

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of September 5, 2018

**SUBJECT: Lockwood of Ann Arbor PUD Zoning District and PUD Site Plan for City Council Approval
(3365 Jackson Avenue)
File No. SP17-0039 & Z17-014**

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve Lockwood of Ann Arbor Planned Unit Development (PUD) Zoning District and Supplemental Regulations, PUD Site Plan, and Development Agreement

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve Lockwood of Ann Arbor Development Alternative Mitigation Plan for a maximum of 46% of required mitigation as monetary contribution to the City of Ann Arbor's street tree planting fund.

STAFF RECOMMENDATION:

Staff recommends that the Lockwood of Ann Arbor PUD Zoning District and Supplemental Regulations be **approved** because the uses, physical characteristics, design features, and amenities proposed provide a beneficial effect for the City, could not be achieved under any other zoning classification, will not have a detrimental effect on public utilities or surrounding properties, provides adequate justification for deviation from the master plan, provides sufficient analysis and justification in the supplemental regulations, and provide acceptable vehicular and pedestrian circulation.

Staff recommends that the Lockwood of Ann Arbor Development PUD Site Plan be **approved** because the development would comply with the PUD Zoning District and Supplemental Regulations as well as all applicable local, state and federal laws, ordinances, standards and regulations, would limit the disturbance of natural features to the minimum necessary to allow reasonable use of the land, and would not cause a nuisance or a detrimental effect on the public health, safety and welfare.

LOCATION:

The site is located on the south side of Jackson Avenue, east of Wagner Road and adjacent to Dolph Park Nature Area.

SUMMARY:

A proposal to rezone a 3.52 acre vacant site from R1C (Single-Family Residential District) to PUD (Planned Unit Development), and to construct a three-story, 106,245 square foot residential building with a 65 space surface parking lot. The site plan proposes 95 independent senior apartments, 55 one-bedroom units, 28 two-bedroom units, and 12 studio units in a single building. The building will also contain a commercial kitchen and dining area, small barber shop, activity room, movie room, fitness room and small clinic. All facilities are for use only by the Lockwood residents and their guests.

UPDATE:

On May 1, 2018, Planning Commission postponed this petition in order to allow the petitioner time to meet with residents and respond to concerns raised by the Planning Commission.

The following is a list of issues raised by Planning Commission at the last meeting. Staff also shared the list with the petitioner for their review and response. Responses below are staffs summary, the petitioner will provide additional supplemental information separately.

Emergency Access - The Fire Marshall has reviewed the revised plan and approves the proposed layout and access plan. Specifically Planning Commissioners had questions regarding the single-access to Jackson (acceptable), access around building (acceptable) and possible mobility impairment of residents (accounted for). In addition, neighborhood concerns were mentioned regarding possible noise from emergency vehicles, the Fire Marshall has confirmed sirens are deactivated once the vehicle is on the site.

Environmental Concerns – Planning Commission raised questions on how the proposed infiltration would affect the monitoring wells and underground contamination on the site. The city Soil Erosion and Storm Water reviewer and Environmental Coordinator have reviewed the specific detention systems design, in addition to soils data for the site and location of known contamination. The proposed infiltration will not affect the contaminated aquifer located under the site, between the bottom of the infiltration area and the contaminated groundwater there are two soil layers of clay. Clay soils serve as a confining layer that prohibits, or greatly impedes, the movement of groundwater. These two layers will prevent the water infiltrated from the proposed development from reaching the contaminated groundwater. It is also worth noting, that as the site currently sits, infiltration is occurring across the entire site.

Monitoring Wells – As shown on the site plan the two official MDEQ monitoring wells on the site will be maintained and protected during construction. A third well, a former domestic water well, is not required by the MDEQ for monitoring. The environmental consultant responsible for monitoring the wells and reporting to the MDEQ has stated that the third well is not needed and they will be working with the MDEQ to properly cap the well. If an additional sampling site is required by the MDEQ, the consultant is required to work with the MDEQ to find an additional location.

