

ORDINANCE NO. ORD-19-20

First Reading: June 3, 2019
Public Hearing: July 1, 2019

Approved: July 1, 2019
Published: July 11, 2019
Effective: July 21, 2019

841 BROADWAY PUD ZONING
(841 BROADWAY)

AN ORDINANCE TO AMEND THE ZONING MAP, BEING A PART OF SECTION 5:10.2 OF CHAPTER 55 OF TITLE V OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor ordains:

Section 1. THE ZONING MAP, which, by Section 5:4 of Chapter 55 of Title V of the Code of the City of Ann Arbor is made a part of said Chapter 55, shall be so amended as to designate the zoning classification of property described as follows:

Part of Block 14, all of Blocks 15, 20, 21, 22 and 23 and vacated Fourth Street, vacated Fifth Street, vacated Hotel Alley, vacated Railroad Street and vacated River Street of Ormsby & Page's Addition to the Village (Now City) of Ann Arbor, being a part of the Southeast 1/4 of Section 20 and the Southwest 1/4 of Section 21, Town 2 South, Range 6 East, City of Ann Arbor, Washtenaw County, Michigan as recorded in Liber M of Deeds, Page 191, Washtenaw County Records except land conveyed to the Michigan Central Railroad Company as recorded in Liber 86 of Deeds, page 105 and in Liber 450, page 79, Washtenaw County Records and the land between the Huron River (As Platted) and the water's edge of the existing Huron River, all being more particularly described as follows:

Beginning at the Northwest corner of Lot 1 of said Block 14, thence South 20 degrees 01 minutes 45 seconds East along the North line of Michigan Central Railroad, 106.00 feet to the Southwest corner of Lot 1 of said Block 14; thence South 24 degrees 55 minutes 15 seconds East along the North line of Michigan Central Railroad, 99.00 feet to the Southwest corner of Lot 2 of said Block 14; thence South 29 degrees 38 minutes 55 seconds East, 18.61 feet to the intersection of the North line of the Michigan Central Railroad and the Southerly face of a steel seawall, as extended, also being the point of beginning; thence North 60 degrees 54 minutes 09 seconds East along said Southerly face of a steel seawall, 24.79 feet; thence the following two (2) courses along said the Southerly face: 1) 89.96 feet along the arc of a curve to the right, radius of 269.37 feet, central angle of 19 degrees 08 minutes 09 seconds, chord bearing North 71 degrees 46 minutes 28 seconds East, 89.55 feet and 2) South 69 degrees 37 minutes 45 seconds East, 11.66 feet to the end of said seawall, also being Point 'A'; thence Southeasterly along the water's edge of relocated Huron River

1540 feet, plus or minus, to a point on the West line of Broadway Street (98 feet wide); thence South 56 degrees 30 minutes 00 seconds West along said West line of Broadway Street, 22.00 feet, plus or minus, to a point being South 69 degrees 37 minutes 45 seconds East, 107.27 feet and North 72 degrees 18 minutes 19 seconds East, 175.00 feet and South 84 degrees 12 minutes 49 seconds East, 310.00 feet and South 67 degrees 40 minutes 35 seconds East, 400.00 feet and South 50 degrees 11 minutes 00 seconds East, 435.00 feet and South 19 degrees 36 minutes 25 seconds East, 84.50 feet from said Point 'A'; thence continuing along said West line South 56 degrees 30 minutes 00 seconds West, 127.54 feet; thence the following (13) thirteen courses along the northerly line of the Michigan Central Railroad: 1) North 33 degrees 30 minutes 00 seconds West, 50.00 feet, 2) South 56 degrees 30 minutes 00 seconds West, 77.14 feet, 3) 269.33 feet along the arc of a curve to the right, radius of 634.03 feet, central angle of 24 degrees 20 minutes 18 seconds, chord bears South 68 degrees 41 minutes 06 seconds West, 267.31 feet to a point on the centerline of said vacated Railroad Street, 4) North 61 degrees 55 minutes 00 seconds West along said centerline of vacated Railroad Street, 496.57 feet to a point on the centerline of said vacated Fifth Street, 5) South 31 degrees 03 minutes 43 seconds West along said centerline of Fifth Street, 74.65 feet, 6) North 60 degrees 15 minutes 43 seconds West, 174.80 feet, 7) North 51 degrees 15 minutes 43 seconds West, 147.00 feet, 8) North 47 degrees 45 minutes 43 seconds West, 43.00 feet to a point on the East line of said vacated Fourth Street, 9) South 26 degrees 28 minutes 38 seconds West, 3.00 feet to the Southwest corner of said Block 15, 10) North 38 degrees 58 minutes 32 seconds West, 72.40 feet to the Southerly corner of said Block 14, 11) North 39 degrees 01 minutes 45 seconds West, 98.00 feet to the Northwest corner of Lot 6 of said Block 14, 12) North 34 degrees 21 minutes 00 seconds West, 98.00 feet to the Northwest corner of Lot 4 of said Block 14, 13) North 29 degrees 38 minutes 55 seconds West, 80.39 feet to the point of beginning.

