

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of April 5, 2016

**SUBJECT: Kingsley Condominiums Conditional Rezoning and Planned Project Site Plan for City Council Approval
221 Felch Street
File Nos. Z14-025 and SP15-033**

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Kingsley Condominiums rezoning from M1 (Limited Industrial) to R4D With Conditions (Multiple-Family Dwelling) and Conditional Zoning Statement of Conditions.

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Kingsley Condominiums Planned Project Site Plan, a planned project with an arrangement of buildings that provides a public benefit, subject to 51% minimum open space, 1 foot minimum additional front setback, and a maximum height of 60 feet and combining the lots prior to issuance of any permits.

STAFF RECOMMENDATION

Staff recommends that the conditional rezoning petition be **approved** because, with the offered conditions, adequate justification has been provided to support the proposed zoning designation which is compatible with the surrounding area and appropriate for the contemplated land use.

Staff recommends that the planned project site plan petition be **approved** because the contemplated development complies with all applicable state, local and federal laws, ordinances, standards and regulations; the development does not cause a public or private nuisance; does not have a detrimental effect on the public health, safety or welfare; and causes the least amount of disturbance to natural features for a reasonable use of the land. The planned project modifications provide for a public benefit that increases open space, preserves natural features, and promote transit access and pedestrian orientation.

STAFF REPORT

This petition was scheduled for a public hearing held by the Planning Commission at their March 1, 2016 meeting. The meeting was adjourned due to a lack of quorum before any action was taken on this petition, including holding the public hearing. The public hearing was re-advertized following standard notification procedures for the April 5, 2016 meeting.

Since the March 1, 2016 staff report was prepared, the petitioners have revised their offer of conditions on the proposed rezoning.

Revised Conditions – The petitioner has voluntarily offered to place the following conditions on the proposed rezoning of the site. Italics indicate the new conditions offered since the March 1, 2016 staff report was prepared.

1. Maximum height for any building shall be 60 feet (normal maximum 120 feet). Some specific exclusions will apply, refer to the Conditional Zoning Statement of Conditions.
2. *The maximum number of dwelling units shall be 51.*
3. *The maximum number of bedrooms shall be 110.*
4. A path along the historic path of Allen Creek across the site shall be constructed and made available for public use. This path will connect West Kingsley and Felch and enable continuation through to 721 North Main and may become a link of any Allen Creek Greenway.
5. Up to 50% of the building at 214 West Kingsley shall be made available at minimal consideration to serve as an office and/or interpretive center for the Allen Creek Greenway Conservancy.

Staff Comments – Because of the offered conditions, including a reduction of the maximum permitted building height and limitations on the total number of bedrooms, staff recommends approval of the proposed rezoning to R4D and the associated planned project site plan.

The 2-acre site has many unique circumstances not found elsewhere in the City. It is located at the very bottom of the Allen Creek valley. The buried Allen Creek bisects the site and encumbers the site with a 66-foot wide easement, leaving only half of the site available for new construction. Over three-quarters of the site is within the 100-year floodplain of Allen Creek. The site has been filled with contaminated soils from when Allen Creek was buried. The site soils have been further contaminated by the previous industrial uses. The existing structures on the site are obsolete and contain hazardous materials, such as asbestos, embedded in them. The buildings that literally lie atop of the drainage structure are nonconforming and cannot be renovated, rehabilitated or improved in any manner.

Staff agrees with the petitioner that redevelopment of the site is desirable and agrees that the current M1 zoning designation is no longer appropriate. A residential zoning designation, rather than an office or commercial district, is agreed by all to be the most appropriate designation given the site's location outside of downtown and the Downtown District Authority boundary.

Staff previously wrestled with what is, then, the most appropriate residential district for the site. The proposed site plan, on its face, is well designed and fits into the context of the neighborhood but it does not fit neatly into the area, height and placement regulations of the uniform zoning districts provided in the Zoning Ordinance.

The intent of the R4D district, adopted in 1964, indicates the district:

“[I]s intended to permit higher density in the form of high-rise buildings on substantial tracts of land located in areas other than the central business district. The elements of land use planning and site design should be such as to ensure that the impact of such intensity of land use on adjacent property and the community as a whole is minimized. Some of the criteria [that should be] used in determining the location of this zoning district is:

1. The presence of natural land features that may be used to advantage in scaling down the potential impact.
2. The location of such as district would enhance the bypasses and entrance ways to the city and thereby provide a community focal or identity point.
3. The location of such a district would provide housing opportunities near outlying centers of commercial, service or employment nature. “

In other words, the R4D district permits a higher density of residential uses outside of the downtown but in high profile locations where the development can both support and benefit from commercial, service and employment centers and where the site size, location and geography minimize the impact of the intensity of land use.

The proposed development is higher density residential in general yet it's density of 25 dwelling units per acre is not out of scale with permitted density of 20 dwelling units per acre found to the east and south of the site. It provides an appropriate transition between the D2 (Downtown Interface) district on the south side of the site and the R4C district to the east and northeast of the site. The offered condition on the maximum number of dwelling units and total number of bedrooms mean that overall the proposed development will have no more of an impact on the neighborhood as if the site was zoned R4C. The conditions will also lessen secondary impacts of the proposed development such as vehicle and parking congestion.

The natural land features of the site, at the bottom of the Allen Creek valley, are physical constraints that mitigate the mass of any new development. The condition on maximum height is the very “element of land use planning and site design” recommended to ensure compatibility with the adjacent properties and the community as a whole. The site is located adjacent to downtown with frontage on two streets that both serve as important local connectors between the nearby residential neighborhoods and North Main Street. It is not quite an entrance way to the city, but is a gateway to and from Waterhill and downtown. Redevelopment of the site as proposed will create a housing opportunity within walking distance to the commercial, service, employment opportunities in the downtown, the medical center campus, central campus, as well as near transit to access those opportunities throughout the city.

The R4D district is currently found just west of the downtown area on a relatively small tract of land in the Huron Street corridor (1.5-acre Lurie Terrace) and on a relatively large tract in the northeast area on the Plymouth Road corridor (20-acre Oakcliff Apartments). Current development in the R4D district contains a mix of high-rise buildings and low-scale garden apartments. The proposed rezoning fits into the established context of the Zoning Map for designation of the R4D district.

For these reasons, staff recommends approval.

Please refer to the March 1, 2016 staff report for detailed site plan comments and comments from other city departments. The overall development and site plan has not changed since the March 1, 2016 staff report.

Prepared by Alexis DiLeo
Reviewed by Ben Carlisle
3/30/2016

Attachments: Letter from Petitioner (March 28, 2016)
Revised Petition to Rezone (March 18, 2016)
Conditional Zoning Statement of Conditions (April 1, 2016)
March 1, 2016 Planning Staff Report

c: Petitioner/Owner: 221 Ventures, Inc. and Beal Investment I, LLC
221 Felch Street
Ann Arbor, MI 48103
Attn: Fred Beal

Petitioner's Agent: J. Bradley Moore & Associates
4844 Jackson Road
Ann Arbor, MI 48103
Attn: Brad Moore

Systems Planning
File Nos. Z14-025 and SP15-033



MEMO

Date: March 24, 2016

To: Ann Arbor Planning Staff - Ben Carlisle & Alexis Dileo

RE: Kingsley Condominium rezoning (221 Felch St - SP15-033)

Item: Responses to planning staff first round project recommendation.

Upon reflection on dialog with Planning Staff regarding comments contained in the first round staff report for the above referenced project please be aware of the following:

- R4D District adjacent to R4C

I have taken a careful look at properties the City Council has deemed appropriate for R4D zoning and the approved developments constructed thereupon. I find that R4D zoning is always adjacent to other Multi-family zoning. In many cases that adjacent multi-family zoning is R4C but in some cases it is R4A, R4B or R3 zoned parcels. In many cases the R4D zoning acts, as it would in our case, as a buffer between the other Multi-Family zoned parcels and non residentially zoned land. In some cases this has permitted high-rise developments adjacent to city parks. In other cases Council has approved low-rise residential development in R4D zoned developments (most recently the Traverwood apartments on the north side of town).

In fact there is an R4D parcel/use not far from our site, to the south-west, which has a High-Rise but which, rather than being set low, is perched upon a hillside AND is adjacent to a public park.

Given the fact that the R4C zoning is the last antiquated (some would argue dysfunctional) vestige of a zoning ordinance written by an out of state company (for a suburban sprawl model of development) I would argue that it is no longer appropriate for the city as a whole, and certainly not for areas near the city core, and definitely not for parcels in the floodplain (due to the overly restrictive building height in the R4C zoning district).

- PUD zoning

PUD's are intended to foster or permit developments with attributes which could not otherwise be accomplished in any other zoning classification. Nothing proposed in the aforementioned Kingsley Condominiums fits this criteria as everything can be accomplished in the R4D zoning. I should note that the Traverwood apartments - which is a low-rise apartment community approved and built adjacent to R4C zoned land, as well public lands, did not have to offer the conditions which my clients have offered limiting overall building height. Furthermore my client's project is proposed to be built on one of the lowest points in the city thus further minimizing any impact of the already restricted height.

- Density

My clients have offered further conditions as to the number of bedrooms permitted to be constructed in the proposed development, thus surrendering nearly half the potential bedrooms which could be built under R4D zoning (not to mention R4C zoning). This will restrict the number of people/occupants on the site to even less than would be permitted in the adjacent R4D zoning district (which permits up to 6 bedrooms per dwelling unit).

- Uniqueness of the site

No other site in the city, especially so close to the downtown core, has the unique quantity & set of conditions found at the site of the proposed development, which include; it's large size; existing, antiquated, blighted, structures built on top of the Allen Creek Drain; floodplain encompassing so much of the site and existing buildings; and the amount of previous environmental contaminants deposited on and under the site. Given the costs associated with any improvements contemplated on the site (even with partial reimbursement for some of the costs through the brownfield program) that mitigate/correct the negatives found thereon only a density above that permitted in R4A, R4B or R4C zoning will make this unique site transformative and accrue to the city the many enumerated benefits this project offers.

- Appropriateness of context

The residential use and scale of the project are compatible with sound planning principles, nearby developments, and the master plan, as it proposes replacing industrial uses adjacent to residential uses with more appropriate residential uses (while buffering existing residential use from remaining industrial sites to the west). Residential uses that are walkable to the Downtown, shopping and recreation venues. Residential uses which are consistent with development patterns and demand near the downtown core. Residential uses that will strengthen the existing neighborhood retail merchants and business.

- Greenway Support

The project proposes to support the Allen Creek Greenway efforts by creating a pathway through the site, along the historic route of the Allen Creek, through the site - linking the downtown to the old city DPW yard south of the site and whatever redevelopment occurs there, and onward to the Huron River park system. Inclusion of Public Art in the form of additional fish sculptures (reminiscent of the sculptures in the city park at Kingsley & First St.) demarking the route of the Allen Creek. Dedication of building area on-site for a Greenway interpretive/information center for the public.

- Other Public Benefits

Though the many benefits to the redevelopment of the subject parcel, under R4D zoning, were enumerated in the application materials already submitted to the city (including the Zoning application and Planned Project application) I wanted to once again reiterate some of them here:

- **Elimination of substantial negative existing construction and uses within the Allen Creek Drain Easement and from directly over the Allen Creek Drain.**
- **Elimination of substantial negative existing construction within the floodplain/flood-fringe**
- **Replacement of obsolete and blighted structures with new construction.**
- **Reduction of on-site impervious surface area**
- **Substantial increase the amount of green space, landscaping and pervious surface area on the site.**
- **Cleanup of contaminated soils, creating significant benefit to human health and the environment:**
 - **Conduct additional environmental assessment activities.**
 - **Excavate and remove approx.4,500 cubic yards of contaminated soil from the site.**
 - **Backfill with clean sand.**
- **Removal of carcinogenic asbestos and other hazardous materials from the site and floodplain:**
 - **Remove PCB-containing materials and solvents from the site.**
 - **Abate asbestos pipe wrap and over 36,000 square feet of other asbestos-containing materials from the site.**
- **Implementation of advanced stormwater management techniques:**
 - **Significant improvement in a critical location along the Allen Creek Drain including on-site stormwater management.**
 - **Low impact design to work with nature to manage stormwater as close to its source as possible.**
 - **Minimize imperviousness through use of rain gardens and infiltration.**

- **Contribute to the restoration of the regional watershed's hydrologic and ecological functions.**
- **Residential uses on the site will put more "eyes-on-the-street" thus enhancing pedestrian safety near and on the site.**
- **Petitioners are proposing that the Public will have the opportunity to follow/traverse the historic path of the Allen Creek from the Downtown through the improved site northward to the city owned parcel at 721 N. Main, a parcel likely to be redeveloped for park/recreational uses and perhaps become part of any Allen Creek Greenway, and further that portion (approximately 50%) of the building at 214 Kingsley be made available to serve as an "Allen Creek Greenway Conservancy Office / Interpretive Center" on a long term basis at no lease cost to the City or the Conservancy .**
- **Increased property taxes not captured by the DDA.**

It is my hope that, with the additional conditions offered by my client (reducing the effective density of the proposed development) and in light of the points made above, the staff can come to enthusiastically support the proposed Kingsley Condominium project.

Thank you for your attention to, and consideration of, these matters.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J Bradley Moore', with a long horizontal flourish extending to the right.

J Bradley Moore, AIA

CITY OF ANN ARBOR

PLANNING & DEVELOPMENT SERVICES – PLANNING DIVISION
301 East Huron Street, PO Box 8657, Ann Arbor, Michigan 48107-8657
p. 734.794-6265, f. 734.994-8312, planning@a2gov.org

APPLICATION FOR CHANGES IN OR ADDITIONS TO THE ZONING CHAPTER

TO: The Honorable Mayor and City Council
City of Ann Arbor
Ann Arbor, Michigan

We, the undersigned, respectfully petition the Honorable Council of the City of Ann Arbor to amend the Zoning Map as it relates to the property hereinafter described.

(Give or attach legal description and include location of property.)

221-223 Felch St., Ann Arbor, Michigan 48103. See attached legal description and survey.

214 W. Kingsley, Ann Arbor, Michigan 48103. See attached legal description and survey.

The petitioners requesting the zoning/rezoning are:

(List petitioners' name; address; telephone number; and interest in the land; i.e., owner, land contract, option to purchase, etc.)

The Petitioners are the land owners.

221 - 223 Felch Street (2 parcels), is owned by 221 Ventures, Inc. Its shareholders and Officers are Fred J. Beal and George T. Beal. 221 Felch St., Ann Arbor, Michigan 48103.

(734) 662-6133, ext. 103.

214 W. Kingsley Street (1 parcel) is owned by Beal Investment I, LLC. Its members are Fred J. Beal, Nora Lee Wright and Stewart W. Beal. 221 Felch St., Ann Arbor, Michigan 48103.

(734) 662-6133, ext. 103.

Also interested in the petition are: Mortgagees of 221-223 Felch Street; Comerica Bank. Mortgagees of 214 W. Kingsley Street; University Bank and Talmer Bank West.

The applicant requests that the Official City Zoning Map be amended to reclassify this property from M1 to R4D to permit the following use: multiple family dwelling – condominiums with the following conditions to be incorporated into the CONDITIONAL ZONING.

Approval sought: R4D with conditions.

The property owners submit the following proposals as conditions to its rezoning application pursuant to MCLA 125.3405.

