



May 3, 2013

City of Ann Arbor City Council  
301 East Huron Street  
Ann Arbor, Michigan 48107

**RE: 413 East Huron (SP12-036)**  
***Responses to Public Comment***

Dear Mayor and Council Members:

On behalf of the development team at 413 E. Huron, I would first like to thank you and city staff, for continuing the April 15, 2013 meeting well into the morning of April 16. It is physically and mentally demanding to hold such a long meeting, but we understand the opportunity for public comment and thoughtful Council discussion is critical for wise, well-informed governance.

It is unfortunate that our site plan approval request did not make it through to Council discussion before adjournment. We have incurred a number of delays in gaining the approval of this site plan which precisely meets the applicable ordinances. However, it does provide the opportunity for the development team to correct many of the statements made during the public comment portion of the April 15 meeting so that Council discussion at the May 6, 2013 meeting can avoid being bogged down with sorting out true statements of fact.

### **Landmark Trees**

Those making comments during public discussion regarding concerns over the landmark trees on adjacent properties likely did not have the advantage of reviewing the solar study results submitted with my April 11, 2013 response to Council question. The fact remains that the canopy of the 48" burr oak tree at 120 N. Division would receive virtually the same amount of sun after completion of our proposed project, as it does today in the three seasons when the tree is not otherwise dormant. This fact is very clearly shown on the solar study we have performed, which is attached again to this letter (note specifically that the canopy of this tree is shown in the study and receives sunlight virtually all day on March 21, June 21 and September 21). This fact is also pointed out in the March 29<sup>th</sup> staff report after review of the solar study by the city's Natural Features Coordinator. Additionally, we are further benefiting this tree by

171 17th Street NW  
Suite 1200  
Atlanta, GA 30363-1032  
p 404-888-3238

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removing a significant amount of impervious area from its critical root zone and we have proposed a maintenance program to improve its condition. Those who encourage Council to deny approval of our site plan due to the impact on this tree fail to take into account all we are doing to strengthen this tree in favor of keeping the status quo.

The 24" black walnut tree at 114 N. Division would, in fact, lose the advantage of the morning light in the spring and fall due to this project as would be the case with any structure on our site greater than four stories. Additional shading for several hours of the day in two seasons, however, is not cause for concern. One can find scores of examples in the Old Fourth Ward alone where a structure blocks sunlight to a tree for part of the day and the tree still thrives. Similar to the burr oak, we are reducing the impervious area over this tree's critical root zone and proposing a maintenance plan to improve the conditions of this tree over the status quo.

The development team appreciates the fact that trees are living organisms which have the potential to be impacted. We know they are irreplaceable in the short term. Those in opposition to the site plan approval fail to acknowledge the fact that in some cases the proposed building has little to no impact on these trees and fail to see the provisions we are taking to preserve and improve these landmark trees.

### **Mass of the Building**

There were a number of public comments made about the mass of the building as shown in the site plan application. Some labeled the permitted mass as a poor connection between downtown and the Old Fourth Ward, some were concerned over shade on the historic house at 126 N. Division, and others were concerned over shade to the landmark trees addressed above.

Council has already addressed the concerns over the permitted massing in this district and the connection to neighborhoods to the north by requesting a review of the D1 zoning ordinance. It is certainly unclear at this time whether the results of this review will yield a different result than what was established at the last review in 2009. However, Council also recently decided not to enact a moratorium to new projects while a review of the D1 zoning takes place, thus providing the opportunity for projects like ours that are already in the permitting process to proceed as currently zoned.

Statements regarding shade on the 126 N. Division property were, again, made without the facts provided in the solar study furnished on April 11. To be perfectly clear, please know that the home at 120 N. Division already throws a shadow on the façade of the home at 126 N. Division for three seasons a year. That is caused by the density of housing in the neighborhood and the north-south orientation of N. Division. Our proposed project does not change this fact.

This same relationship exists between the shadow on the home at 120 N. Division caused by the home on 114 N. Division, as well as, the shadow on the home of 114 N. Division by the existing structures on our property. These buildings already cast shadows upon each other.