in the City of Ann Arbor, Washtenaw County, Michigan as PUD (Planned Unit Development District) in accordance with the attached 841 Broadway PUD Supplemental Regulations, which are hereby adopted and incorporated into the 841 Broadway PUD zoning ordinance.

Section 2. This ordinance shall take effect and be in force on and after ten days from legal publication.

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan at its regular session of July 1, 2019.

(Date)

Jacqueline Beaudry, Ann Arbor City Clerk

Christopher Taylor, Mayor

I hereby certify that the foregoing ordinance received legal publication in the Washtenaw Legal News on July 11, 2019.

Jacqueline Beaudry, Ann Arbor City Clerk

841 Broadway PUD Supplemental Regulations

Section 1: Purpose

It is the purpose of the City Council in adopting these regulations to provide for the coordinated and unified development of this parcel in harmonious integration with the surrounding neighborhood and presenting a unified development of mixed-uses.

These regulations seek to promote development of a mix of desirable uses arranged in an innovative and efficient manner that advances the City's land use plans and policies; and revitalizes and provides service to the neighborhood and the City as a whole.

Section 2: Applicability

The provisions of these regulations shall apply to the property described as follows ("Property"):

In the City of Ann Arbor, County of Washtenaw, Michigan

Part of Block 14, all of Blocks 15, 20, 21, 22 and 23 and vacated Fourth Street, vacated Fifth Street, vacated Hotel Alley, vacated Railroad Street and vacated River Street of Ormsby & Page's Addition to the Village (Now City) of Ann Arbor, being a part of the Southeast 1/4 of Section 20 and the Southwest 1/4 of Section 21, Town 2 South, Range 6 East, City of Ann Arbor, Washtenaw County, Michigan as recorded in Liber M of Deeds, Page 191, Washtenaw County Records except land conveyed to the Michigan Central Railroad Company as recorded in Liber 86 of Deeds, page 105 and in Liber 450, page 79, Washtenaw County Records and the land between the Huron River (As Platted) and the water's edge of the existing Huron River, all being more particularly described as follows:

Beginning at the Northwest corner of Lot 1 of said Block 14, thence South 20 degrees 01 minutes 45 seconds East along the North line of Michigan Central Railroad, 106.00 feet to the Southwest corner of Lot 1 of said Block 14; thence South 24 degrees 55 minutes 15 seconds East along the North line of Michigan Central Railroad, 99.00 feet to the Southwest corner of Lot 2 of said Block 14; thence South 29 degrees 38 minutes 55 seconds East, 18.61 feet to the intersection of the North line of the Michigan Central Railroad and the Southerly face of a steel seawall, as extended, also being the point of beginning; thence North 60 degrees 54 minutes 09 seconds East along said Southerly face of a steel seawall, 24.79 feet; thence the following two (2) courses along said the Southerly face: 1) 89.96 feet along the arc of a curve to the right, radius of 269.37 feet, central angle of 19 degrees 08 minutes 09 seconds, chord bearing North 71 degrees 46 minutes 28 seconds East, 89.55 feet and 2) South 69 degrees 37 minutes 45 seconds East, 11.66 feet to the end of said seawall, also being Point 'A'; thence Southeasterly along the water's edge of relocated Huron River 1540 feet, plus or minus, to a point on the West line of Broadway Street (98 feet wide); thence