PROPOSED CONDITIONS

1. The maximum height for any building on the site shall be sixty (60) feet as measured from the average grade at the building up to the highest point of the main flat roof, including parapet walls except that *mechanical units* (and/or their enclosures), *elevator overrides*, *stair towers*, and *similar roof appurtenances* along with limited occupiable *penthouse areas* (not to exceed 10% of the overall footprint of the building) may project above the sixty (60) foot limit so long as the projecting elements are set back from the building perimeter at least as much as the projection above the sixty-foot dimension. Limited portions of the building parapet may project up to 2.5 feet above the sixty-foot limit at decorative building elements - such portions of the building parapet shall not constitute a majority of the building perimeter.
2. The maximum number of dwelling units to be permitted in the project shall be 51.
3. The maximum number of bedrooms to be permitted in the project shall be 110.
4. The Public will be allowed to traverse the historic path of the Allen Creek from the Downtown through the improved site northward to the city owned parcel at 721 N. Main Street, a parcel likely to be redeveloped for park/recreational uses and perhaps become part of any Allen Creek Greenway.
5. Further that Up to 50% of the building at 214 Kingsley Street be made available for minimal consideration to serve as an “Allen Creek Greenway Conservancy Office / Interpretive Center” on a long term basis to the City or the Conservancy.

Justification:

1. The extent to which the zoning/rezoning requested is necessary:

The existing 2 acre site, never previously site planned under Ann Arbor Site Plan and Zoning regulations, consists of a substantial group of blighted and obsolete buildings haphazardly constructed over the last 80+ years across the flood plain and above the Allen Creek Drain Structure. The site itself is composed almost entirely of contaminated fill material (primarily placed there in conjunction with the original construction of the Allen Creek Drain structure), and now drains directly form an almost 100% impervious site into the storm drain system and Huron River with no environmental mitigation or storm water controls.

This site cannot be improved piecemeal, nor can the existing buildings be upgraded in even minor ways without a new site plan; and any site plan that retained the existing buildings would never be approved. As such, the property must be redeveloped comprehensively or not at all.

The correction of the collection of building, health, safety, and environmental issues is clearly in the best interests of the community, and a major investment in Demolition, Site Remediation and New Construction will be required to address them, and would be required for even a far more modest redevelopment.

Only R4D / Planned Project Zoning and the construction of a project of significant size such as the one designed justifies the comprehensive redevelopment of the site; and only with comprehensive redevelopment can both the developer's and the community's goals be achieved. As such it represents for both petitioner and the City of Ann Arbor the highest and best use of the property.

2. The zoning/rezoning will affect the public welfare and property right of persons located in the vicinity in the following ways:

POSTIVE BENEFITS TO REZONING

- Eliminate substantial existing construction within the Allen Creek Drain Easement and over the Allen Creek Drain.
- Eliminate substantial existing construction with the flood plan/flood fringe.
- Replace obsolete and blighted structures with new construction.
- Preserve landmark trees on the property.
- Reduce on-site impervious surface area.
- Substantially increase the amount of green space, landscaping and pervious surface area on the site.
- Consolidate the existing group 1-2 story buildings on the Felch Street site into a single 5 story structure while retaining the building fronting on Kingsley St.

Environmental Benefits

- Cleanup of contaminated soils, creating significant benefit to human health and the environment:
 - Conduct additional environmental assessment activities.
 - Excavate and remove 1,500 cubic yards of contaminated soil from the site.
 - Backfill with clean sand.
- Removal of carcinogenic asbestos and other hazardous materials from the site and floodplain:
 - Remove PCB-containing materials and solvents from the site.
 - Abate asbestos pipe wrap and over 36,000 square feet of other asbestos-containing materials from the site.
- Environmental planning for the future:
 - Implement due care measures at the site to ensure environmental protection of human health during redevelopment activities and future use.

- Implementation of advanced storm water management techniques:
 - Significant improvement in a critical location along the Allen Creek Drain including on-site storm water management.
 - Low impact design to work with nature to manage storm water as close to its source as possible.
 - Minimize imperviousness through use of rain gardens and infiltration.
 - Contribute to the restoration of the regional watershed's hydrologic and ecological functions.

Additional Benefits

- Increased property taxes at this site, and higher property values on adjacent sites
- Enhance downtown viability
- The Public will have the opportunity to follow/traverse the historic path of the Allen Creek from the Downtown through the improved site southward to the city owned parcel at 721 North Main Street, a parcel likely to be redeveloped for park/recreational uses and perhaps become part of any Allen Creek Greenway.
- Up to 50% of the building at 214 Kingsley Street will be made available for minimal consideration to serve as an "Allen Creek Greenway Conservancy Office / Interpretive Center" on a long term basis to the City or the Conservancy.

CITIZEN CONCERNS AS EXPRESSED AT THE CITIZEN PARTICIPATION MEETING, August 12, 2014

Potential increased traffic on Felch Street and Kingsley Street.

Limiting building height to well below the 120 foot maximum permitted in R4D zoning district and aesthetic character of new development.

Area sanitary sewer capacity

3. This zoning/rezoning will be advantageous to the City of Ann Arbor in the following ways:

- Eliminate substantial existing construction within the Allen Creek Drain Easement and over the Allen Creek Drain.
- Eliminate substantial existing construction with the flood plan/flood fringe.
- Replace obsolete and blighted structures with new construction.
- Preserve landmark trees on the property.
- Substantially increase the amount of green space, landscaping and pervious surface area on the site.
- Reduce on-site impervious surface area.
- Consolidate the existing group 1-2 story buildings on the Felch Street site into a single 5 story structure while retaining the building fronting on Kingsley St.

Environmental Benefits

- Cleanup of contaminated soils, creating significant benefit to human health and the environment:
 - Conduct additional environmental assessment activities.
 - Excavate and remove 4,500 cubic yards of contaminated soil from the site.
 - Backfill with clean sand.
- Removal of carcinogenic asbestos and other hazardous materials from the site and floodplain:
 - Remove PCB-containing materials and solvents from the site.
 - Abate asbestos pipe wrap and over 36,000 square feet of other asbestos-containing materials from the site.
- Environmental planning for the future:
 - Implement due care measures at the site to ensure environmental protection of human health during redevelopment activities and future use.
- Implementation of advanced storm water management techniques:
 - Significant improvement in a critical location along the Allen Creek Drain including on-site storm water management.
 - Low impact design to work with nature to manage storm water as close to its source as possible.
 - Minimize imperviousness through use of rain gardens and infiltration.
 - Contribute to the restoration of the regional watershed's hydrologic and ecological functions.

Additional Benefits

- Increased property taxes at this site, and higher property values on adjacent sites
 - Enhance downtown viability
 - The Public will have the opportunity to follow/traverse the historic path of the Allen Creek from the Downtown through the improved site southward to the city owned parcel at 721 N. Main Street, a parcel likely to be redeveloped for park/recreational uses and perhaps become part of any Allen Creek Greenway.
 - Up to 50% of the building at 214 Kingsley Street will be made available for minimal consideration to serve as an "Allen Creek Greenway Conservancy Office / Interpretive Center" on a long term basis to the City or the Conservancy.
4. This particular location will meet the convenience and service requirements of potential users or occupants in the following ways:

The proposed development will include laundry and fitness facilities, outdoor space, and a sidewalk connecting the development to downtown and the North Main corridor.

Easy access to area highways and within close proximity to U of M and U of M Hospital.

The site is within easy walking distance to Kerrytown, Downtown, West Park and all of the amenities that those areas of Ann Arbor have to offer its residents including:

- U of M Central and North Campus
- U of M Hospital
- Downtown Ann Arbor
- Kerrytown and Farmer's Market
- West Park
- Amtrak train station and AATA bus routes
- Knight's Market and Big City Small Work Bakery
- Huron River park system and greenway
- YMCA

5. Any changed or changing conditions in any particular area, or in the municipality generally which may have bearing on the proposed zoning /rezoning area:

The proposed rezoning is in keeping with the spirit of the Downtown Residential Task Force Report of 2004, and response to demand for near Downtown housing.

While the neighborhood has long contained a mix of single family homes and multiple family dwelling homes, the area has recently undergone additional changes with the introduction of larger scale projects such as Kerrytown Place Condos and 121 Kingsley West and numerous additional multistory infill projects underway or proposed on Ashley, Kingsley, First, Spring and Felch Streets.

These projects, taking advantage of the very comparable downtown (D2) zoning (and providing yet higher density) are being constructed directly adjacent to the Kingsley Condominium's site to the south across Kingsley. As such our project is only extending a contiguous area of comparable density to achieve the many public benefits listed above herein and in our other supporting documentation, while at the same time creating a more compatible use (multi-family residential) on this site adjacent to existing single family uses which will further buffer the existing single family uses from the industrial use west of the site.

6. Other circumstances and factors which further justify the requested zoning/rezoning are:

The proposed development is a vast improvement over existing site and building conditions and will add in the many ways outlined above to continued improvement along Ann Arbor's historic "industrial crescent."

It will improve the environment and the neighborhood while permitting maintenance of the subterranean county drain trunk line which is nearing the end of its effective structural life and cannot currently be repaired in any practical or effective way.

The R4D Zoning (with conditions) proposed will encourage occupancy primarily by traditional condominium buyers including young professionals, local business owners, and empty nesters, many of whom may even be using their purchase as a second home. Another zoning classification such as R4C Zoning, would likely result in both more total bedrooms in the project and far more unrelated persons occupying this site than the R4D project proposed. As such our proposal will almost certainly generate less traffic and / or noise than either the current M1 use or an alternate R4C use.

Collectively, the R4D Zoning with conditions proposed remains the most appropriate solution for this site, and will result in the best possible long term outcome for both the developer and the community.

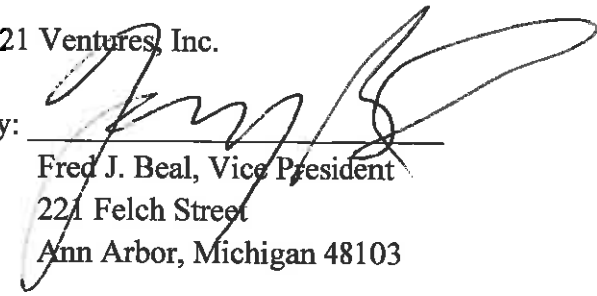
Attached is a scaled map of the property proposed for zoning/rezoning, showing the boundaries of the property, the boundaries of the existing zones, the boundaries of the proposed zones, and the public and/or private easements located within or adjacent to the property petitioned for zoning/rezoning.

The undersigned states he is interested in the property as aforesaid and that the foregoing statements are true and correct to the best of his/her knowledge and belief.

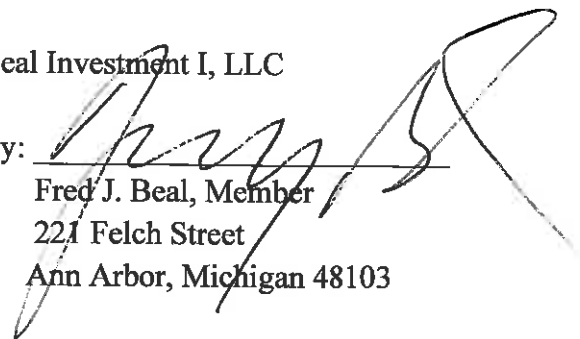
Signatures to Follow on Next Page

Dated: March 18, 2016

221 Ventures, Inc.

By: 
Fred J. Beal, Vice President
221 Felch Street
Ann Arbor, Michigan 48103


Beal Investment I, LLC

By: 
Fred J. Beal, Member
221 Felch Street
Ann Arbor, Michigan 48103

STATE OF MICHIGAN
COUNTY OF WASHTENAW

On this 18th day of March 2016, before me personally appeared the above-named petitioners, who being duly sworn, say that they have read the foregoing petition by them signed, and know the contents thereof, and that the same is true of their knowledge, except as to the matter therein stated to be upon their information and belief, and as to those matters they believe it to be true.

Signature: _____


Lance Eisenmann, Notary Public
State of Michigan, County of Washtenaw
Acting in Washtenaw County
My commission expires: 3-28-2018

APPLICATION FOR CHANGES IN OR ADDITIONS TO THE ZONING CHAPTER

221-223 Felch St., Ann Arbor, Michigan 48103.

214 W. Kingsley, Ann Arbor, Michigan 48103.

Conditional Zoning Statement of Conditions

This Conditional Zoning Statement of Conditions (“Statement of Conditions”) is made and entered into this _____ day of _____, 2015, by and between the City of Ann Arbor (“City”), a Michigan municipal corporation, with offices located at 100 N. Fifth Avenue, Ann Arbor, Michigan 48107, and _____ (“Developer”), a _____ corporation, with principal address at _____.

Recitals

- A. The Michigan Zoning Enabling Act (P.A. 110 of 2006, as amended) allows for conditional zoning of land when the City is amending its zoning map, or a conditional zoning when the city is zoning property in MCL 125.3405.
- B. The City of Ann Arbor recognizes that there are certain instances where it would be in the best interest of the City, as well as advantageous to the Developer, that certain conditions could be proposed as part of a request for rezoning or a request for an amendment to the zoning map.
- C. On _____, Developer applied for an amendment to the zoning map for certain land in the City of Ann Arbor site planned as Kingsley Condominiums as more fully described on the attached **Exhibit A** (the “Property”).
- D. Included with the rezoning petition, the Developer voluntarily offered in writing conditions regarding the use and development of the land to be incorporated into the zoning of the Property.
- E. On _____ the Planning Commission, after public hearing, recommended _____ of zoning of the Property to R4D with Conditions

(Multiple-Family Dwelling District). The Developer also submitted a Site Plan showing the specific proposed use and site design of the property.

- F. On _____, the City approved the conditional rezoning subject to this Statement of Conditions.
- G. Based on the specific facts and circumstances regarding this property, the City has decided to accept the Developer's offer of conditional zoning.
- H. By executing this Statement of Conditions, the City and the Developer desire to set forth and confirm the conditions under which the City granted conditional zoning of this Property.

NOW, THEREFORE, Developer and City agree:

1. Conditions Running with the Property. This Statement of Conditions covers the Property described in the attached Exhibit A. The Statement of Conditions is incorporated into the zoning of the Property and shall be binding upon and inure to the benefit of the Developer and the City, and their heirs, successors and assigns, and shall run with the Property.
2. Site Plan. The conditional zoning was granted by the City based, in part, by the Developer's stated proposed use of the Property as a residential, multi-family development, as shown in the proposed Site Plan attached as **Exhibit B**.
3. List of Conditions. The conditional zoning was granted to the Developer based on conditions that were voluntarily offered by the Developer. The City and Developer agree that restrictions on the use and development of the land are necessary for consistency and conformance to the Master Plan – Future Land Use Element with regard to new development in the Central planning area. The conditions which form the basis of the City's grant of the conditional zoning are as follows:
 - i. The maximum height for any building on the site shall be 60 feet as measured from the average grade at the building up to the highest point of the main flat roof, including parapet walls except that mechanical units (and/or their enclosures), elevator overrides, stair towers, and similar roof appurtenances along with the limited occupiable penthouse areas (not to exceed 10% of the overall footprint of the building) may project above the 60-foot limit so long as the projecting elements are set back from the building perimeter at least as much as the projection above the 60-foot dimension. Limited portions of the building parapet may project up to 2.5 feet above the 60-foot limit at decorative building elements – such as

portions of the building parapet shall not constitute a majority of the building perimeter.