Feedback from the March 18, 2013 Council meeting had us reduce the north wing of our project by one floor to address aesthetic concerns. However, we found that by reducing it an

additional floor, we are now able to show that during the summer when the sun is highest in the sky, our project casts no shadow on the façade of the 114 N. Division home at any time of the day. Concerns over the shadow our project will cast upon the neighborhood to the north are unfounded. As we pointed out in our April 11<sup>th</sup> letter, the houses at 120 and 126 N. Division have virtually no additional shade over the current condition in any season. This fact is very clearly shown on the attached solar study. This fact is a testament to the effectiveness of the height restriction and additional setback requirement placed on this property during the 2009 re-zoning effort.

## **Visual Appeal**

Some who spoke in opposition to the project on April 15 simply cited a dislike to the appearance of the project. While visual appeal alone is no basis to approve or deny a site plan application, some comments attempted to draw connections between their dislike of the appearance to a failure to meet the applicable ordinances. These assertions are simply false. The project has passed muster on all metrics related to articulation in the façade, setbacks, height, trash removal, and traffic.

We also enhance Ann Arbor's immeasurable yet unmistakable propensity for diversity. There is a wide variety of architectural styles within the downtown district and one only needs to travel along Huron Street around our project to see this is the case. The adjoining Old Fourth Ward and Pickneyville neighborhoods develop their character through the wide variety of architectural styles used. To deny the site plan simply because the project looks different than other buildings in the area or is unattractive to a few who spoke in opposition would do a disservice to Ann Arbor's heritage.

## **Relationship to the Old Fourth Ward**

Those in opposition also spoke about the relationship of our property to the adjoining Old Fourth Ward. The ability of the Old Fourth Ward to become a historic neighborhood was based on the age of the housing stock which, in turn, was originally constructed next to the central business district. Downtown and the Old Fourth Ward will forever abut.

Many decades ago, this abutment was established on the block which contains our property with full knowledge of the historic significance and architectural appeal of the home at 126 N. Division. This dividing line was reaffirmed in 2009 as a result of the A2D2 process. To attempt to state as fact that the proposed project does not transition well with the adjoining historic neighborhood because there is no gradual change in height ignores the transition for the abutment of these two districts which has always been contemplated and had been implemented numerous times. The development team expects the established transition between these two districts to be once again reaffirmed later this fall as the review of the D1 zoning ordinance concludes.

## Legal Standing

The most common comment during public discussion thus far is whether Council has the ability to deny the site plan application based on a range of reasons from public safety concerns to absolute authority. Under separate cover, our attorneys will once again provide the city attorney with legal discussion on these assertions and why there is no legal basis for a denial of the site plan. The development team trusts that councilmembers and the city attorney will review the legal aspects of the approval process prior to Council discussion.

## Legacy to Ann Arbor

Many who spoke in opposition on April 15 brought up the legacy that the approval of this site plan and subsequent building will have on Ann Arbor. The comments were consistently one sided and negative. They have been made by a relatively small group of people opposed to the project. When their comments and corresponding counterpoints are put in the context of a city with a resident population of 115,000, a number of interesting considerations emerge:

- The project has been accused of simply being a ‘student warehouse’ with little to no opportunity for housing empty nesters, families, and professionals. Conversely, by adding housing stock close to campus which appeals to students, the project will draw students out of rental homes. In turn, that frees up housing stock for empty nesters, families, and professional in neighborhoods like the Old Fourth Ward. This project provides the opportunity for historic neighborhoods to convert back to the mix of population that originally contributed to growth and vibrancy of these neighborhoods.
- The development team has been characterized as out-of-towners with the devious intent to remove profit from the city. Conversely, any profit for the development team will come after the team both:
  - makes a substantial capital investment in the property which, in turn, permeates throughout the local area; and
  - pays significantly more in property taxes each year than is currently assessed.The economics of this project benefit the community as well as the development team.
- The project has been accused of being some sort of blight on the architectural landscape of Ann Arbor. While this is not an uncommon opinion expressed by those in opposition of any project at any point in time, it only holds true if the project appears cheap or shabbily constructed. Conversely, the development team for this project is committed to high quality materials and remarkable design to the extent we are willing to go well beyond the required process and make these commitments part of the Development Agreement.

The ‘legacy’ aspect of those in opposition who spoke at the April 15 Council meeting was completely short sighted. The legacy of this Council with an approval of the site plan application is a continuance of the trademarks of Ann Arbor including diversity in architecture, housing availability in historic neighborhoods, prudent governance, and economic growth.