South 56 degrees 30 minutes 00 seconds West along said West line of Broadway Street, 22.00 feet, plus or minus, to a point being South 69 degrees 37 minutes 45 seconds East, 107.27 feet and North 72 degrees 18 minutes 19 seconds East, 175.00 feet and South 84 degrees 12 minutes 49 seconds East, 310.00 feet and South 67 degrees 40 minutes 35 seconds East, 400.00 feet and South 50 degrees 11 minutes 00 seconds East, 435.00 feet and South 19 degrees 36 minutes 25 seconds East, 84.50 feet from said Point 'A'; thence continuing along said West line South 56 degrees 30 minutes 00 seconds West, 127.54 feet; thence the following (13) thirteen courses along the northerly line of the Michigan Central Railroad: 1) North 33 degrees 30 minutes 00 seconds West, 50.00 feet, 2) South 56 degrees 30 minutes 00 seconds West, 77.14 feet, 3) 269.33 feet along the arc of a curve to the right, radius of 634.03 feet, central angle of 24 degrees 20 minutes 18 seconds, chord bears South 68 degrees 41 minutes 06 seconds West, 267.31 feet to a point on the centerline of said vacated Railroad Street, 4) North 61 degrees 55 minutes 00 seconds West along said centerline of vacated Railroad Street, 496.57 feet to a point on the centerline of said vacated Fifth Street, 5) South 31 degrees 03 minutes 43 seconds West along said centerline of Fifth Street, 74.65 feet, 6) North 60 degrees 15 minutes 43 seconds West, 174.80 feet, 7) North 51 degrees 15 minutes 43 seconds West, 147.00 feet, 8) North 47 degrees 45 minutes 43 seconds West, 43.00 feet to a point on the East line of said vacated Fourth Street, 9) South 26 degrees 28 minutes 38 seconds West, 3.00 feet to the Southwest corner of said Block 15, 10) North 38 degrees 58 minutes 32 seconds West, 72.40 feet to the Southerly corner of said Block 14, 11) North 39 degrees 01 minutes 45 seconds West, 98.00 feet to the Northwest corner of Lot 6 of said Block 14, 12) North 34 degrees 21 minutes 00 seconds West, 98.00 feet to the Northwest corner of Lot 4 of said Block 14, 13) North 29 degrees 38 minutes 55 seconds West, 80.39 feet to the point of beginning.

Further, the provisions of these regulations shall be adopted and incorporated into the 841 Broadway Planned Unit Development Zoning District. These regulations, however, are intended to supplement only those provisions in the Ann Arbor City Code that may be modified as a part of a PUD and shall not be construed to replace or modify other provisions or regulations in Ann Arbor City Code.

Section 3: Findings and Analysis

(A) The petitioner has provided the following background in support of the PUD zoning district:

The proposed 841 Broadway development is nestled in the Huron River Valley at the strategic crossroads of Division Street/Broadway Bridge/Plymouth Road, Depot Street, Main Street, and the River. The immediate site is surrounded by a diverse collection of commercial, service, and institutional structures including historic power sub-stations and commercial buildings in the area of Broadway and Swift Streets, modern and former Train Stations flanking Broadway at Depot, commercial buildings running from Depot to Main Street, and a commercial-industrial corridor between Main Street and the River. With the Broadway Historic Neighborhood to the North, the Historic Old Fourth Ward and North Central Neighborhoods to the south, and the once platted Rail Road and River Streets on the actual site, there is also a rich historic residential fabric. These areas are mixed with newer homes and developments, including the new development on Broadway Street and Maiden Lane. Buildings belonging to the

University of Michigan Hospital complex reach across Fuller Road towards the site, adding additional typologies and synergies to this dynamic location.

The rich variety of building age and use found near 841 Broadway results in a wide range of building scales, form, detail, and material palette. This includes modestly scaled homes with traditional massing, articulated 3-4 story multifamily buildings, simply massed commercial structures of 1-3 stories (some with pitched roofs), thoughtfully rendered infrastructure buildings, and several noted historic buildings including the Romanesque-styled Michigan Central Train Station. There are also several tall buildings along the river corridor including the Kellogg Eye Center and Riverside Park Place, both ten-stories in height. Despite the great variety of building types there is a tendency for buildings in this area to have a direct and active relationship with the street, from the narrow lawns on the dense residential streets to the lively commercial conditions such as the Northside Grill and others along Broadway. The density of the neighborhood is interspersed with park areas including the Argo Cascades, Broadway Dog Park, Wheeler Park, and the planned Treeline Trail connection.