- ii. The maximum number of dwelling units to be permitted in the project shall be 51.
 - iii. The maximum number of bedrooms to be permitted in the project shall be 110.
 - iv. The public will be allowed to traverse the historic path of the Allen Creek from the downtown through the improved site northward to the city owned parcel at 721 N. Main Street, a parcel likely to be redeveloped for park/recreational uses and perhaps become part of any Allen Creek Greenway.
 - v. Further that up to 50% of the building at 214 W. Kingsley Street be made available for minimal consideration to serve as an "Allen Creek Greenway Conservancy Office/Interpretive Center" on a long term basis to the City or the Conservancy.
4. Applicable Time Period / Rezoning. If all of the conditions are not satisfied by _____, then in accordance with MCL 125.3405(2) the Property shall revert to its former zoning classification, which is M1 (Limited Industrial).
 5. Developer Acknowledgment. Developer acknowledges that it voluntarily offered and consented to the provisions contained in this Statement of Conditions. Developer agrees that the conditions contained herein are fair, reasonable and equitable requirements and conditions; agrees that the Statement of Conditions does not constitute a taking of property for any purpose or a violation of any constitutional right; and agrees to be bound by each and every provision of this Statement of Conditions. Furthermore, it is agreed and acknowledged that any improvements and undertakings described herein are necessary and roughly proportional to the burden imposed by the conditional zoning, and are necessary to insure capability with adjacent and surrounding uses of land; to promote use of the Property in a socially and economically manner; and to achieve other legitimate objectives of the City authorized by law.
 6. Authority to Execute. This Statement of Conditions has been authorized by all necessary action of Developer, and Developer acknowledges that it is the owner of the Property or has been authorized by the owner to conditionally zone this Property. Furthermore, the signatory for Developer acknowledges that he is authorized to enter and execute this Statement of Conditions on behalf of Developer, and bind the Developer to its terms.

7. City Approval. The Statement of Conditions and the City's approval of these conditions is based on the particular facts and circumstances presented, as well as the surrounding land uses and other characteristics regarding this property, and approval of these conditions for this Property may not be relied on as precedent by any other property owner seeking a conditional zoning.

8. Obligation to Obtain Other Approvals. Developer acknowledges that any use or development approved by this conditional zoning that may require a special land use permit, a variance, or site plan approval under the terms of the Ann Arbor City Code, may only be commenced if such special land use permit, variance, and/or site plan approval is ultimately granted in accordance with the terms of the Ann Arbor City Code.

9. Amendment. This Statement of Conditions may only be amended in the same manner as prescribed for a rezoning of property under the terms of Ann Arbor City Code.

10. Compliance with Statement of Conditions. Developer shall continuously operate and maintain the development and/or use of the Property in full compliance with all of the conditions set forth in this Statement of Conditions. Any failure to comply fully with the conditions contained with the Statement of Conditions shall constitute a violation of the Zoning Ordinance of Ann Arbor City Code, and shall be punished accordingly. Any such violation shall be deemed a nuisance per se and subject to judicial abatement, or any other remedy as provided by law.

11. Rezoning. Developer acknowledges that nothing in this Statement of Conditions shall prohibit the City from exercising its right to rezone the property at any time as allowed by law. The City acknowledges that nothing in this Statement of Conditions shall prohibit the Developer to request a rezoning of the Property at any time, or to continue an existing nonconforming use as allowed by law if the Property is rezoned by the City.

IN WITNESS WHEREOF, the parties have caused this Conditional Zoning Statement of Conditions to be executed on the day and year recited above.

WITNESSES:

CITY OF ANN ARBOR
a Michigan municipal corporation

By: _____

By: _____

Exhibit A

Legal description of site

Exhibit B

Site Plan as approved by City Council

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of March 1, 2016

**SUBJECT: Kingsley Condominiums Conditional Rezoning and Planned Project Site Plan for City Council Approval
221 Felch Street
File Nos. Z14-025 and SP15-033**

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Kingsley Condominiums rezoning from M1 (Limited Industrial) to R4D With Conditions (Multiple-Family Dwelling) and Conditional Zoning Statement of Conditions.

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Kingsley Condominiums Planned Project Site Plan, a planned project with an arrangement of buildings that provides a public benefit, subject to 51% minimum open space, 1 foot minimum additional front setback, and a maximum height of 60 feet and combining the lots prior to issuance of any permits.

STAFF RECOMMENDATION

Staff recommends that the conditional rezoning petition be **denied** because, notwithstanding the conditions, the requested density is inconsistent with the density of the adjacent neighborhood.

Staff recommends that the planned project site plan petition be **denied** because the density and scale of the proposed development are inconsistent with the density and scale of the adjacent neighborhood.

LOCATION

This site is located between Felch Street and West Kingsley Street, west of North Ashley Street (Central planning area; Allen Creek watershed; Ward 1).

DESCRIPTION OF PROJECT

The petitioner seeks approval to conditionally rezone this 2.1-acre site from M1 (Limited Industrial) to R4D (Multiple-Family Dwelling) and develop a five-story, 51-unit residential building. Planned project modifications are requested to reduce the west side setback. All existing buildings except for the one at 214 W. Kingsley will be demolished to make way for the proposed development.

Existing Conditions – The site is dominated by the Allen Creek culvert and its 1% Chance/100-year floodplain which bisect the site from the southwest corner to the northeast corner. The culvert is 13' 9" wide and 8' 8" tall, and is buried just beneath the surface of the site. A series of one and two-story garage and storage buildings (which is in fact one building) were constructed on top of the buried culvert. Several other industrial and utilitarian buildings also exist on the site. The culvert is centered within a 66-foot wide county drain easement that covers about one-third of the site. Structures are no longer allowed anywhere within a county drainage easement.



Figure 1 - Image from Bing.com

Approximate course of
Allen Creek drain

About three-quarters of the site is within the floodplain, only the northwest corner is above, but almost none of the site is within the floodway. The floodway in this area runs parallel and to the east as the culvert. The one building to remain with the new development, 214 W. Kingsley, is already elevated above the floodplain and entirely outside of the county drain easement.

In addition the Allen Creek floodplain, natural features on the site include one landmark tree near the Felch sidewalk at the northeast corner of the site.

The site is a brownfield and has metals and polynuclear hydrocarbons (PNAs) in the soil and/or groundwater. The existing structures contain lead and asbestos. A joint application to the County's and City's Brownfield Redevelopment Authority has been made and is under review for reimbursement of the extra costs to remove the contamination, proper demolition of the buildings, and install new infrastructure on the site. The applicant has noted that there are significant upfront costs due to environmental contamination for any redevelopment of this site.

Conditional Rezoning – The petitioners request the site be rezoned from M1 (Limited Industrial) to R4D With Conditions (Multiple-Family Dwelling, with Conditions). The M1 district is intended for "various types of industrial and manufacturing uses" on large lots with deep setbacks in low-scale buildings. Office, research, storage and warehouses, manufacturing and assembly, and vehicle repair are among the permitted principal uses. Residential and retail commercial uses are prohibited.

The R4D district is intended for "higher density in the form of high-rise buildings on substantial tracts of land located in areas other than the central business district." Residential use and

customary accessory uses, up to 25 dwelling units per acre, in buildings up to 120 feet in height are permitted in this district.

The petitioner has offered to condition the zoning request with the following generalized restrictions that would be applicable as long as the land is zoned R4D.

- Maximum height for any building shall be 60 feet (normal maximum 120 feet). Some specific exclusions will apply, refer to the Conditional Zoning Statement of Conditions.
- A path along the historic path of Allen Creek across the site will be constructed and made available for public use. This path will connect West Kingsley and Felch and enable continuation through to 721 North Main and may become a link of any Allen Creek Greenway.
- Up to 50% of the building at 214 West Kingsley will be made available at minimal consideration to serve as an office and/or interpretive center for the Allen Creek Greenway Conservancy.

With a conditional rezoning, the Planning Commission has the authority to review the offered conditions against the rezoning standards to ensure that such standards are met. The Planning Commission may recommend approval with the conditions as submitted, may recommend approval with revised conditions provided that the revised conditions are voluntarily offered by the applicant, or may recommend denial of the rezoning.

Site Plan – The petitioners seek approval for a site plan consistent with the requested R4D With Conditions rezoning request. After all buildings are demolished, save for the elevated, one story, 3,000-square foot building at 214 W. Kingsley, an elevated five-story, approximately 125,000-square foot, 51-unit residential will be constructed. The new building will be entirely outside of the Allen Creek drain easement and is elevated above the floodplain which enables 51 parking spaces underneath. . Access to the site is proposed from the current driveway off W. Kingsley and a relocated driveway to Felch. An additional 42 parking spaces are available along the driveway, 6 of these spaces are reserved for the clubhouse and 14 are deferred for future installation.

The proposed building is 58 feet in height and set back 16 feet from Felch (north front lot line), 66 feet from the east side lot line, 140 feet from W. Kingsley (south front lot line), and 33 feet from the west side lot line. Because of the building's 225-foot length, the typical west side minimum 30-foot required setback is increased to 58 feet minimum. However, the petitioner has asked for planned project modifications to reduce the west side setback from 58 feet to 33 feet, 3 feet more than the typical requirement.

Along the driveway, on the east side of the building, a seven-foot wide sidewalk is proposed to connect W. Kingsley with Felch. The sidewalk will be open to the public and can serve as a temporary placeholder until if and when for the anticipated Allen Creek Greeway is established. Three rain gardens that are part of the storm water management system for the site are located along the sidewalk and will contain fish sculptures coordinating with the ones in the City stormwater park at the southeast corner of W. Kingsley and N. First.

A retaining wall will run along the east side of the site in approximately the same location as the outer walls of the existing warehouse over the Allen Creek culvert. No changes to the existing vegetation are proposed between the retaining wall and the east property line at the request of

the adjacent homeowners. Several of the homeowners have considered their rear lot lines to be the back side of the existing warehouse even though the actual boundary is 10 to 25 feet eastward. Above the retaining wall, trees and shrubs are proposed as part of the required conflicting land use buffer separating the surface parking lot from the adjacent residential use.

An underground stormwater management system is proposed under the lawn area on the western edge of the site. This is the only remaining area outside of the floodplain on the site. The system is oversized because infiltration is not permitted on this contaminated site.

The building at 214 W. Kingsley will be used as a clubhouse for the residents and will be offered to the City of Ann Arbor Parks and Recreation Services for use in conjunction with the Allen Creek Greenway.

Public transportation is available one block south of the site (two routes on Miller Ave) and two blocks east (one route on North Main St). Estimated construction cost is \$20,000,000.

COMPARISON CHART – SITE PLAN

		EXISTING	PROPOSED	REQUIRED
Zoning		M1	R4D w Conditions	R4D
Lot Area		89,480 sq ft (2.1 ac)	89,480 sq ft	83,000 sq ft MIN
Density		75% FAR	51 dwelling units (25 d.u./ac)	1,740 sq ft per dwelling units MIN (25 d.u./ac MAX)
Lot Width		235 ft	235 ft	200 ft MIN
Setbacks	Front	Felch – 4 ft W. Kingsley – 19 ft	Felch – 16 ft W. Kingsley – 19 ft	15 ft MIN, 40 ft MAX
	Side	West – 0 ft East – 3 ft	West – 34 ft East – 66 ft	58 ft MIN (due to >50' building length)
Height		10 to 20 ft	58 ft	60 ft MAX with Condition (normally 120 ft MAX)
Open Space		Not Applicable	51%	50% MIN
Active Open Space		Not Applicable	452 sq ft per d.u.	300 sq ft per d.u. MIN
Vehicle Parking		Unknown	93 spaces (51 covered, 38 surface, 14 deferred)	77 MIN
Bicycle Parking		None	11 spaces (5 Class A, 6 Class C)	11 spaces MIN

COMPARISON CHART – ZONING DISTRICTS

The following chart compares the existing, and proposed zoning districts (with and without the offered conditions) as well as the surrounding zoning districts.

		M1 Limited Industrial	R4D Multiple- Family Dwelling	R4D with Conditions	R4C Multiple- Family Dwelling	D2 Downtown Interface
Lot Area		13,000 sq ft MIN	83,000 sq ft MIN	No change	8,500 sq ft MIN	No MIN
Density		[75% FAR MAX]	25 dwelling units/acre (1,720 sq ft/d.u. MIN)	No change	20 dwelling units/acre (2,175 sq ft/d.u. MIN)	200% FAR MAX
Lot Width		100 ft MIN	200 ft MIN	No change	60 ft MIN	No MIN
Setbacks	Front	15 ft MIN	15 ft MIN 40 ft MAX	No change	25 ft MIN	15 ft MIN [front yard street]
	Side	50 ft MIN when abutting R (otherwise none)	30 ft MIN + additional when building length over 50 ft	No change	12 ft MIN + additional when building length over 50 ft	15 ft MIN [First Street character]
	Rear	100 ft MIN when abutting R (otherwise 30 ft MIN)	30 ft MIN + additional when building width over 50 ft	No change	30 ft MIN + additional when building width over 50 ft	30 ft MIN [First Street character]
Height		35 ft MAX	120 ft MAX	60 ft MAX	30 ft MAX	60 ft MAX [First Street character]
Open Space		[40% Building Coverage MAX]	50% MIN	No change	40% MIN	10% MIN, 80% MAX building coverage
Active Open Space		Not Applicable	300 sq ft/d.u. MIN	No change	300 sq ft/d.u. MIN	Not Applicable

SURROUNDING LAND USES AND ZONING

	LAND USE	ZONING
NORTH	Manufacturing/Warehouse (distillery)	M1 (Limited Industrial)
EAST	Single-Family Dwellings	R4C (Multiple-Family Dwelling)
SOUTH	Residential	D2 (Downtown Interface)
WEST	Industrial/Wholesale	M1

HISTORY

The site includes several lots of James B. Gott's First Addition Plat, recorded in 1862. Allen Creek was buried in a concrete box culvert in 1926. The site does not appear on historic maps until 1931 when it is identified as the Ann Arbor Construction Company yard. At that time, the site already had an office fronting Felch and a few scattered sheds and material hoppers. The site evolved between 1931 and 1962 to its current conditions, including the current two-story building at the northeast corner (a garage), facilities for concrete batch mixing, equipment storage and repair, and warehouses. Burt Forest Products at 227 Felch appears on historic maps as a separate site from the Ann Arbor Construction Company by 1957.

The petitioner applied a rezoning petition (from M1 to R4D) and an area plan petition in August 2014. A public hearing was held by the Planning Commission on December 2, 2014, where the petitions were postponed. The area plan petition was later withdrawn and the proposed site plan petition was submitted in August 2015.

A variance was granted to 214 W. Kingsley in 1983 from the required M1 minimum lot size and the required M1 minimum front setback to allow the current building to be constructed. A variance was again granted to 214 W. Kingsley in 1996 to allow the current W. Kingsley driveway location (file no. 96-Z-2).

PLANNING BACKGROUND

The site is located in the Central planning area and abuts the Downtown planning area. The Master Plan – Land Use Element future land use recommendation for the site is continued industrial use. Multiple-family residential use is recommended for the area immediately east of the site, “residential-office” use and rezoning to residential use to retain the existing residential uses are recommended for the area immediately north. [Residential-office refers to a new zoning district that should be created, allowing office uses but requiring residential design and scale of buildings. Such a district has never been established.]