The City's Environmental Coordinator has reviewed the proposal and concurs with the consultant's recommendation. If the MDEQ needs an additional well on the site, the petitioner will be required to install it. As with any landowner in the area, any work affecting monitoring wells is required to be approved by the MDEQ. Since the 'third well' was not installed as an official monitoring well, any new well will meet specifications and locational guidelines. The petitioner has stated that they are committed to working with MDEQ to address any concerns. Any recommendation of approval could be conditioned upon the petitioner working with the MDEQ.

Parking – The petitioner will provide additional data to support the parking count requested. In addition to previous information provided below, Planning staff reached out to two municipalities (Burton and Fenton) where Lockwood properties are located. They did not report any issues of concern regarding parking at those locations.

Playground location – Planning Commission questioned the location of the proposed public playground and whether or not it should be moved. In follow up with Parks staff, they indicated a slight preference for the proposed location of the playground. In addition, the petitioner presented the idea of adjusting the playground location at the public neighborhood meeting. They indicated no strong opinions were voiced, so the public playground is proposed to remain in the northeast corner of the site.

Loading Zone/Solid Waste Location – In response to concerns from the neighbors and Planning Commission, the location of the loading zone was moved 65 feet to the east and is now 82 feet from the western property line. The Solid waste enclosure was also moved away from the adjacent neighborhood and is now approximately 150 feet away from the western property line.

Connectivity – No additional connections were added to the plan. The site has maximized connections with the adjacent neighborhood as well as Dolph Park and Jackson Road.

Affordable Housing – Planning Commission had questioned the length of the dedicated affordable housing being provided. The petitioner has responded by noting the term of affordability will be 99 years. In addition, the total number of affordable housing units has been doubled from 20% previously to 40%; the required affordable housing contribution is 15%. The petitioner has also changed 12 previous two-bedroom units to 12 studio apartments further increasing the overall affordability of the housing units

Scale and Massing – As noted above, by converting 12 two-bedroom units to studios, the overall size of the building has decreased slightly by approximately 6,000 square feet. Petitioner will provide graphics and additional explanation for the proposed design and massing.

Citizen Participation – As requested, the petitioner held an additional public participation meeting on May 31, 2018. Over 400 postcards were mailed to residents in the area. A summary can be presented by the petitioner to the Planning Commission.

Natural Features – Specific questions regarding snow storage, use of fertilizers and possible effects on the adjacent lakes were raised by the Planning Commission. As required by City Code, the site plan does have several areas designated specifically for snow storage. Snow melt will be infiltrated through the storage area within designated landscape islands. Snow will not be plowed offsite into the adjacent natural area. The petitioner has agreed and it will be noted in the Development Agreement to limit use of any fertilizers on-site.

Specific concerns were mentioned by citizens regarding the Kirtland's Warbler and other migratory songbirds and how they could be affected by the proposed development. NAP staff consulted with the staff Ornithologist who visited the site and submitted a review. The review states that the project site does not represent Kirtland Warbler habitat and is unlikely to be stopover as they typically fly from Bahamas to Northern Michigan non-stop. However, the review notes that Dolph Nature Area is a known migratory destination for other birds. While most of the vegetation will be removed on the Lockwood site, since the surrounding area will remain wooded, the impact on migratory birds will be minimal. In addition, the Lockwood site will be re-planted with native Michigan species of plant materials favorable to birds. Lighting was mentioned as a concern for night migratory birds. The Lockwood photometric plan details parking lot fixtures that are similar to preferred fixtures listed on the Dark Sky website for reducing light pollution. The reduced size of the parking lot minimizes required parking lot lighting on the site. Additional lighting on the site is provided by low bollard lighting along sidewalks and paths. As part of the PUD petition, lighting can be regulated within the supplemental regulations. If developed as R1C single-family, lighting would not be regulated and private homeowners could install any lighting fixtures with minimal restrictions.

REZONING PETITION:

Current Zoning – The site is currently zoned R1C which allows a maximum of 21 single-family homes.