(B) *During the citizen participation phase of this rezoning, the petitioner determined that:*

It is in the best interest of the City of Ann Arbor that 841 Broadway is created as a mixed- use development that will re-use an underutilized and environmentally contaminated site to create a pedestrian oriented neighborhood and public open space along the Huron River. Close to downtown businesses and employers, and adjacent to the vibrant neighbors on the north side of the city, this project shall provide a publicly accessible open space with amenities such as: a connected riverfront trail, a paddle craft launch and rental facility, gathering spaces, performance lawn, flexible play areas and outdoor year-round activities such as ice skating and water play. A year-round event pavilion with concession area, shade structure, and toilet rooms may support the open space activities. The public was also supportive of the inclusion of residential condominiums, various neighborhood retail establishments, a waterfront food & beverage venue, and a hospitality use on the site. Buildings lined along a pedestrian friendly street (River Street) shall be served by street parking, surface parking lots, or structured parking attached to the condominiums. The project will have a beneficial effect on, and will not adversely affect, the surrounding properties or the City, in terms of public health, safety, or welfare.

(A) The Planning Commission and City Council have determined that the PUD zoning district provides the following beneficial effects:

- Support of affordable housing through a payment in lieu contribution.
- Remediation of an environmentally contaminated site in accordance with an Michigan Department of Environment, Great Lakes and Energy, or successor (“EGLE”) approved response activity plan and in full accordance with an Approved Brownfield Plan.
- Walkable residential condominiums and a hospitality use near Kerrytown and downtown Ann Arbor with neighborhood retail.
- Increased pedestrian convenience and publicly accessible recreation

by constructing a riverfront trail connected to B2B trail and Treeline trail.

- Economical land use by reducing the need for unnecessary impervious parking surfaces and increasing the usable open space on the site.
- Increased public recreational opportunities by permitting a seasonal ice rink, watercraft rentals and publicly accessible riverfront open space, to be maintained privately for public benefit.
- Increased required open space.
- Support of improvements to existing public infrastructure.

- (B) The parcel described above meets the standards for approval as a Planned Unit Development, and the regulations contained herein do not constitute the granting of special privilege nor deprivation of property rights.

Section 4: PUD Regulations

- (A) Access:

A secondary emergency-only access is required to the Property (in addition to the primary access) in order to permit any of the uses described below. Accordingly, the uses below are not permitted unless a permanent secondary access is approved by the City prior to issuance of any permits for construction of the site.

- (B) Required and Permitted Uses:

1. The following uses are required or permitted:

- a. Area 1(as diagrammed in Attachment A, Conceptual Plan):

Required Principal Uses:

- 1) Open space - The approximate area of Area 1 shall be designated as publicly accessible, permanent open space with limited recreational and associated uses permitted. In no case shall such area be less than six contiguous acres.

The permitted accessory uses in Area 1 are:

- 1) Outdoor recreation, including but not limited to:
a. Ice rink
b. Interactive water feature
- 2) City Operated or contracted Non-motorized watercraft rental facility with Section 4(N) below Concessions
- 3) Year-round event pavilion

The required accessory uses in Area 1 are:

- 1) A riverfront walkway connecting to the existing riverfront path at Broadway Park to the East of the site and to the existing riverfront path to the West of the site. The riverfront walkway shall consist of a 10-foot wide bituminous shared use path with exact specifications to be reviewed and approved by the City.
- 2) Non-motorized watercraft launch area (including an ADA-

compliant ramp) with exact specifications to be reviewed and approved by the City.

- 3) At least two additional points of access to the river in accordance with Section 4(O) below.

b. Area 2 (as diagrammed in Attachment A, Conceptual Plan):

Required Principal Uses: Multiple-Family Residential, with a minimum 90 dwelling units. These dwelling units shall have a maximum of 3 bedrooms per unit, with the exception of not more than 8 units which may have up to 5 bedrooms per unit.