Much of Chapter 7 of the Master Plan (Central Area) focuses on preserving neighborhoods by limiting or preventing expansion of nonresidential zoning districts, and improving existing nonresidential sites to reduce their impacts on adjacent residential neighborhoods. It also discusses at length the need for new development to be appropriately scaled to its context.

Applicable and relevant goals identified in the Master Plan include:

Goal A – To promote sound and attractive residential neighborhoods which meet the housing needs of the current and future population, which are adequately served by urban services, infrastructure and facilities and which conserve environmental quality. (Page 62)

Objective 4: To encourage the development of new architecture, and modifications to existing architecture, that complements the scale and character of the neighborhood. Page 62)

Objective 5: To develop density thresholds for each neighborhood that are appropriate in relation to the character, available services and infrastructure of the neighborhoods, and in accordance with the norms of that neighborhoods, resulting in improved quality of life for all residents. (Page 62)

Goal B – To encourage sensitive, attractive, and innovative development and renovation in downtown Ann Arbor and in adjacent neighborhoods. (Page 66)

Objective 3: To identify appropriate locations for compatible and well-designed multiple-family residential development, or mixed use development, particularly near campus and downtown. (Page 66)

Objective 6: To create inviting streetscape corridors and improve the links between commercial and residential areas, encouraging access between the nearby neighborhoods and downtown. (Page 67)

Objective 7: To encourage the construction of buildings whose scale and detailing is appropriate to their surroundings. (Page 67)

Action B – Develop zoning or a zoning overlay that allows for the continuance of industrial or warehousing activities in M1 (Limited Industrial) districts, such as are located in the railroad corridor, but that also allows compatible reuse of buildings in the event that present activity ceases and no suitable limited industrial/warehouse uses takes its place. Examples of adaptive reuse include artist's studios, artist live/work space, residential units, or any use that will promote continued vitality of the area. (Page 71)

CITIZEN PARTICIPATION

The petitioner held a meeting for citizens regarding the proposed rezoning (to R4D) and area plan on August 12, 2015 at the Downtown Development Authority office. A report of the meeting prepared by the petitioner is attached.

The petitioner held a meeting regarding their brownfield plan application on October 21, 2015 at the Downtown Branch of the Ann Arbor Public Library.

REZONING ANALYSIS

Changes to the text or map of the Zoning Ordinance (Chapter 55 of the Ann Arbor City Code) may be made pursuant to Sections 5:107 and 5:108. In order for the Planning Commission and City Council to arrive at their decision, applicants provide a petition with justifications in support of their request. The petition addresses:

1. The extent to which the rezoning is necessary.
2. How the rezoning will affect the public welfare and property rights of persons located in the vicinity.
3. How the rezoning will be advantageous to the City.
4. How this particular location will meet the convenience and service requirements of potential users and occupants.
5. Any changed or changing conditions in any particular area, or in the City generally, which may have bearing on the request.
6. Other circumstances and factors which further justify the request.

Staff Comments – The petition for rezoning (attached) contains intertwined arguments for both redeveloping the existing, obsolete buildings and rezoning for residential use. Focusing solely on the question of whether the site should be rezoned, staff believes it is appropriate to consider another zoning designation for the site from M1. Traditional manufacturing uses are no longer desirable in such close proximity to downtown or the near neighborhoods, and the remaining sites zoned for manufacturing uses are being used for non-traditional manufacturing uses which sometimes approach commercial character. The resurgence of residential demand in downtown and the near neighborhoods, and the evolving nature of urban manufacturing, provides satisfactory support to approve a rezoning to residential use.

The site is located at the western edge of the North Central neighborhood which flanks Main Street and is generally zoned R4C (Multiple-Family Dwelling). It is next to the northern edge of Downtown's First Street character district, zoned D2 (Downtown Interface), and sits just outside of the Water Hill neighborhood whose lower/eastern half is predominantly zoned R2A (Two-Family Dwelling).

The Master Plan-Land Use Element suggests identifying density thresholds for each neighborhood that are appropriate in relation to the character, available services and infrastructure of the neighborhoods and in accordance with the norms of that neighborhood, resulting in improved quality of life for all residents (Objective 5 of Goal A, page 62). Staff believe "that neighborhood" is the North Central one, and its norms are 20 dwelling units per acre in accordance with the current R4C zoning designation.

The offer of the condition by the petitioner to reduce the maximum height of the R4D district from 120 feet to 60 feet is certainly helpful to ensuring sensitive and compatible development on the site, but it does not address the discrepancy in density between the requested R4D designation (25 dwelling units per acre) and an extension of the existing, adjacent R4C district (20 dwelling units per acre). The applicant should justify the increase in the number of units between the R4C and R4D.

Finally, it appears that some of these conditions may be more appropriate as justification for the Planned Project.

PLANNED PROJECT ANALYSIS

Planned project modifications provide an added degree of flexibility in the placement and interrelationship of buildings. Modifications to the area, height and placement requirements may be approved if the project would result in the preservation of natural features, additional open space, greater building or parking setbacks, energy conserving design, preservation of historic or architectural features, affordable housing, or a beneficial arrangement of buildings.

In this case, planned project modifications are requested to allow a reduced west side setback for the proposed development, from the normally required 58-foot minimum setback to 33 feet. The modifications will help to achieve the objectives of the development program by allowing the building to be entirely outside of the Allen Creek drain easement.

The Planning Commission may recommend approval and City Council may approve modifications based on compliance with the following standards:

1. The lot(s) included in the planned project must meet the minimum gross lot size requirement of the zoning district in which they are located.
2. The proposed modifications of zoning requirements must provide one or more of the following: a) excess open space; b) excess building or parking setbacks; c) exceeding natural feature preservation requirements; d) preservation of historical or architectural features; e) solar orientation or energy conserving design; f) an arrangement of buildings that provides a public benefit; g) affordable housing; h) permanent open space in the R1A district.
3. The planned project shall be designed in such a manner that traffic to and from the site will not be hazardous to adjacent properties.
4. The proposed modifications shall be consistent with the proper development and use of adjacent land and buildings.
5. Required off-street parking and landscaping must be provided in accordance with the provisions of Chapters 59 and 62.
6. The standards of density, allowable floor area and required open space for the zoning district(s) in which the project is located must be met.
7. There shall be no uses within the proposed project which are not permitted uses in the zoning district(s) in which the proposed project is to be located.

Staff Comments – The proposed planned project site plan meets all of the standards for approval. As described in the completed petition (attached), the project provides a slight excess of open space and a slight increase in front setback over the minimum standard. The petitioner also contends the project exceeds natural features protection regulations, preserves architectural features, has an energy conserving design, and has a beneficial building placement.

Staff finds the beneficial placement of buildings to be the most compelling justification for the planned project modifications. Locating the new building entirely outside of the drain easement, not just off of the drain, is a substantial benefit to the City and the Water Resources Commissioner. Reducing the west side setback is necessary to achieve this and still allow a reasonable development of the site. The normal minimum side setback is provided and the reduced setback is from the side of the site adjacent nonresidential use, minimizing any adverse impacts to existing residential neighbors. For that same reason, the modifications are also consistent with the proper development and use of adjacent land and buildings.

COMMENTS PENDING, DISMISSED OR UNRESOLVED

Planning – Staff anticipated several comments and questions would be raised during consideration of the proposed rezoning and site plan, such as:

- Adjacent properties to the east and northeast are zoned R4C. Why should the property be rezoned to R4D rather than extending the adjacent R4C district?
- The project may seem more appropriate as a Planned Unit Development (PUD) because a) a rezoning is requested; b) the density exceeds the Master Plan recommendation and adjacent neighborhood residential zoning, c) a reduced side setback and reduced height limit are sought. These items can be reviewed comprehensively and addressed through the PUD process. Why pursue a conditional zoning and a planned project site plan rather than a PUD?
- Conditional zoning offers still must be consistent with future land use recommendations, existing conditions and sound planning principles, and further, must bear a reasonable relationship to the potential impacts that result from the rezoning on the immediate areas and the City in general rather than private interests. How do, or why don't the offered conditions address concerns about the density difference between the R4C and the R4D district?
- What are the benefits to the City if zoned R4D rather than R4C?

Engineering – Thirteen footing drain disconnections, or flow equivalent to 53.5 gallons per minute, are required.

Water Resources Commissioner – The stormwater management plan has been approved.

Parks – A park contribution of \$31,620 has been offered based on the proposed number of households. The proposed site plan does not preclude the possibility of a nonmotorized path be constructed on the west side of the site as part of the Allen Creek Greenway.

Prepared by Alexis DiLeo
Reviewed by Ben Carlisle
2/25/2016

Attachments: Zoning Map
Aerial Photo
Petition to Rezone

Conditional Zoning Statement of Conditions
Application for Planned Projects
Site Plan
Landscape Plan
Massing Elevation
Building Elevation
Citizen Participation Report

c: Petitioner/Owner: 221 Ventures, Inc. and Beal Investment I, LLC
221 Felch Street
Ann Arbor, MI 48103
Attn: Fred Beal

Petitioner's Agent: J. Bradley Moore & Associates
4844 Jackson Road
Ann Arbor, MI 48103
Attn: Brad Moore

Systems Planning
File Nos. Z14-025 and SP15-033

221 Felch St

R2A
Hiscock St

PL

C1

Felch St

O

R4C

Cherry St

N Ashley St

N Main St

PUD

W Kingsley St

D2

Spring St

M1

N First St

Alley



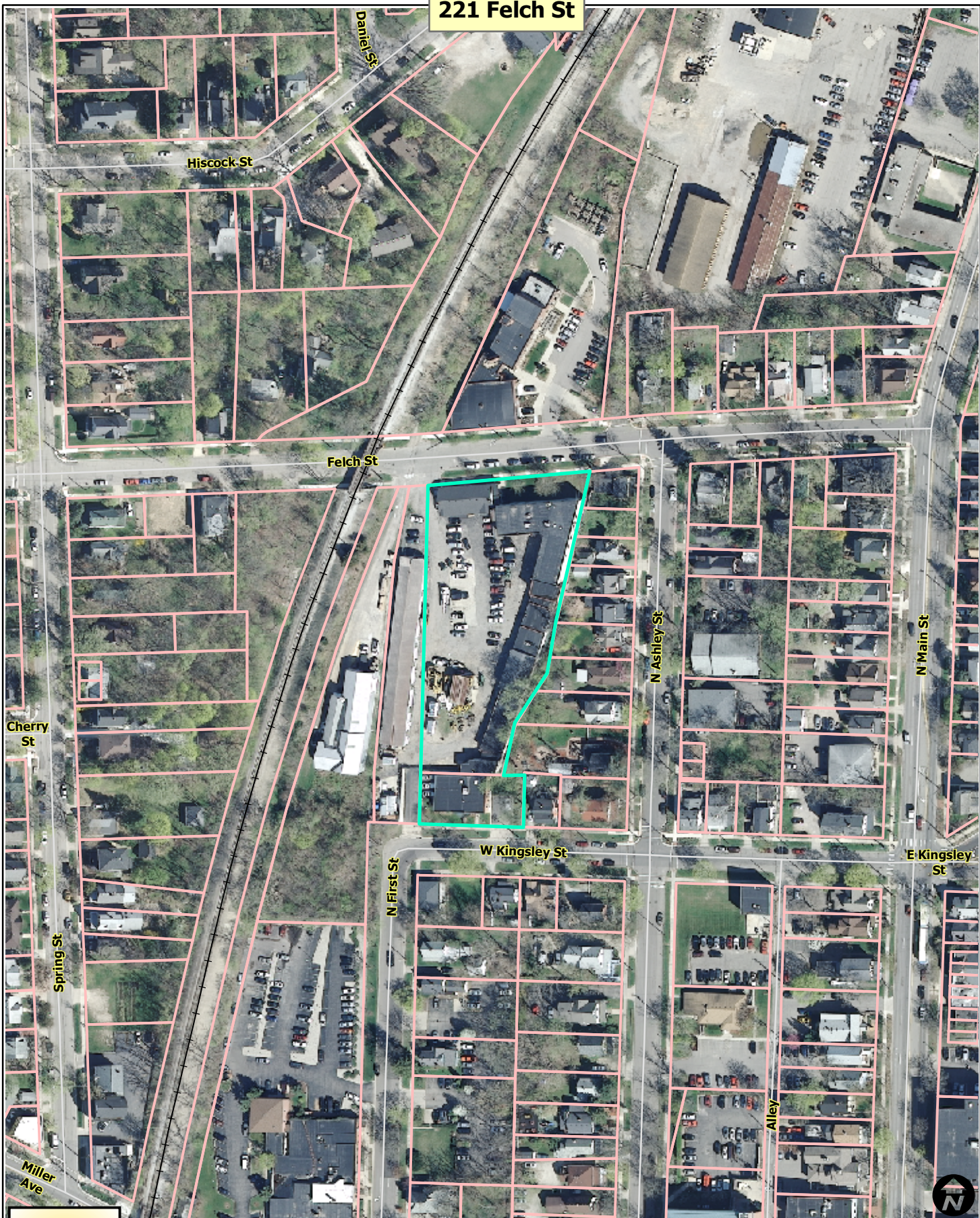
Zoning Districts




- Township Islands
- City Zoning Districts
- Railroads
- Parcels
- Huron River



Map date 9/8/2015
 Any aerial imagery is circa 2012
 unless otherwise noted
 Terms of use: www.a2gov.org/terms

221 Felch St



-  Railroads
-  Parcels
-  Huron River



Map date 9/8/2015
Any aerial imagery is circa 2012 unless otherwise noted
Terms of use: www.a2gov.org/terms

CITY OF ANN ARBOR

PLANNING & DEVELOPMENT SERVICES – PLANNING DIVISION
301 East Huron Street, PO Box 8657, Ann Arbor, Michigan 48107-8657
p. 734.794-6265, f. 734.994-8312, planning@a2gov.org

APPLICATION FOR CHANGES IN OR ADDITIONS TO THE ZONING CHAPTER

TO: The Honorable Mayor and City Council
City of Ann Arbor
Ann Arbor, Michigan

We, the undersigned, respectfully petition the Honorable Council of the City of Ann Arbor to amend the Zoning Map as it relates to the property hereinafter described.

(Give or attach legal description and include location of property.)

221-223 Felch St., Ann Arbor, Michigan 48103. See attached legal description and survey.

214 W. Kingsley, Ann Arbor, Michigan 48103. See attached legal description and survey.

The petitioners requesting the zoning/rezoning are:

(List petitioners' name; address; telephone number; and interest in the land; i.e., owner, land contract, option to purchase, etc.)

The Petitioners are the land owners.

221 - 223 Felch Street (2 parcels), is owned by 221 Ventures, Inc. Its shareholders and Officers are Fred J. Beal and George T. Beal. 221 Felch St., Ann Arbor, Michigan 48103.
(734) 662-6133, ext. 103.

214 W. Kingsley Street (1 parcel) is owned by Beal Investment I, LLC. Its members are Fred J. Beal, Nora Lee Wright and Stewart W. Beal. 221 Felch St., Ann Arbor, Michigan 48103.
(734) 662-6133, ext. 103.

Also interested in the petition are: Mortgagees of 221-223 Felch Street; Comerica Bank.
Mortgagees of 214 W. Kingsley Street; University Bank and Talmer Bank West.