Proposed Zoning -- The proposed Supplemental Regulations allow the following uses and configuration of the site:

- Three stories of residential use and a maximum of 95 units, a minimum of 40% (38 units) of the units must be designated for households with income no higher than 50% of the Area Median Income.
- A total of 65 vehicle parking spaces, including one electric vehicle charging station(dual mounted for use by two cars) and two parking spaces for use by visitors to the adjacent Dolph Park.
- A maximum floor area of 107,000 square feet.
- Accessory uses for residents including: Commercial kitchen and dining area, barber shop, clinic, fitness room, and shuttle bus.

SITE PLAN PETITION:

Existing Conditions – The site is currently vacant, one single-family home occupied the site and was demolished in 2011.



Figure 1: Existing Conditions (2015)

Site Layout – The proposed site plan and additional color renderings show a X-shaped building in the center of the site with parking proposed along the southern and eastern property line.

Access and Parking – The site has a single access driveway off Jackson Avenue, leading to the parking lot which includes a small covered drop off area. This drive will also be the sole access for deliveries, trash and recycling pickup. Parking is provided in a 65 space parking lot which includes 53 regular and 12 compact spaces. The uses proposed in the building require 143 spaces (1 ½ spaces per unit) according to the parking requirements for multiple-family structures. The PUD zoning allows the modification of to reduce the parking required. Also included in the parking provided will be two spaces dedicated to electric vehicle charging and two spaces that designated for use by visitors to Dolph Park and the new public play area on the site. Six bicycle parking Class C spaces will be provided.

Currently no sidewalk exists along Jackson Avenue at this location. The petitioner will install 374 feet of public sidewalk along the frontage of the subject parcel as required by code. As a public benefit, the petitioner has agreed to install an additional 495 feet of public sidewalk from the western parcel boundary along Jackson Avenue to the bus stop at the Wagner Road intersection. The petitioner has also agreed to install 480 lineal feet of woodchip path along the eastern property line to link with the existing trail system within Dolph Park. Internal sidewalks are proposed within the site and provide a link from the Ferry Street terminus to the public play area at the northeast corner of the site.

Traffic Study – A traffic study has been prepared for the proposed development and has been reviewed by city traffic engineering staff. The traffic study used data specific to senior adult housing of similar nature and was based on 100 units (95 proposed). The study concluded that any additional trips generated by the proposed use will not have an impact on existing traffic on Jackson Avenue. This analysis was confirmed by the City's Traffic Engineer.

Natural Features – There are nine landmark trees located on the site along with numerous additional trees of smaller sizes, including invasive species. Three landmark trees (2 Northern Catalpa, 1 Black Walnut) will be removed for construction; these trees are located near the center of the site. Mitigation is proposed per City Code with a total of 179 new native Michigan trees provided on site. The petitioner is also proposing alternative mitigation as permitted by City Code for up to 46% of the total mitigation required. The petitioner is choosing a payment to the City's street tree fund of approximately \$23,000. There are no wetlands or steep slopes located on the site.

Landscaping, Screening, Buffers – A 15 foot wide conflicting land use buffer (CLUB) is required for the east, west and south sides of the parcel. This requirement is being met with an increase in the number of evergreen trees along the west boundary adjacent to the single-family homes. All parking lot landscape islands and bio-retention areas are proposed as required by code.

Storm Water Management – Management of a 100-year storm event volume is proposed via the use of infiltration basins primarily in the northwest corner of the site. Bioretention basins are planned in parking lot landscape islands. All storm water in these basins will infiltrate, and as a result, will not increase off storm water flow off-site. A section of the development along the eastern side of the parcel adjacent to Dolph Park will be permitted to drain through bioretention islands into the existing wetlands. The water flow from this area will help maintain the water budget currently flowing to the adjacent wetlands.