Other Principal Permitted Uses:

- 1) Retail Use: Retail uses as permitted in the C1B (Community Convenience) Zoning District with a minimum of 7,000 square feet
- 2) Office Use – Office Uses as permitted in the O (Office) Zoning District
- 3) Hotel
- 4) Surface and structured parking in accordance with the Vehicular Parking Standards set forth below
- 5) Restaurant
- 6) Assembly pavilion/event space

2. Drive-through uses are prohibited on the Property.

(C) Setbacks:

1. Front (Broadway Street): 35 feet min, 80 feet max.
2. Side and Rear: 0 feet
3. From north property line (along south side of river): 20 feet minimum.

- (D) Height: Maximum height for residential buildings not to exceed 80 feet. Maximum height for all non-residential buildings (including hotel) not to exceed 105 feet, All heights to be measured to the midpoint of the proposed roof or highest point of a flat roof. Maximum height includes all architectural elements and mechanical equipment including roof access structures. Minimum First Floor Height of 14 feet for all mixed use or commercial buildings, with the exception of commercial uses at the base of residential buildings, which may have a Minimum First Floor Height of 10 feet.

- (E) Lot Size: Approximately 601,766 square feet (13.814 acres).

- (F) Floor Area Ratio Up to 80% maximum

(G) Vehicular Parking Standards (Minimum standards):

1. Multi-family Residential: 1.5 parking spaces per unit
2. Hotel: .75 parking spaces per room
3. Restaurant: 1 parking space per 100 square feet of floor area.
 - a. 1 parking space per 600 square feet of floor area is required for all areas used for food or beverage production (e.g. brewery processing operations).
4. Retail : 1 parking space per 310 square feet of floor area

5. Pavilion (enclosed assembly hall area): 1 parking space per 100 square feet of floor area (not including mechanical areas, kitchens, restrooms and corridors)

In addition to the foregoing parking formulas, the following standards shall apply based on the total number of (on-site or off-site) parking spaces provided:

1. *One electric vehicle charging station must be installed per 50 parking spaces, based on the total number of parking spaces required.*
2. *50 additional parking spaces and 40 additional Class C bicycle parking spaces shall be provided and delineated solely for public use in support of recreational facilities access, and these spaces shall not count toward required parking for other uses.*
3. *Bicycle parking spaces shall be provided and delineated solely for public use in support of recreational facilities access.*

The foregoing parking ratios may be achieved through a combination of on-site parking and parking located on immediately adjacent property for which owner establishes and documents access and site control through a permanent, off-site parking easement

To the extent that the minimum required parking is achieved entirely through on-site parking, at least 50% of required parking spaces shall be located within one or more parking structures.

- (H) Impervious Surface: Not more than 60% of the Property may be covered with impervious surfaces, inclusive of all buildings, roads, pedestrian pathways and parking.
- (I) Bicycle Parking Standards: Per Ann Arbor City Code requirements
- (J) Pedestrian Connections: All pedestrian connections shall be ADA accessible.
- (K) Lighting Standards: All exterior fixtures shall be Dark Sky compliant, **including but not limited to:**
 - Required use of full cut-off fixtures
 - Lighting levels that do not exceed the recommendations of the Illuminating Engineering Society (IES) Handbook
 - No light trespass exceeding 0.1 foot candle at any property line or at the boundary between Areas 1 and 2.
 - Lighting on the Property shall have a minimum Color Rendering Index (CRI) of 70.
 - Lighting on the Property shall have a maximum color temperature of 3,000 kelvins.
- (L) Architectural Design:
 1. *Exterior Materials – Principal building materials shall be brick, high quality wood composite, wood, precast concrete/stone, metal and glass. Lower quality materials, such as EFIS and panel brick are prohibited.*
 2. Screening -- All mechanical units and solid waste shall be screened from view from

adjacent properties and any publicly-accessible open space. Screening plans and materials shall be included in the site plan submittal for the Property.