The applicant requests that the Official City Zoning Map be amended to reclassify this property from M1 to R4D to permit the following use: multiple family dwelling – condominiums with the following conditions to be incorporated into the CONDITIONAL ZONING.

Approval sought: R4D with conditions.

The property owners submit the following proposals as conditions to its rezoning application pursuant to MCLA 125.3405.

PROPOSED CONDITIONS

1. The maximum height for any building on the site shall be sixty (60) feet as measured from the average grade at the building up to the highest point of the main flat roof, including parapet walls except that *mechanical units* (and/or their enclosures), *elevator overrides*, *stair towers*, and *similar roof appurtenances* along with limited occupiable *penthouse areas* (not to exceed 10% of the overall footprint of the building) may project above the sixty (60) foot limit so long as the projecting elements are set back from the building perimeter at least as much as the projection above the sixty-foot dimension. Limited portions of the building parapet may project up to 2.5 feet above the sixty-foot limit at decorative building elements - such portions of the building parapet shall not constitute a majority of the building perimeter.
2. The Public will be allowed to traverse the historic path of the Allen Creek from the Downtown through the improved site northward to the city owned parcel at 721 N. Main Street, a parcel likely to be redeveloped for park/recreational uses and perhaps become part of any Allen Creek Greenway.
3. Further that Up to 50% of the building at 214 Kingsley Street be made available for minimal consideration to serve as an "Allen Creek Greenway Conservancy Office / Interpretive Center" on a long term basis to the City or the Conservancy.

Justification:

1. The extent to which the zoning/rezoning requested is necessary:

The existing 2 acre site, never previously site planned under Ann Arbor Site Plan and Zoning regulations, consists of a substantial group of blighted and obsolete buildings haphazardly constructed over the last 80+ years across the flood plain and above the Allen Creek Drain Structure. The site itself is composed almost entirely of contaminated fill material (primarily placed there in conjunction with the original construction of the Allen Creek Drain structure), and now drains directly from an almost 100% impervious site into the storm drain system and Huron River with no environmental mitigation or storm water controls.

This site cannot be improved piecemeal, nor can the existing buildings be upgraded in even minor ways without a new site plan; and any site plan that retained the existing buildings would never be approved. As such, the property must be redeveloped comprehensively or not at all.

The correction of the collection of building, health, safety, and environmental issues is clearly in the best interests of the community, and a major investment in Demolition, Site Remediation and New Construction will be required to address them, and would be required for even a far more modest redevelopment.

Only R4D / Planned Project Zoning and the construction of a project of significant size such as the one designed justifies the comprehensive redevelopment of the site; and only with comprehensive redevelopment can both the developer's and the community's goals be achieved. As such it represents for both petitioner and the City of Ann Arbor the highest and best use of the property.

2. The zoning/rezoning will affect the public welfare and property right of persons located in the vicinity in the following ways:

POSTIVE BENEFITS TO REZONING

- Eliminate substantial existing construction within the Allen Creek Drain Easement and over the Allen Creek Drain.
- Eliminate substantial existing construction with the flood plan/flood fringe.
- Replace obsolete and blighted structures with new construction.
- Preserve landmark trees on the property.
- Reduce on-site impervious surface area.
- Substantially increase the amount of green space, landscaping and pervious surface area on the site.
- Consolidate the existing group 1-2 story buildings on the Felch Street site into a single 5 story structure while retaining the building fronting on Kingsley St.

Environmental Benefits

- Cleanup of contaminated soils, creating significant benefit to human health and the environment:
 - Conduct additional environmental assessment activities.
 - Excavate and remove 1,500 cubic yards of contaminated soil from the site.
 - Backfill with clean sand.
- Removal of carcinogenic asbestos and other hazardous materials from the site and floodplain:
 - Remove PCB-containing materials and solvents from the site.
 - Abate asbestos pipe wrap and over 36,000 square feet of other asbestos-containing materials from the site.
- Environmental planning for the future:
 - Implement due care measures at the site to ensure environmental protection of human health during redevelopment activities and future use.
- Implementation of advanced storm water management techniques:
 - Significant improvement in a critical location along the Allen Creek Drain including on-site storm water management.
 - Low impact design to work with nature to manage storm water as close to its source as possible.

- Minimize imperviousness through use of rain gardens and infiltration.
- Contribute to the restoration of the regional watershed's hydrologic and ecological functions.

Additional Benefits

- Increased property taxes at this site, and higher property values on adjacent sites
- Enhance downtown viability
- The Public will have the opportunity to follow/traverse the historic path of the Allen Creek from the Downtown through the improved site southward to the city owned parcel at 721 North Main Street, a parcel likely to be redeveloped for park/recreational uses and perhaps become part of any Allen Creek Greenway.
- Up to 50% of the building at 214 Kingsley Street will be made available for minimal consideration to serve as an "Allen Creek Greenway Conservancy Office / Interpretive Center" on a long term basis to the City or the Conservancy.

CITIZEN CONCERNS AS EXPRESSED AT THE CITIZEN PARTICIPATION MEETING, August 12, 2014

Potential increased traffic on Felch Street and Kingsley Street.

Limiting building height to well below the 120 foot maximum permitted in R4D zoning district and aesthetic character of new development.

Area sanitary sewer capacity

3. This zoning/rezoning will be advantageous to the City of Ann Arbor in the following ways:

- Eliminate substantial existing construction within the Allen Creek Drain Easement and over the Allen Creek Drain.
- Eliminate substantial existing construction with the flood plan/flood fringe.
- Replace obsolete and blighted structures with new construction.
- Preserve landmark trees on the property.
- Substantially increase the amount of green space, landscaping and pervious surface area on the site.
- Reduce on-site impervious surface area.
- Consolidate the existing group 1-2 story buildings on the Felch Street site into a single 5 story structure while retaining the building fronting on Kingsley St.

Environmental Benefits

- Cleanup of contaminated soils, creating significant benefit to human health and the environment:
 - Conduct additional environmental assessment activities.
 - Excavate and remove 4,500 cubic yards of contaminated soil from the site.
 - Backfill with clean sand.

- Removal of carcinogenic asbestos and other hazardous materials from the site and floodplain:
 - Remove PCB-containing materials and solvents from the site.
 - Abate asbestos pipe wrap and over 36,000 square feet of other asbestos-containing materials from the site.
- Environmental planning for the future:
 - Implement due care measures at the site to ensure environmental protection of human health during redevelopment activities and future use.
- Implementation of advanced storm water management techniques:
 - Significant improvement in a critical location along the Allen Creek Drain including on-site storm water management.
 - Low impact design to work with nature to manage storm water as close to its source as possible.
 - Minimize imperviousness through use of rain gardens and infiltration.
 - Contribute to the restoration of the regional watershed's hydrologic and ecological functions.

Additional Benefits

- Increased property taxes at this site, and higher property values on adjacent sites
 - Enhance downtown viability
 - The Public will have the opportunity to follow/traverse the historic path of the Allen Creek from the Downtown through the improved site southward to the city owned parcel at 721 N. Main Street, a parcel likely to be redeveloped for park/recreational uses and perhaps become part of any Allen Creek Greenway.
 - Up to 50% of the building at 214 Kingsley Street will be made available for minimal consideration to serve as an "Allen Creek Greenway Conservancy Office / Interpretive Center" on a long term basis to the City or the Conservancy.
4. This particular location will meet the convenience and service requirements of potential users or occupants in the following ways:

The proposed development will include laundry and fitness facilities, outdoor space, and a sidewalk connecting the development to downtown and the North Main corridor.

Easy access to area highways and within close proximity to U of M and U of M Hospital.

The site is within easy walking distance to Kerrytown, Downtown, West Park and all of the amenities that those areas of Ann Arbor have to offer its residents including:

- U of M Central and North Campus
- U of M Hospital

- Downtown Ann Arbor
- Kerrytown and Farmer's Market
- West Park
- Amtrak train station and AATA bus routes
- Knight's Market and Big City Small Work Bakery
- Huron River park system and greenway
- YMCA

5. Any changed or changing conditions in any particular area, or in the municipality generally which may have bearing on the proposed zoning /rezoning area:

The proposed rezoning is in keeping with the spirit of the Downtown Residential Task Force Report of 2004, and response to demand for near Downtown housing.

While the neighborhood has long contained a mix of single family homes and multiple family dwelling homes, the area has recently undergone additional changes with the introduction of larger scale projects such as Kerrytown Place Condos and 121 Kingsley West and numerous additional multistory infill projects underway or proposed on Ashley, Kingsley, First, Spring and Felch Streets.

These projects, taking advantage of the very comparable downtown (D2) zoning (and providing yet higher density) are being constructed directly adjacent to the Kingsley Condominium's site to the south across Kingsley. As such our project is only extending a contiguous area of comparable density to achieve the many public benefits listed above herein and in our other supporting documentation, while at the same time creating a more compatible use (multi-family residential) on this site adjacent to existing single family uses which will further buffer the existing single family uses from the industrial use west of the site.

6. Other circumstances and factors which further justify the requested zoning/rezoning are:

The proposed development is a vast improvement over existing site and building conditions and will add in the many ways outlined above to continued improvement along Ann Arbor's historic "industrial crescent."

It will improve the environment and the neighborhood while permitting maintenance of the subterranean county drain trunk line which is nearing the end of its effective structural life and cannot currently be repaired in any practical or effective way.

The R4D Zoning (with conditions) proposed will encourage occupancy primarily by traditional condominium buyers including young professionals, local business owners, and empty nesters, many of whom may even be using their purchase as a second home. Another zoning classification such as R4C Zoning, would likely result in both more total bedrooms in the project and far more unrelated persons occupying this site than the R4D project proposed. As such our proposal will almost certainly generate less traffic and / or noise than either the current M1 use or an alternate R4C use.

Collectively, the R4D Zoning with conditions proposed remains the most appropriate solution for this site, and will result in the best possible long term outcome for both the developer and the community.

Attached is a scaled map of the property proposed for zoning/rezoning, showing the boundaries of the property, the boundaries of the existing zones, the boundaries of the proposed zones, and the public and/or private easements located within or adjacent to the property petitioned for zoning/rezoning.

The undersigned states he is interested in the property as aforesaid and that the foregoing statements are true and correct to the best of his/her knowledge and belief.

Dated: February 22, 2016

221 Ventures, Inc.

By: 

Fred J. Beal, Vice President
221 Felch Street
Ann Arbor, Michigan 48103

Beal Investment I, LLC


By: 

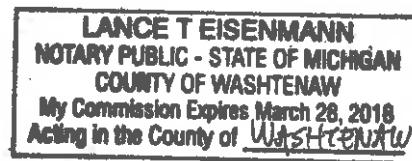
Fred J. Beal, Member
221 Felch Street
Ann Arbor, Michigan 48103

STATE OF MICHIGAN
COUNTY OF WASHTENAW

On this 22nd day of February 2016, before me personally appeared the above-named petitioners, who being duly sworn, say that they have read the foregoing petition by them signed, and know the contents thereof, and that the same is true of their knowledge, except as to the matter therein stated to be upon their information and belief, and as to those matters they believe it to be true.

Signature: _____


Lance Eisenmann, Notary Public
State of Michigan, County of Washtenaw
Acting in Washtenaw County
My commission expires: 3-28-2018



Conditional Zoning Statement of Conditions

This Conditional Zoning Statement of Conditions (“Statement of Conditions”) is made and entered into this _____ day of _____, 2015, by and between the City of Ann Arbor (“City”), a Michigan municipal corporation, with offices located at 100 N. Fifth Avenue, Ann Arbor, Michigan 48107, and _____ (“Developer”), a _____ corporation, with principal address at _____.

Recitals

- A. The Michigan Zoning Enabling Act (P.A. 110 of 2006, as amended) allows for conditional zoning of land when the City is amending its zoning map, or a conditional zoning when the city is zoning property in MCL 125.3405.
- B. The City of Ann Arbor recognizes that there are certain instances where it would be in the best interest of the City, as well as advantageous to the Developer, that certain conditions could be proposed as part of a request for rezoning or a request for an amendment to the zoning map.
- C. On _____, Developer applied for an amendment to the zoning map for certain land in the City of Ann Arbor site planned as Kingsley Condominiums as more fully described on the attached **Exhibit A** (the “Property”).
- D. Included with the rezoning petition, the Developer voluntarily offered in writing conditions regarding the use and development of the land to be incorporated into the zoning of the Property.
- E. On _____ the Planning Commission, after public hearing, recommended _____ of zoning of the Property to R4D with Conditions

(Multiple-Family Dwelling District). The Developer also submitted a Site Plan showing the specific proposed use and site design of the property.

- F. On _____, the City approved the conditional rezoning subject to this Statement of Conditions.
- G. Based on the specific facts and circumstances regarding this property, the City has decided to accept the Developer's offer of conditional zoning.
- H. By executing this Statement of Conditions, the City and the Developer desire to set forth and confirm the conditions under which the City granted conditional zoning of this Property.

NOW, THEREFORE, Developer and City agree:

1. Conditions Running with the Property. This Statement of Conditions covers the Property described in the attached Exhibit A. The Statement of Conditions is incorporated into the zoning of the Property and shall be binding upon and inure to the benefit of the Developer and the City, and their heirs, successors and assigns, and shall run with the Property.
2. Site Plan. The conditional zoning was granted by the City based, in part, by the Developer's stated proposed use of the Property as a residential, multi-family development, as shown in the proposed Site Plan attached as **Exhibit B**.
3. List of Conditions. The conditional zoning was granted to the Developer based on conditions that were voluntarily offered by the Developer. The City and Developer agree that restrictions on the use and development of the land are necessary for consistency and conformance to the Master Plan – Future Land Use Element with regard to new development in the Central planning area. The conditions which form the basis of the City's grant of the conditional zoning are as follows:
 - i. The maximum height for any building on the site shall be 60 feet as measured from the average grade at the building up to the highest point of the main flat roof, including parapet walls except that mechanical units (and/or their enclosures), elevator overrides, stair towers, and similar roof appurtenances along with the limited occupiable penthouse areas (not to exceed 10% of the overall footprint of the building) may project above the 60-foot limit so long as the projecting elements are set back from the building perimeter at least as much as the projection above the 60-foot dimension. Limited portions of the building parapet may project up to 2.5 feet above the 60-foot limit at decorative building elements – such as

portions of the building parapet shall not constitute a majority of the building perimeter.

- ii. The public will be allowed to traverse the historic path of the Allen Creek from the downtown through the improved site northward to the city owned parcel at 721 N. Main Street, a parcel likely to be redeveloped for park/recreational uses and perhaps become part of any Allen Creek Greenway.
 - iii. Further that up to 50% of the building at 214 W. Kingsley Street be made available for minimal consideration to serve as an "Allen Creek Greenway Conservancy Office/Interpretive Center" on a long term basis to the City or the Conservancy.
4. Applicable Time Period / Rezoning. If all of the conditions are not satisfied by _____, then in accordance with MCL 125.3405(2) the Property shall revert to its former zoning classification, which is M1 (Limited Industrial).
 5. Developer Acknowledgment. Developer acknowledges that it voluntarily offered and consented to the provisions contained in this Statement of Conditions. Developer agrees that the conditions contained herein are fair, reasonable and equitable requirements and conditions; agrees that the Statement of Conditions does not constitute a taking of property for any purpose or a violation of any constitutional right; and agrees to be bound by each and every provision of this Statement of Conditions. Furthermore, it is agreed and acknowledged that any improvements and undertakings described herein are necessary and roughly proportional to the burden imposed by the conditional zoning, and are necessary to insure capability with adjacent and surrounding uses of land; to promote use of the Property in a socially and economically manner; and to achieve other legitimate objectives of the City authorized by law.
 6. Authority to Execute. This Statement of Conditions has been authorized by all necessary action of Developer, and Developer acknowledges that it is the owner of the Property or has been authorized by the owner to conditionally zone this Property. Furthermore, the signatory for Developer acknowledges that he is authorized to enter and execute this Statement of Conditions on behalf of Developer, and bind the Developer to its terms.
 7. City Approval. The Statement of Conditions and the City's approval of these conditions is based on the particular facts and circumstances presented, as well as the surrounding land uses and other characteristics regarding this property, and approval of these conditions for this Property may not be relied on as precedent by any other property owner seeking a conditional zoning.