We look forward to Council discussion and vote on the site plan application at the May 6, 2013 Council meeting. We will be in attendance and available to assist in Council discussion should councilmembers request clarifications from the development team.

Sincerely,

A handwritten signature in black ink, appearing to read "Conor McNally". The signature is written in a cursive style with a large, stylized initial "C" and "M".

Conor McNally  
Chief Development Officer  
Carter





## 413 E. HURON ST.

ANN ARBOR GREEN PROPERTY OWNER LLC / CARTER

25-03-2013

ANN ARBOR, MI

HPA# 2012327



**HUMPHREYS & PARTNERS ARCHITECTS L.P.**

5339 Alpha Road, Suite 300 Dallas, TX 75240 (972) 701-9636 (972) 701-9639  
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9:00 am



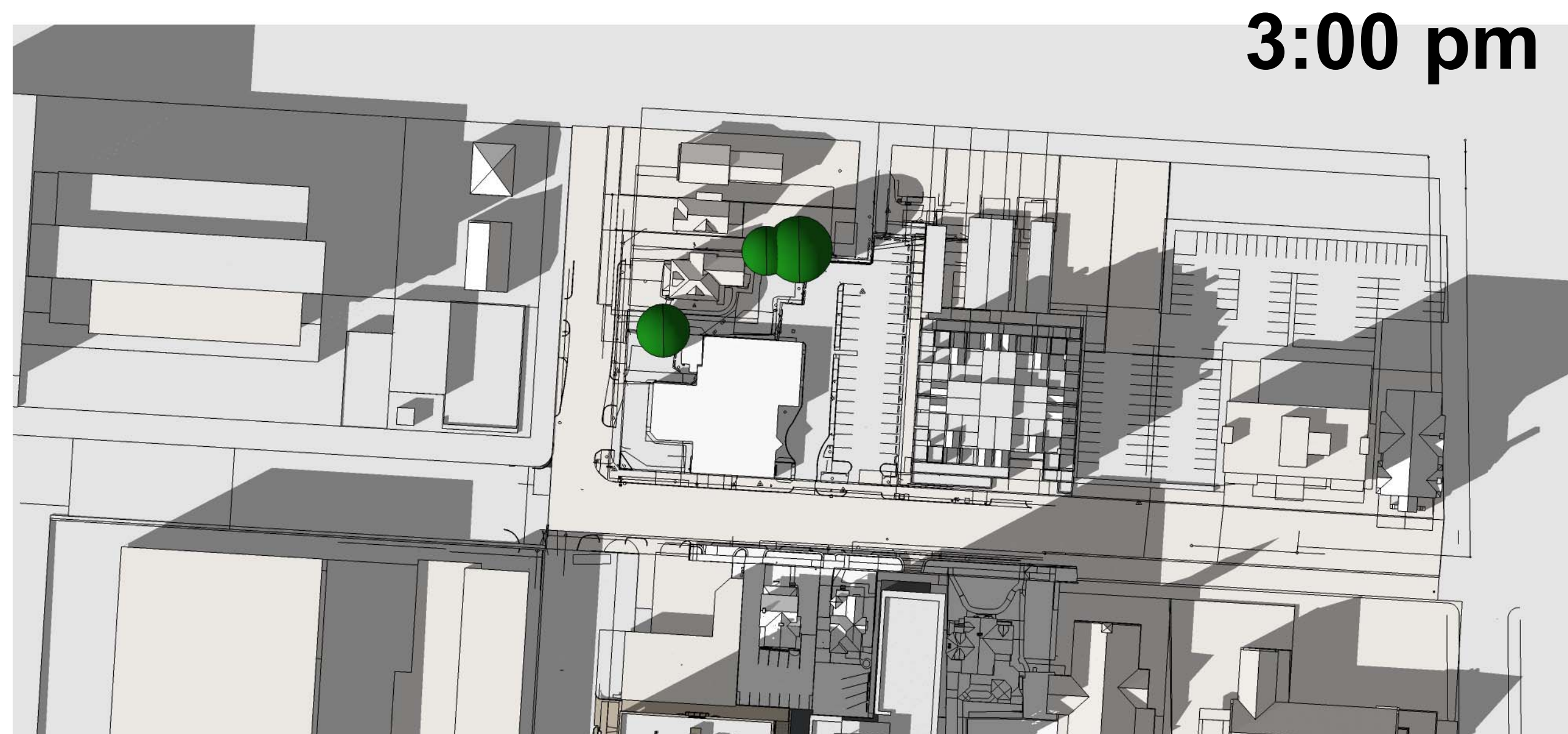
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**March 21st**