- (M) Additional Regulations – Unless specifically noted in these Supplemental Regulations, all other applicable development codes in Chapter 55 shall apply.
- (N) Any livery operations shall be operated by the City, but may be subject to a concession agreement permitting the Developer to manage that operation on behalf of the City on mutually agreed-upon terms. This is intended to ensure a collaborative and efficient coordination with nearby public livery operations (Argo). A facility shall be constructed and provided for such purpose pursuant to plans to be reviewed and approved by the City, and to the agreed specification including rental service facility, watercraft storage, dock, and adequate vehicular access and customer parking access via designated publicly- accessible spaces.
- (O) Development on the Property shall provide a maximum of three access points for public access to water's edge, conditioned upon City and Michigan Department of Environmental Quality approval per Due Care and other public health protection requirements.
- (P) Subject to available brownfield redevelopment financing or other mutually acceptable funding source, construction and maintenance of a pedestrian bridge across the Huron River as identified in a final adopted site plan is required. The pedestrian bridge shall provide full public use and access, with and maintenance shall be the responsibility of the Property owner or other entity agreed to by City and Property owner, and cure provisions by the City with documentation of necessary maintenance by 3rd party inspection selected by the City. Prior to issuance of building permits, the Property owner and City shall enter into an agreement outlining and defining the process and timing for funding, construction, and long- term maintenance of the bridge. It is the intent of the Property Owner and City that reimbursement of any contribution by an owner shall be supported by tax increment financing through an approved Brownfield Development Plan and corresponding Work Plans.
- (Q) Subject to available brownfield redevelopment financing or other mutually acceptable funding source, prior to issuance of any Certificate of Occupancy, \$1,200,000 owner shall fund repair and upgrade of the Argo and Gallup dams. The long-term viability of development at this site is dependent upon the continued operation and maintenance of both public facilities. It is the intent of the Property owner and the City that reimbursement of this funding shall be supported by tax increment financing through an approved Brownfield Development Plan and corresponding Work Plans.
- (R) Payment of an affordable housing contribution in lieu of units, consistent with the formula adopted by annual resolution of City Council, shall be provided by the Property owner, as specified in Chapter 55 of Ann Arbor City Code, in accordance with an approved development agreement and prior to the issuance of any Certificate of Occupancy. (In the alternative, the Property owner may provide 15% of the total dwelling units on the on the Property as Affordable Housing for Lower Income Households as defined in Chapter 55 of Ann Arbor City Code, which shall be made

available for lease or sale to eligible households consistent with City ordinances, policies and regulations regarding affordable housing, and under such negotiated terms reasonably acceptable to the City and the Property owner.)

- (S) Brownfield Remediation: All remediation and associated activities shall be completed as specified in the approved Brownfield Plan, prior to the issuance of any building permit, excepting any vapor intrusion measures, which shall be prior to any certificate of occupancy. This work shall be in full accordance with the EGLE approved Work Plan, and any required amendments to the Eligible Activities shall require Brownfield Plan Amendment. All requirements in these Supplemental Regulations regarding Brownfield Remediation shall be incorporated into a Brownfield reimbursement agreement, as required by the City and/or Washtenaw County Brownfield Authority.
- (T) If any remediation activity approved as part of the Brownfield Plan is not approved by the EGLE as part of an EGLE Work Plan then a revised Brownfield plan shall be submitted to the City and Washtenaw County Brownfield Authority for review and approval. Failure to comply will result in termination of any brownfield plan tax increment financing associated with the lot.
- (T) *All Residential and Hotel structures on the property shall be constructed to LEED Silver standard or higher. Prior to issuance of a Certificates of Occupancy the owner shall either have the buildings certified by the USGBC, the project architect or provide some other evidence acceptable to the City demonstration indicating that the structures meet or exceed the LEED Silver standard. Consistent with foregoing, the City at its sole discretion, may require any information it determines necessary to confirm that the standard has been met. If not achieved, owner shall be subject to fines for the Green Building Premium Option as set forth in Ann Arbor City Code, Chapter 55 (Currently, Section 5.18.6.D.4.)*
- (U) *Prior to issuance of a Certificate of Occupancy a nonprofit, 501(c)(3) conservancy shall be established by the Property owner, to own, improve, maintain and operate the public space in perpetuity, pursuant to organizational documents and an operating budget that is mutually acceptable to the City and Property owner. The board of directors shall include representatives from residential and commercial property owners near the public space, as well as representatives provided or recommended by the City. The Property owner shall initially fund the Conservancy with a minimum amount of \$1,000,000 toward the ongoing operation and maintenance of the public space prior to the issuance of any Certificate of Occupancy.*