8. Obligation to Obtain Other Approvals. Developer acknowledges that any use or development approved by this conditional zoning that may require a special land use permit, a variance, or site plan approval under the terms of the Ann Arbor City Code, may only be commenced if such special land use permit, variance, and/or site plan approval is ultimately granted in accordance with the terms of the Ann Arbor City Code.

9. Amendment. This Statement of Conditions may only be amended in the same manner as prescribed for a rezoning of property under the terms of Ann Arbor City Code.

10. Compliance with Statement of Conditions. Developer shall continuously operate and maintain the development and/or use of the Property in full compliance with all of the conditions set forth in this Statement of Conditions. Any failure to comply fully with the conditions contained with the Statement of Conditions shall constitute a violation of the Zoning Ordinance of Ann Arbor City Code, and shall be punished accordingly. Any such violation shall be deemed a nuisance per se and subject to judicial abatement, or any other remedy as provided by law.

11. Rezoning. Developer acknowledges that nothing in this Statement of Conditions shall prohibit the City from exercising its right to rezone the property at any time as allowed by law. The City acknowledges that nothing in this Statement of Conditions shall prohibit the Developer to request a rezoning of the Property at any time, or to continue an existing nonconforming use as allowed by law if the Property is rezoned by the City.

IN WITNESS WHEREOF, the parties have caused this Conditional Zoning Statement of Conditions to be executed on the day and year recited above.

WITNESSES:

CITY OF ANN ARBOR
a Michigan municipal corporation

By: _____

By: _____

WITNESSES:

DEVELOPER

By: _____

ACKNOWLEDGMENT

STATE OF MICHIGAN)
) ss
COUNTY OF WASHTENAW)

The foregoing Agreement was acknowledged before me by Christopher Taylor and Jacqueline Beaudry, the Mayor and City Clerk respectively of the City of Ann Arbor on the _____ day of _____, 2015.

_____, Notary Public

My Commission Expires: _____

ACKNOWLEDGMENT

STATE OF MICHIGAN)
) ss
COUNTY OF WASHTENAW)

The foregoing Agreement was acknowledged before me by _____, of Toll Bros., Inc., on the _____ day of _____, 2015.

_____, Notary Public

My Commission Expires: _____

Exhibit A

Legal description of site

Exhibit B

Site Plan as approved by City Council



City of Ann Arbor

PLANNING & DEVELOPMENT SERVICES — PLANNING DIVISION

301 East Huron Street | P.O. Box 8647 | Ann Arbor, Michigan 48107-8647
p. 734.794.6265 | f. 734.994.8312 | planning@a2gov.org

APPLICATION FOR PLANNED PROJECTS

See www.a2gov.org/planning for submittal requirements.

TO: Ann Arbor City Planning Commission

We, the undersigned, respectfully petition the City Planning Commission to approve this planned project request as it relates to the property hereinafter described.

(PLEASE PRINT OR TYPE)

A. Legal Description

(Give or attach legal description and include address of property)

221 Felch St. Ann Arbor, MI 48103 and 214 W. Kingsley, Ann Arbor, MI 48103

See attached legal description and survey.

B. Petitioner Information

The petitioner(s) requesting the planned project are:

(List petitioners' name, address, telephone number, and interest in the land, i.e., owner, land contract, option to purchase, etc.)

The Petitioners are the land owners.

221 Felch St. is owned by 221 Ventures, LLC. Its members are Fred J. Beal and

George T. Beal. (2 parcels), 221 Felch St., Ann Arbor, Michigan 48103.

(734) 662-6133, ext. 103.

214 W. Kingsley is owned by Beal Investment I, LLC. Its members are Fred J. Beal, Nora Lee Wright and Stewart W. Beal. (1 parcel), 221 Felch St., Ann Arbor, Michigan 48103.

(734) 662-6133, ext. 103.

Also interested in the petition are:

(List others with legal or equitable interest)

Mortgagees of 221 Felch St. are Comerica Bank and Hudson Insurance Company. Mortgagees of 214 W. Kingsley are University Bank and Talmer Bank West.

C. Modification(s) Request

The applicant requests the following area, height and placement modifications of the following section(s) of the Zoning Ordinance:

Chapter 55 – Zoning, Article III Area, Height and Placement Section 5:35 R4D

Side Setback: The proposed building setback along the western property line is 33.98 ft. under section 5:62 The required setback is 30 ft plus 1.5” per ft of building length over 50 ft resulting in a total required side setback of 58 ft. along the western property line. This planned project designation is sought to permit the reduction of the side setback along the western property line of 33 feet to shift the building as far out of the flood plain as practical given other site constraints. Maximum building height would be substantially reduced over that permitted by the zoning district through conditions proposed by the developer/owner.

Please explain how these modifications will help achieve the objectives of the development program and the standards listed in Section D below (add attachment if necessary):

Without shifting the building west on the site the objectives and public benefits of the development program would be unobtainable. These include:

Eliminate substantial existing construction within the Allen Creek Drain Easement and over the Allen Creek Drain.

Eliminate substantial existing construction with the flood plain/flood fringe.

Replace obsolete and blighted structures with new construction.

Preserve landmark trees on the property.

Reduce on-site impervious surface area

Substantially increase the amount of green space, landscaping and pervious surface area on the site. Remove industrial uses from a residential neighborhood.

D. Standards for Approval

Based upon compliance with the following standards, the Planning Commission may recommend approval, and City Council may approve modifications of the area, height and placement regulations of the Zoning Chapter in the form of a planned project site plan. Please explain how and to what extent these standards are met by the proposal:

1. The lot or lots included in the planned project must meet the minimum gross lot size requirement of the zoning district in which they are located. In residential zoning districts, the minimum gross lot size shall be the combined total of the minimum gross lot sizes for each dwelling on a parcel. However, the following exceptions may apply:
 - a. For purposes of this section, zero lot line duplex or townhouse development shall mean a development containing attached single-family units on individual lots. If a planned project for a zero lot line duplex or townhouse development provides affordable housing for lower income households, the minimum gross lot size and width requirements may be reduced. The number of dwelling units permitted shall not exceed the maximum permitted density in the zoning district in which the proposed development is located.
 - b. In any residential zoning district allowing 3 or fewer dwelling units per acre, when 20 percent or more of the total area of a development is set aside for permanent open space preservation, the gross lot size may be reduced below the minimum lot area per dwelling unit and width requirements for the zoning district in which it is located, as provided in this section.

The lots meet the minimum gross lot size requirement for the R4D zoning district. The minimum lot size required is 83,000 sf and the lot size proposed is 89,480 sf.

2. The proposed modifications of zoning requirements must provide one or more of the following:
 - a. Usable open space in excess of the minimum requirement for the zoning district. Where no minimum usable open space standard is required by the zoning district, a minimum usable open space standard shall be established by the approval of the planned project.
 - b. Building or parking setback(s) in excess of the minimum requirement for the zoning district. Where no minimum building or parking setback is required by the zoning district, a minimum setback standard shall be established by the approval of the planned project.
 - c. Preservation of natural features that exceeds ordinance requirements, especially for those existing features prioritized in the land development regulations as being of highest and mid-level concern.
 - d. Preservation of historical or architectural features.
 - e. Solar orientation or energy conserving design.
 - f. An arrangement of buildings which provides a public benefit, such as transit access, pedestrian orientation, or a reduced need for infrastructure or impervious surface.
 - g. Affordable housing for lower income households.
 - h. A recorded conservation easement or similar binding instrument providing for permanent open space of 20 percent or more of the planned project, in any residential zoning district allowing 3 or fewer dwelling units per acre.

The proposed project provides more than one of the above, including:

- a) Usable Open Space: The minimum open space requirement is 50%. The proposed project provides 51% The minimum active open space is 300 sf per unit and the proposed project provides 452 sf/unit.
- b) Building Setbacks: The required front setback is 15 ft. The project proposes 16.16 ft. The east side setback required is 30 ft. The proposed project provides 66.99 ft.
- c) Preservation of Natural Resources: The project as proposed preserves Landmark trees The proposed project removes a significant amount of buildings from the Allen Drain floodplain thus restoring it to a more natural condition & function than currently exists. On-site Stormwater detention and increased pervious areas of the site will reduce stormwater run-off.
- d) Preservation of Architectural features: the existing building at 215 W Kingsley is being preserved.
- e) Solar Orientation: The building is designed to be Solar Ready and to be 15% more energy efficient than ASHRAE 90.1 -2007
- f) Building Arrangement: The building arrangement provides many public benefits including those enumerated in section C above, as well as pedestrian orientation (downtown, markets, restaurants, coffee shops, train station, parks, employment opportunities, and other amenities are within walking distance) and transit access. Building arrangement will permit pedestrian access through the site paralleling the Allen Creek Drain - an access-way adored by public art/sculpture provided by the project .

3. The planned project shall be designed in such a manner that traffic to and from the site will not be hazardous to adjacent properties.

The proposed project has been designed to minimize traffic impacts to the adjacent properties. An existing access drive will be reused on the south side of the project. The existing drive near the railroad crossing on the north side of the project will be removed and relocated to the east. The drives have been designed to meet City standards. The traffic impact analysis shows that the trips generated will be less than 50 per peak hour and no traffic study is required.

4. The proposed modifications shall be consistent with the proper development and use of adjacent land and buildings.

The neighborhood has long contained a mix of single family homes and multiple family dwelling homes, as well as industrial uses and the area has recently undergone changes with the introduction of large scale projects such as Kerrytown Place Condos and 121 Kingsley West and other additional infill projects underway, approved or proposed on Ashley, Kingsley, First, Spring and Felch Streets. This project removes existing industrial uses adjacent to residential uses in favor of additional residential uses which will act in part as a buffer between the existing residential uses and the remaining industrial uses in the neighborhood.

5. Required off-street parking and landscaping must be provided in accordance with the provisions of Chapters 59 (Off-Street Parking) and Chapter 62 (Landscape and Screening).

Off street parking and landscaping have been provided as shown on the plans in accordance with Chapter 59 and Chapter 62.

6. The standards of density, allowable floor area and required usable open space for the zoning district(s) in which the project is located must be met.

The proposed projects meets the standards. The allowed density is 25 units per acre and the project provides 24.8 units per acre. The minimum lot are per unit is 1,740 sf and the project proposes 1,755 sf. The minimum open space is 50%. The proposed project provides 51%. The minimum active open space is 300 sf per unit and the proposed project provides 452 sf/unit.

7. There shall be no uses within the proposed project which are not permitted uses in the zoning district(s) in which the proposed project is to be located.

The proposed use is residential as allowed.

8. In any residential zoning district allowing 3 or fewer dwelling units per acre and where 20 percent or more of the total area is proposed for permanent open space, projects shall meet the following standards:
- a. The minimum gross lot size of the parcel proposed for the planned project shall be 2 acres. The size and shape of the portions of the planned project designated for open space preservation shall be reviewed and approved in conjunction with a planned project site plan, a planned unit development site plan, or a plat, in relation to natural features or characteristics specific to that site.
 - b. The area of each residential building lot or limited common area of a condominium development shall be 10,000 square feet or greater, exclusive of the permanent open space. Minimum lot width and setback requirements shall meet or exceed standards of the R1B residential zoning district.
 - c. Permanent open space area shall be in, and shall continue to be in, an undeveloped, natural state preserving and conserving natural resources, natural features, scenic or wooded condition, or naturally occurring water surfaces. It may also provide an undeveloped greenway of contiguous or linear open space that includes habitats or corridors for wildlife, or links parks, nature reserves, cultural features or historic sites with each other for passive recreation or for conservation purposes.
 - d. Land in permanent open space may be, but is not required to be, dedicated to the use of the public.
 - e. Prior to the issuance of any permit, the permanent open space shall be protected by a recorded conservation easement or similar binding instrument containing provisions for ownership and ongoing maintenance of the permanent open space by a responsible party such as, but not limited to, a homeowner's association, an independent agency or trust established for such purposes, or a municipality for open space preservation. Such permanent open space shall constitute 20 percent or more of the total area of a development.
 - f. The option of utilizing a conservation easement or plat dedication for open space preservation for not less than 20 percent of the total area may be exercised only one time on a parcel of land.

The proposed project provides 24.8 units per acre, exceeding the 3 units per acre referenced by item 8.

The Commission or Council may add conditions to the approval of the planned project to achieve conformity to these standards.

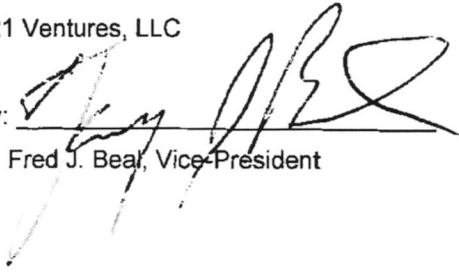
E. Supporting Plans

Attach a site plan and building elevations of the property proposed for planned project approval, showing the boundaries of the property, the buildings, vehicular use areas, and all requirements set forth in Chapter 57 (Subdivision and Land Use Controls) and the Land Development Regulations.

The undersigned states he/she is interested in the property as aforesaid and that the foregoing statements are true and correct to the best of his/her knowledge and belief.

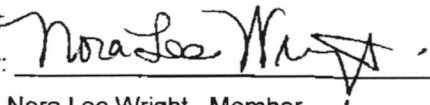
Dated: 12-11-15

221 Ventures, LLC

By: 
Fred J. Beal, Vice-President

Dated: 12-11-15

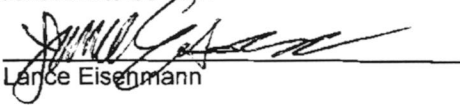
Beal Properties, LLC

By: 
Nora Lee Wright, Member

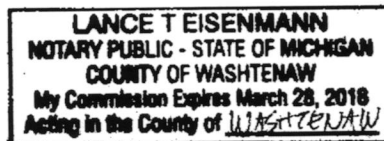
STATE OF MICHIGAN

COUNTY OF WASHTENAW

On this 11th day of December 2015, before me personally appeared the above named petitioner(s), who being duly sworn, say that they have read the foregoing petition and by them signed, and know the contents thereof, and that the same is true of their knowledge, except as to the matter therein stated to be upon their information and belief, and as to those matters they believe it to be true.