Building Design and Materials – The site plan indicates a three-story building with a peaked roof measuring a total of 41.5 feet in height to the mid-point of the gable roof. The two-story base of the building will be composed of brick with stone accents, the third floor is composed of vinyl siding. A covered drop-off area is proposed for the east side of the building

Site Amenities – With the reduction of parking requested, the petitioner is able to dedicate significantly more area to open space that would otherwise be used by parking lots. Within this open space area there are proposed paths, gardening beds for residents, a small outdoor patio adjacent to the dining room and a wood chip path with a pergola and benches along the front of the building. A shuttle bus is also provided for residents. This shuttle provides scheduled trips to stores, doctors visits, local attractions and special field trips.

The site provides for 55.2% open space, this includes sidewalks and paths, but not any parking areas or building area.

Park Contribution – As a public benefit, the petitioner is constructing an approximately 1600 square foot play area in the northwest area of the site. This play area will be dedicated for public use addressing an identified goal in the PROS plan for active playgrounds in this area. Final design of the playground will be coordinated directly with Park Planning staff.

The petitioner will also install a 480 lineal foot woodchip path along the eastern boundary of the site. The path will vary in location on both City Park property and the subject site following existing contours of the land. This path will provide a direct connection between the proposed new sidewalk along Jackson Road and the existing trail system within Dolph Park. Two parking spaces near Jackson Avenue will be signed specifically for use by Park visitors. This link was a priority goal of the Natural Areas Preservation (NAP) staff who worked with the petitioners team to identify the best location for the path.

SITE PLAN DATA ANALYSIS:

	REQUIRED	PROPOSED
Zoning District	R1C (Single-Family)	PUD
Lot Area	3.52 acres (153,331 sq ft)	3.52 acres (153,331 sq ft)
Density	7,200 sf per parcel or 21 single-family parcels	95 units
Setback: Front (Jackson Ave)	25 ft	27 ft 7 in
Setback: Side (East)	5 ft	71 ft 11 in
Setback: Side (West)	5 ft	41 ft 3 in
Setback: Rear (South)	30 ft	103 ft 3 in
Height	30 ft	41.5 ft MAX (to the midpoint of gable)
Open Space	N/A	68,651 sf or 55.2%
Land Uses	Residential	Residential
Vehicle Parking	1 space per unit	65 spaces
Bicycle Parking	N/A	6 Class C spaces

LAND USE ANALYSIS (SURROUNDING LAND USES AND ZONING):

	LAND USE	ZONING
NORTH	Jackson Avenue	C3 (Fringe Commercial District)
EAST	Dolph Park Nature Area	PL (Public Land)
SOUTH	Dolph Park Nature Area	PL (Public Land)
WEST	Residential	R1D (Single-Family)

CITIZEN PARTICIPATION:

The applicant held a meeting for citizens regarding the proposed rezoning and site plan on May 17, 2017 and provided a summary report as required. There were a total of 436 notices mailed out and 16 people attended the meeting in addition to the project team. The petitioner held an additional public meeting on April 19, 2018. At the request of Planning Commission, the petitioner held a third public participation meeting on May 31, 2018. Over 400 postcards were mailed to residents in the area. A summary can be presented by the petitioner to the Planning Commission.

CITY MASTER PLAN:

Seven documents constitute the elements of the City Master Plan for this area:

1. Sustainability Framework (2013)
2. Land Use Element (2009)

3. Downtown Plan (2009)
4. Transportation Plan Update (2009)
5. Non-motorized Transportation Plan (2007) and Update (2013)
6. Parks and Recreation Open Space Plan (2016-2020)
7. Natural Features Master Plan (2004)

Chapter Five (Land Use) of the Master Plan: Land Use Element identifies key issues the City wishes to address with new development. Affordable housing is a prominent goal of the City identified in different studies and plans. Lockwood will dedicate a minimum of 40% of units affordable for senior citizens. Diversity of housing types, mixed uses and land use balance are additional goals that are achieved by the housing type proposed. The site is also located on a main transit route of Jackson Avenue with new sidewalk to be installed leading to the bus stops along Jackson. The new sidewalk will also help the existing residential neighborhood have safer more convenient access to bus transportation as well as Dolph Park through use of the path link to Jackson.