(WITHOUT PROPOSED BUILDING)

**March 21st**

(WITH PROPOSED BUILDING)

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June 21st

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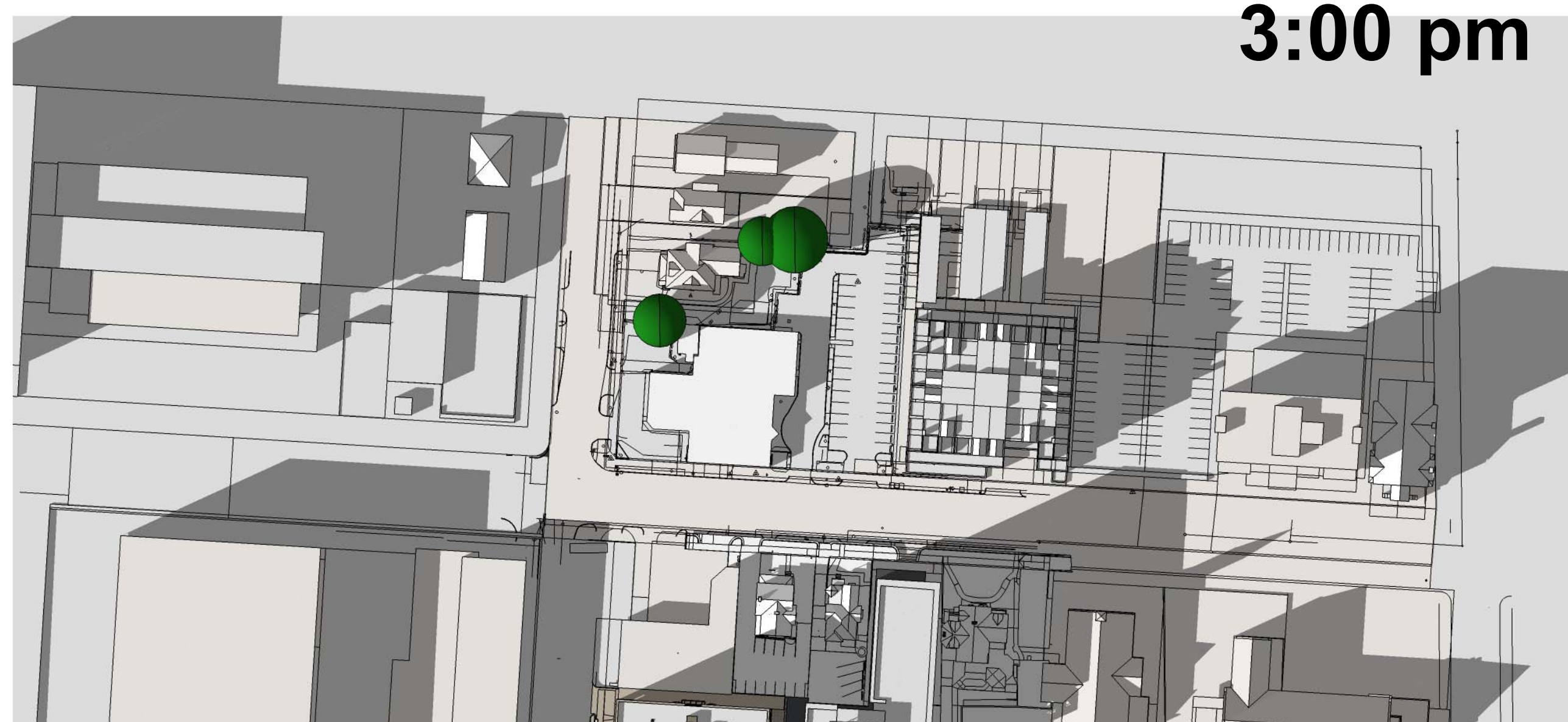
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**September 21st**

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**December 21st**

(WITHOUT PROPOSED BUILDING)

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