Signature: 
Lance Eisenmann

My Commission Expires: 3/28/2018



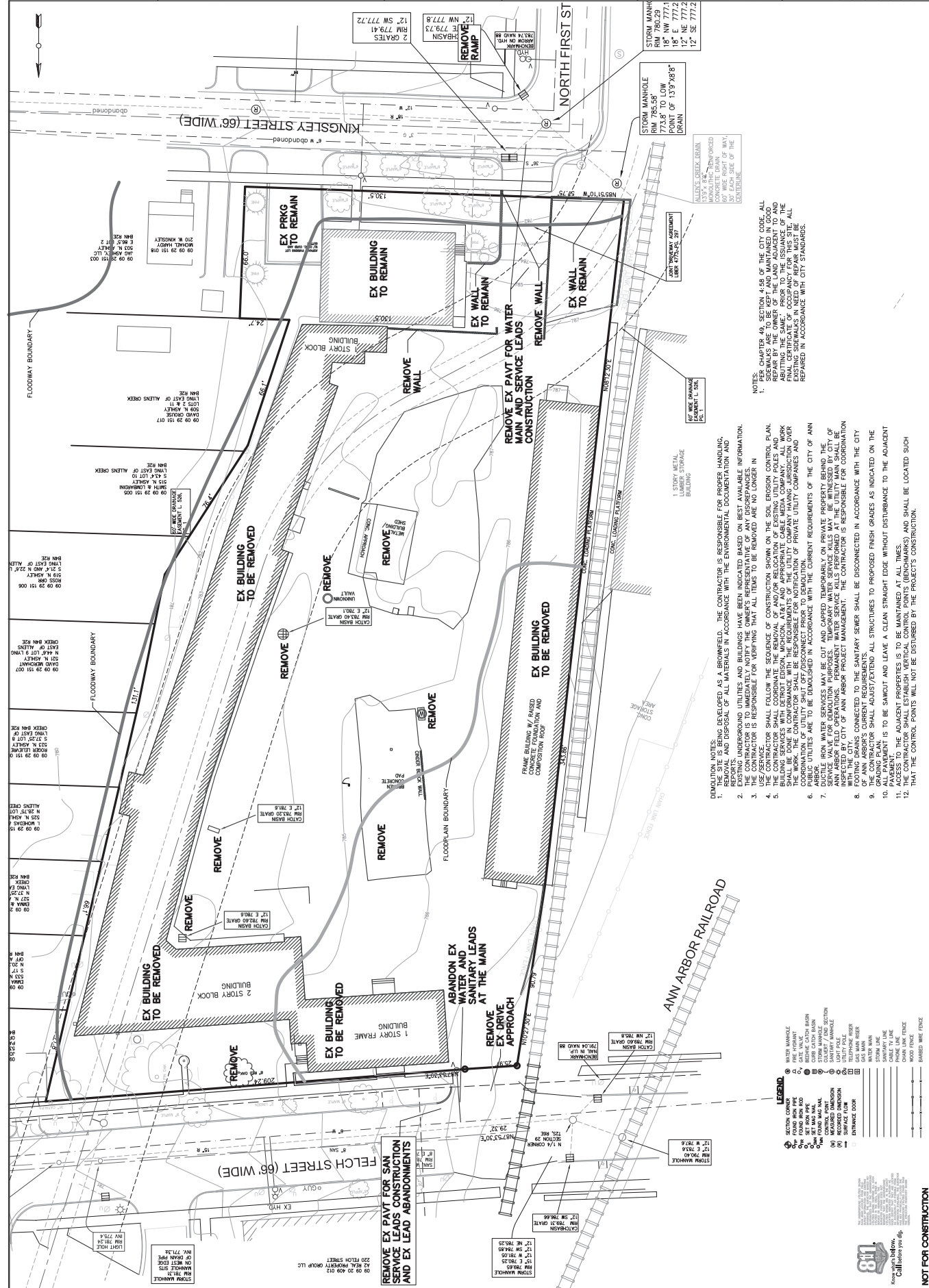
PERIMETER

PERIMETER ENGINEERING LLC
 CHELSEA, MI 48118
 734-216-9941

WASHTENAW COUNTY
 CITY OF ANN ARBOR
 TOWN 2 SOUTH, RANGE 6 EAST
 SECTION 29

221 FELCH
 DEMOLITION
 KINGSLEY CONDOMINIUMS LLC

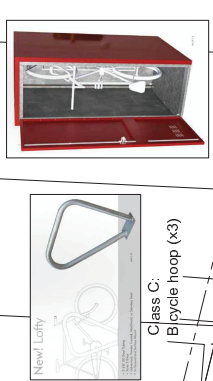
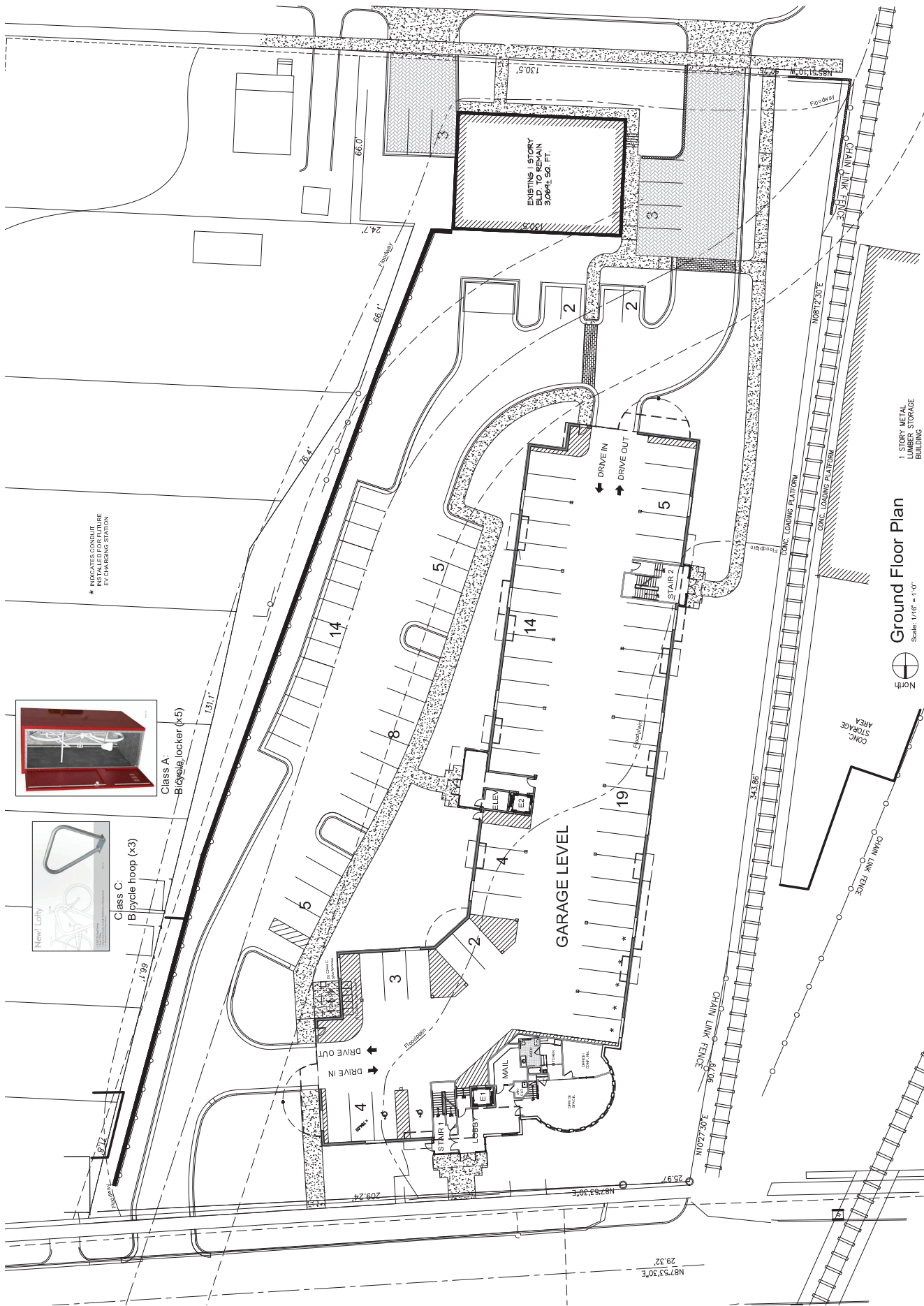
DATE	1-15-16
DATE	1-3-16
DATE	12-22-15
DATE	11-9-15
SCALE	1"=20'
DR. K.K. CH. K.K.	
P.M.	
SHEET NO.	89-19



NOTES:
 1. PER CHAPTER 49, SECTION 4-58 OF THE CITY CODE, ALL EXISTING UTILITIES SHALL BE MAINTAINED AT ALL TIMES. PRIOR TO THE ISSUANCE OF THE PERMIT, THE CONTRACTOR SHALL VERIFY THE LOCATION AND DEPTH OF ALL EXISTING UTILITIES IN ACCORDANCE WITH CITY STANDARDS.

- DEMOLITION NOTES:
1. THE SITE IS BEING DEVELOPED AS A BROWNFIELD. THE CONTRACTOR IS RESPONSIBLE FOR PROPER HANDLING, REMOVAL AND DISPOSAL OF ALL MATERIALS IN ACCORDANCE WITH THE ENVIRONMENTAL DOCUMENTATION AND EXISTING UNDERGROUND UTILITIES AND BUILDINGS HAVE BEEN INDICATED BASED ON BEST AVAILABLE INFORMATION.
 2. EXISTING UNDERGROUND UTILITIES AND BUILDINGS HAVE BEEN INDICATED BASED ON BEST AVAILABLE INFORMATION. THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING OWNERS AND ALL ITEMS TO BE REMOVED ARE RESPONSIBLES IN USE/SEWERAGE.
 3. THE CONTRACTOR SHALL COORDINATE THE REMOVAL OF AND/OR RELOCATION OF EXISTING UTILITY POLES AND BUILDING SERVICES WITH DETROIT EDISON, MICHIGAN, AT&T AND APPROPRIATE CABLE MEDIA COMPANY. ALL WORK SHALL BE COMPLETED PRIOR TO THE START OF DEMOLITION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR NOTIFICATION OF PRIVATE UTILITY COMPANIES AND COORDINATION OF UTILITY SHUT OFF/DISCONNECT PRIOR TO DEMOLITION.
 4. ALL UTILITIES ARE TO BE DEMOLISHED IN ACCORDANCE WITH THE CURRENT REQUIREMENTS OF THE CITY OF ANN ARBOR.
 5. SERVICE WALKS FOR DEMOLITION PURPOSES SHALL BE MAINTAINED THROUGHOUT THE DEMOLITION PERIOD.
 6. PERMANENT WATER SERVICE KILLS MAY BE WITNESSED BY CITY OF ANN ARBOR FIELD OPERATIONS. PERMANENT WATER SERVICE KILLS PERFORMED AT THE UTILITY MAIN SHALL BE WITH THE CITY OF ANN ARBOR PROJECT MANAGEMENT. THE CONTRACTOR IS RESPONSIBLE FOR COORDINATION OF PERMANENT WATER SERVICE KILLS WITH THE CITY OF ANN ARBOR PROJECT MANAGEMENT.
 7. COORDINATION OF PERMANENT WATER SERVICE KILLS SHALL BE MAINTAINED AT ALL TIMES.
 8. THE CONTRACTOR SHALL ADJUST/EXTEND ALL STRUCTURES TO PROPOSED FINISH GRADES AS INDICATED ON THE CITY OF ANN ARBOR PROJECT MANAGEMENT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATION OF ALL ADJUSTMENTS TO THE SANITARY SEWER SHALL BE MAINTAINED AT ALL TIMES.
 9. THE CONTRACTOR SHALL ESTABLISH VERTICAL CONTROL POINTS (BENCHMARKS) AND SHALL BE LOCATED SUCH THAT THE CONTROL POINTS WILL NOT BE DISTURBED BY THE PROJECT'S CONSTRUCTION.

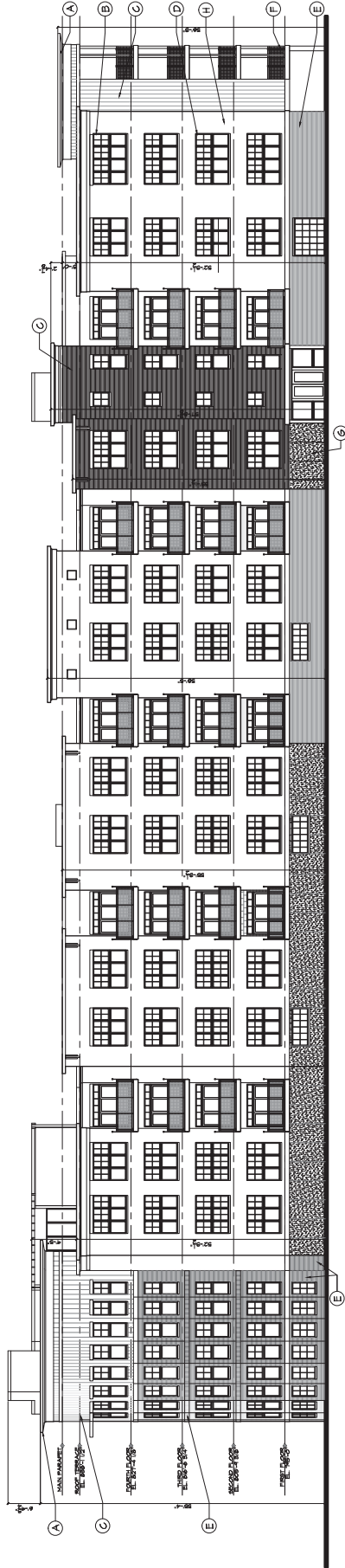
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* INDICATES CONDUIT FOR EV CHARGING STATION

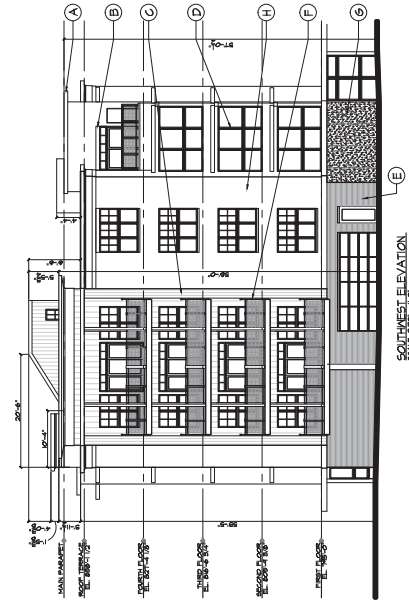
Ground Floor Plan
 Scale: 1/16" = 1'-0"



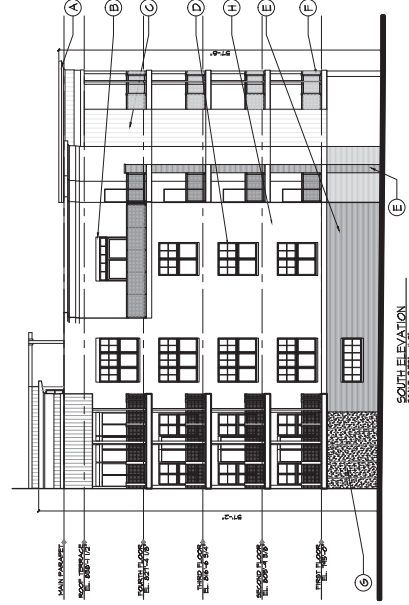


WEST ELEVATION

AVERAGE BUILDING HEIGHT TO MAIN PARAPET FROM GRADE @ EXTERIOR WALL = 56'-6"



