC may approve work that does not qualify for a Certificate of Appropriateness by issuing what is called a Notice to Proceed. There are only four circumstances under which a Notice to Proceed may be granted by the HDC. The Glen has decided to apply under circumstances (a) and (d), shown below.

- (1) Work within a historic district shall be permitted through the issuance of a notice to proceed by the commission if any of the following conditions prevail and if the proposed work can be demonstrated by a finding of the commission to be necessary to substantially improve or correct any of the following conditions:
 - (a) The resource constitutes a hazard to the safety of the public or to the structure's occupants.
 - (d) Retaining the resource is not in the interest of the majority of the community.

STAFF FINDINGS:

1. The application proposes the construction of a nine-story hotel. Since a notice to proceed presumes that the work is inappropriate for the district, the HDC's usual standards and guidelines do not apply. To receive a Notice to Proceed under subsection (a), an applicant must show that the resource (in this case, the vacant site) is (1) a hazard to the safety of the public or to the structure's occupants, and (2) that the proposed building is necessary to substantially improve or correct the hazard. The burden is on the applicant to present documentary evidence of the public safety hazard and why the proposed work is necessary to substantially improve or correct the hazard.

2. Staff's conclusion is that the resource does not constitute a hazard to the safety of the public or the structure's occupants. The BEA documents known contaminants on the site that are associated with a gas station and a dry cleaner. These were formerly located at the south end of the site. The BEA and attachments were reviewed by the City's environmental consultant, Patti McCall of TetraTech and her conclusions are contained in the attached letter. In summary, the letter concludes that, based on the information provided, there is no evidence of a hazard to the safety of the public if the site is left as is and no evidence that there would be a hazard to the safety of the public or the structure's occupants if a structure were built on the site. Contaminants of concern are mainly at significant depths and depending on the structure built, no mitigation may be needed at all. To the extent there may be exposure pathways, they likely could be mitigated with vapor barriers. The applicants have stated that groundwater is at risk due to the contamination, however there is no evidence of any hazard to the safety of the public. As Ms. McCall's letter notes, the environmental documents provided by the applicant state that: "Groundwater at the subject property will not pose an unacceptable exposure based on the future use of the subject property (i.e., the City of Ann Arbor will supply drinking water to the subject property and surrounding areas)." Also, with respect to potential contamination of the Huron River, the documents state that: "Groundwater/Surface Water Interface is not applicable at the site, as the nearest surface water body (Huron River) is located over 1,000 feet north of the subject property."
3. Staff's conclusion is that the proposed work is also not necessary to substantially improve or correct a hazard to the safety of the public or to the structure's occupants. The application letter states that the site is a hazard to the safety of the public, and that it is "not economically feasible to remove the hazardous substances from the site without building in the void a substantial project such as The Glen." The applicant has not provided any evidence that any removal would be necessary if an alternative structure with no or minimal subsurface elements were built. The applicant has also not provided any detail regarding the cost or nature of cleanup for the proposed work or that The Glen is the only project that will make development of the site economically feasible. No information is provided on the additional costs affiliated with the removal of hazardous substances, and why this particular project is necessary to substantially improve or correct them. The only need that the applicant has shown for removal of potential hazardous soil is because the applicant wishes to build a four-story underground structure. The owners have other options for safe development of the site that may require minimal or no removal of hazardous substances, such as building slab-on-grade, possibly with a vapor barrier.
4. To receive a Notice to Proceed under subsection (d), an applicant must show that retaining the historic character and integrity of the historic resource is not in the interest of the majority of the people of the City of Ann Arbor, and that the proposed work is necessary to substantially improve or correct this. That is, the HDC must find that the interest of the majority of the community in constructing this inappropriate building (as determined by the HDC at its November 12, 2015 meeting) outweighs the interest of the majority of the community in preserving the historic character of the site and allowing a building (or buildings) appropriately scaled for and compatible with the historic site and the Old Fourth Ward Historic District.