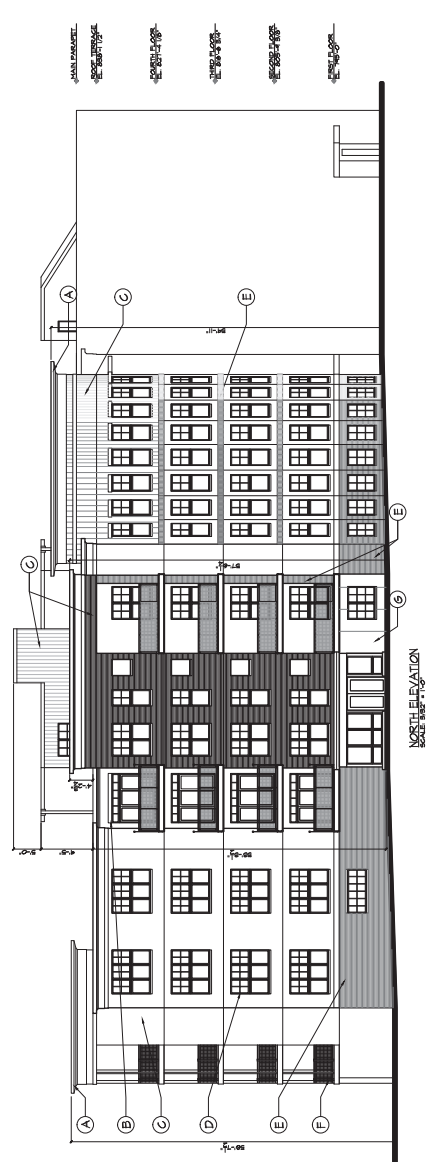
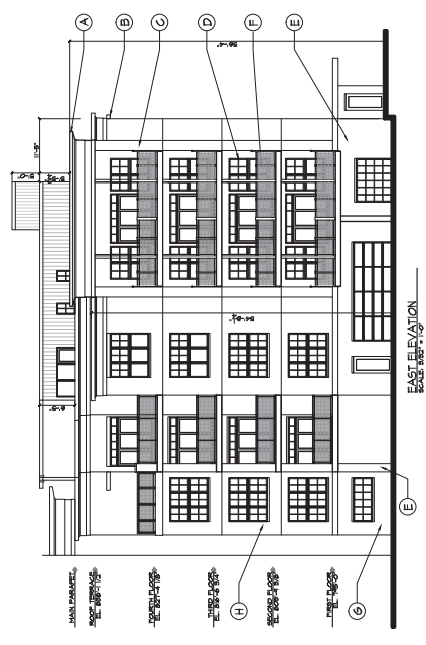
SOUTHWEST ELEVATION



SOUTH ELEVATION

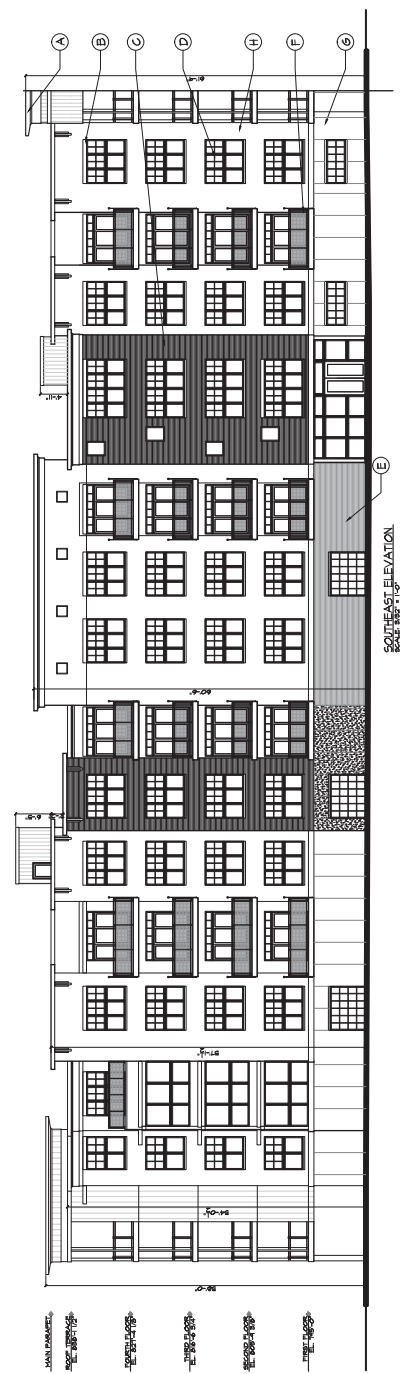
- (A) BENT METAL COPING PARAPET
- (B) ALUMINUM SOLAR SCREEN
- (C) CORRUGATED METAL SIDING
- (D) VINYL OR ALUMINUM CLAD WINDOWS (SIMILAR TO ANDERSON OR MARVIN)
- (E) BRICK VENEER
- (F) DARK BRONZE ANODIZED ALUMINUM RAILING, TYP.
- (G) POURED IN PLACE CONCRETE
- (H) CERAMITIOUS PANEL

Revision	Description
1	11.11.15

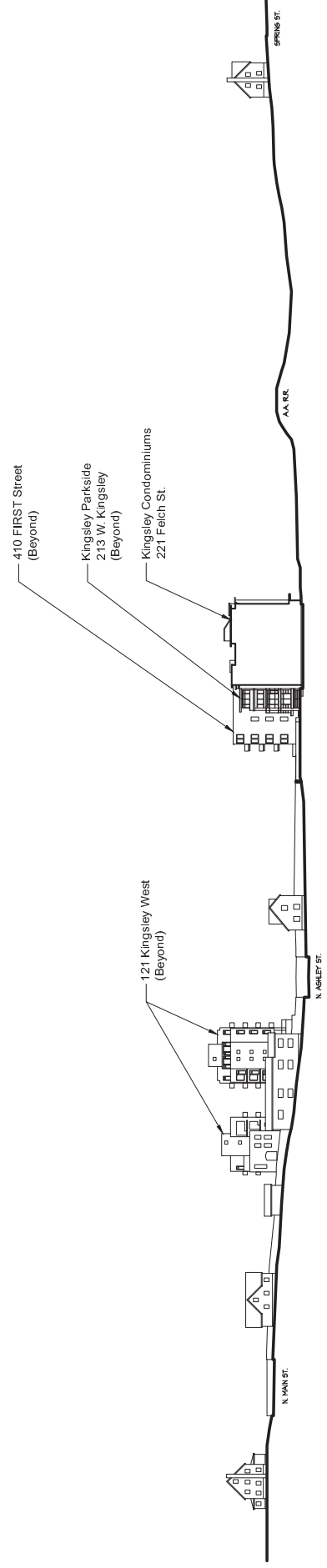


AVERAGE BUILDING HEIGHT TO MAIN PARAPET FROM GRADE @ EXTERIOR WALL = 56'-6"

- Fin System #2 _____ 11.6.15
- A BENT METAL COPING PARAPET
 - B ALUMINUM SOLAR SCREEN
 - C CORRUGATED METAL SIDING
 - D VINYL OR ALUMINUM CLAD WINDOWS (SIMILAR TO ANDERSON OR MARVIN)
 - E BRICK VENEER
 - F DARK BRONZE ANODIZED ALUMINUM RAILING, TYP.
 - G POURED IN PLACE CONCRETE
 - H CEMENTITIOUS PANEL



SOUTHEAST ELEVATION



1 SECTION LOOKING SOUTH
 C1.1 SCALE: 1" = 40'

File Name: R2	12.24.15

EXTERIOR
 PERSPECTIVES

JMAA Project No.
213490
© JMAA

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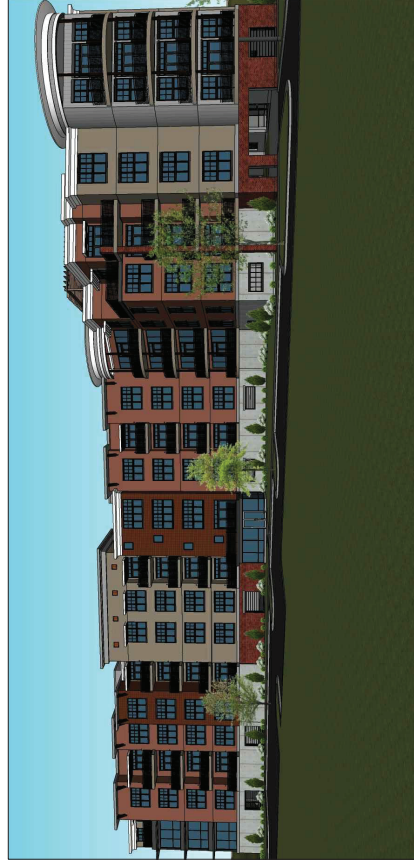
East elevation looking south west



West elevation



West elevation looking south east



East elevation

Date: August 12, 2014

Time: 6:30pm

Location: Downtown Development Authority conference room
150 S. 5th Ave, Ann Arbor, MI

Presenters

J Bradley Moore & Associates, Architects, Inc - Brad Moore
Perimeter Engineering, LLC - Kathy Keinath

A mailing list of approximately 922 names was supplied by the City Planning Department. Postcards were mailed to the addressees as required by city ordinance.

Approximately 20 attendees showed up (including council person Sabra Briere) with about 13 signing attendance sheets (see attendance sheets appended hereto).

Presentation started approximately at 6:40pm in order to leave additional travel time for attendees to find parking.

Mr. Moore and Ms. Keinath presented drawings of the existing sites owned by the Beal family and explained that the owners are proposing to rezone the 3 contiguous parcels from the existing industrial zoning to residential, specifically R4D multi-family. They then presented drawings of how a new building could be constructed on the combined properties (after demolition of all but one existing building) under the proposed zoning to accommodate new condominiums over a common at-grade garage. Mr. Moore explained that no specific building had been completely designed for the site as only an area plan is required for rezoning requests and no specific developer partner has yet been identified/selected for a new residential project. This rezoning is being proposed by the land owners and they are actively seeking a development partner for, or purchaser of, the property.

After Mr. Moore and Ms. Keinath presented drawings of a potential redevelopment of the Beal family land holdings including and contiguous to 221 Felch Street, they fielded the following questions from the attendees and noted concerns voiced by them.

Q. Will the new project have a fence along the eastern property line?

A. No. Fences are not permitted along the floodway and the eastern property line is in the 100 year floodway.

Q: How tall will the proposed building be?

A. With the number of units permitted by the zoning (51 max) there would likely be only 3 or 4 stories of residential units above the at-grade garage level. While the R4D zoning has a maximum permitted building height of 120 feet and the proposed building would likely be only 45 to 50 feet to the main body of the roof (the maximum height to roof-top structures like elevator shaft(s) and/or mechanical room could project approximately 10 feet higher). The owners of the property indicated they would be willing to stipulate, as a condition of the rezoning, a maximum building height of about half the

maximum permitted height in the R4D zoning district or less.

Q: What is the total area of the combined site?

A: Approximately 89,000 Sq. Ft.

Q: How many dwelling units would there be in any potential residential development?

A: The zoning would permit up to a maximum of 51 dwelling units.

Q: Would these be apartments or Condominiums?

A: Condominiums.

Q: What does the city master plan call for the site?

A: The proposed land use is the existing land use.

Q: How much of the proposed building will be in the floodway or floodplain?

A: No part of the proposed building is in the floodway and only a small portion of the garage level would be in the floodplain (where the depth of flood waters during a 100 year flood would be less than 12"). All of the existing older buildings, with the exception of the relatively new building fronting on Kingsley (which is on stilts) would be removed from the floodplain.

Q: Who many bedrooms in the proposed building?

A: We do not yet have any specific building designed but expect that the dwellings units would be a mix of one, two and three bedroom units with most being two bedroom units. We are not proposing student rental units with large numbers of bedrooms per unit.

Q: What is the price point of the condo units?

A: Not known at this time but they would be market rate and we expect that they would be similar to units elsewhere in and/or near the downtown. It will not be low-income housing.

Q: What is the process for rezoning the property and proposing something concrete?

A: Rezoning requires an "Area Plan" be filed with the requested rezoning which is like a preliminary site plan in that it demonstrates one way the property is likely to be used given the proposed rezoning. Once a development partner is found a full blown site plan would need to be submitted. Both the area plan with rezoning and site plan process consist of required Citizen Participation Meetings, Staff review, Planning commission public hearings & action and City Council public hearings & action.

Q: Who has jurisdiction over the floodplain/floodway?

A: The City, The County and the State through the MDEQ. As part of the approval process all of these governmental agencies will review and approve proposals

Q: Will the removal of the existing buildings have an effect on the FEMA flood boundaries?

A: Possibly. FEMA will do another review of the floodplain/floodway limits at some point in the future on their timetable.

Q: Could the Allen Creek be opened up on the site?

A: That would be up to the MDEQ, the county and the city but would in all likelihood worsen flooding in the area.

Q: Are there going to be trees planted?

A: Yes, there will be a landscape plan submitted when a final site plan is proposed/submitted.

Q: Are you going to keep the existing trees?

A: Yes.

Q: Where there be a conflicting land us buffer along the eastern property line?

A: Yes. there will be rain gardens proposed over the Allen creek drain and there will be a landscape plan submitted when a final site plan is proposed/submitted.

Q: Are there alternatives to pavement in the proposed drive?

A: Nearly all of the site is impervious surfaces now and we will be increasing the perviousness of the site greatly with our proposal. We will be evaluating the use of pervious pavement in some areas of the proposed new project as well as things like green roofs.

Q: Will the utilities that exist in the streets now handle the proposed new development?

A: We expect that they will but the city will do computer modeling to assure that they will or the developer of a proposed site plan will have to work with the city to upgrade capacity.

Q: Will a traffic study be required?

A: It is unlikely that with a maximum of 51 dwelling units that the maximum peak period trips will trigger a traffic study.

Q: Time line for construction?

A: Area plan and rezoning is 4-8 months in best case (we are in that process now). Then a site plan would need to be approved after the rezoning which is another 6-9 months. Construction would take 15-18 months for the total project.

Q: What other zoning classifications would permit multi-family residential use on the site with a maximum height of less than 120 feet?

A: D2, R4C, R4B, R4A and O.

Q: Is all of the grade level used for parking.

A: There are areas outside the flood plain that can be used for things like entrances, lobby, community room, exercise room etc. but most of that level will be for parking.

Q: What will the height of the proposed building be with respect to the existing railroad track embankment?

A: We will have to get the surveyor out to investigate.

Q: What will the building look like?

A: No specific building has been designed yet but we believe that, in keeping with the history of buildings in the "industrial crescent" following the railroad through the west side of town, the building would have simple lines, lack of ornamentation, and that materials would include brick, stone, concrete metal siding and glass windows and would include exterior balconies.

Q: What would the use be of the existing office building facing Kinsley?

A: It would be converted to one or more dwelling units or could contain a community room or exercise room.

Q: How can we keep track of process?

A: City Planning Department website has email notification system you can sign up for and please feel free to contact us.

Concerns expressed included:

Building could be too tall.

Traffic speed is bad now on Kingsley and this could make things worse.

Sanitary sewer capacity might not exist.

Formal presentation concluded at 7:50pm.

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PROJECT
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	kilar@provide.net	

PROJECT
21 Fract