The community's interest in retaining a historic resource is presumptively very strong. The City of Ann Arbor has demonstrated the interest of the community in retaining this resource by placing it in a local historic district. Staff believes that the proposed building's benefits, as listed on pages three and four of the application letter, do not outweigh the greater goal of safeguarding the historic character of the site and the surrounding district. Staff concludes that these benefits will not affect the majority of the people of the City of Ann Arbor, and are insufficient to outweigh the damage to the Old Fourth Ward Historic District caused by the construction of a building that has been previously determined to be inappropriate for the District. Further, even if retaining the resources were no longer in the interest of the majority of the community, the site has potential for a different project that is less damaging to the Historic District, and therefore this proposal would not be necessary to substantially improve or correct such a condition.

The benefits cited in section 3, on page 2-4 of the application are addressed in order. Unless otherwise stated, they do not benefit the majority of the people of the City of Ann Arbor:

- 1) The City has numerous cafes and restaurants with sidewalk entries and outdoor seating throughout the downtown commercial district, so this does not benefit the majority of the people of the City of Ann Arbor.
- 2) The City has numerous retail and restaurant spaces and the applicant states that this benefit is only for Catherine, Glen, and Ann streets.
- 3) The City has had many new apartment building constructed in the last few years and several under construction.
- 4) The City has numerous public and private parking decks throughout the downtown.
- 5) The contamination is not a threat to the Ann Arbor community and the applicant has not demonstrated that it cannot develop the site with a project that is compatible with the district.
- 6) Neighborhood amenities generally do not benefit the majority of the people of the City and the City has hotel conference and reception facilities already. The applicant has not demonstrated that it could not create similar facilities with a project that is compatible with the district.
- 7) The City of Ann Arbor has 3 hotels and a bed and breakfast within 1 mile walking distance of the site and numerous other hotels elsewhere.
- 8) This may be a benefit to the community, but the applicant has not demonstrated that it could not create a similar number of jobs with a project that is compatible with the district.
- 9) The City has numerous knowledge based businesses in the downtown and elsewhere.
- 10) These are local, not community benefits. These uses also exist elsewhere throughout the City.
- 11) The design references pertain to transition in the immediate area and do not benefit the community. The HDC has already determined that the design is not appropriate for the district.
- 12) The applicant expressly describes this as a neighborhood, rather than community

benefit.

- 13) Applicant does not state how preventing the University from owning the property would be a community benefit. Some tax revenue may be lost, however there may be counterbalancing community benefits depending on what is built. This benefit is also speculative as no evidence has been presented that the University intends to acquire this parcel.
 - 14) The applicant expressly describes this as a neighborhood, rather than community benefit.
 - 15) A pocket park is primarily a neighborhood rather than community benefit and the applicant has not demonstrated that it could not create a similar pocket park with a project that is compatible with the district.
 - 16) Affordable housing may be a community benefit, however the project itself contains no affordable housing and there is nothing in the proposal that would bind the applicant to contribute money to affordable housing. Therefore, this benefit is speculative. Also, there is no evidence that this project is necessary for the applicant to make a contribution to affordable housing.
5. Staff does not believe the proposed nine-story building is necessary to substantially improve or correct a hazard to the safety of the public or that the stated benefits of the proposed building outweigh the benefits of retaining the historic character of the site in relation to the Old Fourth Ward Historic District, and recommends denial of the application.

POSSIBLE MOTIONS: (Note that the motions are only suggested. The Review Committee, consisting of staff and at least two Commissioners, will meet with the applicant on site and then make a recommendation at the meeting.)

I move that the Commission issue a Notice to Proceed for the application at 201 Glen Avenue to construct a nine-story hotel/mixed use building, as proposed. The Commission finds that the site consisting of 201, 213, 215, and 217 Glen Avenue, and 1025 East Ann Street constitutes a hazard to the safety of the public or to the structure's occupants, and that the proposed work is necessary to substantially improve or correct this condition.

I move that the Commission issue a Notice to Proceed for the application at 201 Glen Avenue to construct a nine-story hotel/mixed use building, as proposed. The Commission finds that the retention of the resource is not in the interest of the majority of the community and that the proposed building is necessary to substantially improve or correct this condition.

ATTACHMENTS: letter from Patti McCall, HDC application, application letter, project drawings and narrative, baseline environmental assessment