Chapter Five (Land Use) also describes Land Use Goals, Objectives and Action Statements the Lockwood of Ann Arbor petition addresses several of the objectives/goals identified:

To ensure that development projects are designed and constructed in a way that preserves or enhances the integrity of natural systems.

Establish strong open space linkages with new development

Locate higher residential densities near mass transit routes and in proximity to commercial, employment and activity centers

Improve the safety, accessibility and desirability of walking, biking or using mass transit.

Improve transportation integration between neighborhoods

Encourage affordable housing units to be constructed as part of new development projects.

REZONING ANALYSIS:

Changes to the text or map of the Unified Development Code (Chapter 55 of the Ann Arbor City Code) may be made pursuant to Sections 5.29.9. and 5.29.10 To assist the Planning Commission and City Council with their decision, applicants provide a petition with justifications in support of the request. The petition addresses:

- The current zoning and history of the site.
- The objective, purpose, and beneficial effect of the PUD for the city.
- Why this beneficial effect cannot be achieved under any other zoning.
- Why the uses proposed will not have a detrimental effect on public utilities and surrounding properties.
- How the proposed PUD is consistent with the Master Plan Land Use Element recommendation

- Vehicular and pedestrian circulation.
- Disturbances to natural or historical features and why this disturbance is necessary.
- Proposed modifications to the City Code.

As condensed into the Supplemental Regulations, the PUD zoning petition says the district provides:

- New housing for the City, which addresses numerous housing goals of the Master plan including: A diverse housing type(s), housing for independent seniors, a minimum of 40% (15% Required) of total units designated for affordable housing for 99 years.
- Economical land use by reducing parking areas based on parking counts of similar facilities and demonstrated need of residents. This results in significantly less impervious surface, increased stormwater infiltration, and increased open space for residents and neighbors;
- Improvements to transportation options and pedestrian safety through the installation of new public sidewalks on site and almost 500 feet of a public sidewalk leading to a bus stop along Jackson Avenue. This sidewalk is a notable step toward increasing pedestrian safety along Jackson Road. This satisfies goals in the Master Plan as well as the CIP; Connecting existing neighborhood to Jackson Avenue and Dolph Park through new park path from Jackson Avenue.
- A dedicated public park active play area open to all public and installed and maintained by Lockwood. This satisfies a goal of the PROS plan for an active playground in this area of the City.

SERVICE UNIT COMMENTS:

Planning – The rezoning of this parcel from R1C to PUD zoning accomplishes many goals identified in the City’s Master Plan and supporting documents. The existing land use recommendation designates the site for single or two family residential use. While this proposed use does not meet this single-family land use designation, the proposed petition does accomplish several Goals, Objectives, and Action Statements City’s Master Plan:

- A reduction of impervious surface
- Diverse housing type
- Affordable housing
- Increased pedestrian connectivity
- Increased pedestrian safety
- Improved safety by the construction of almost 900 feet of public sidewalk, including street trees along Jackson Avenue
- Improved park access with two dedicated parking spaces and a public trail link to Dolph Park
- Approximately 1,600 square foot active public play area that is addressing an identified need in the PROS plan.
- Residential uses adjacent to public transit

Regarding the final parking count, Planning staff has requested extensive background data and made independent visits to two similar facilities operated by this petitioner. Field visits and aerial

photographs do verify that the majority of the parking lots at those locations were empty. The petitioner estimates approximately 18 workers during the day and one worker at night.

Planning staff requested data on deliveries and solid waste activities for the building. Petitioner has responded with data based on similar facilities. Trash will be picked up two to three times per week. Food and produce deliveries will be once per week with occasional moving trucks and UPS/Mail deliveries. Due to noted concerns, the location of the dumpster was adjusted to the center of the south side of the site, which is 150 feet from the adjacent western residential property line. The petitioner has stated a desire to minimize deliveries and resulting noise for the benefit of the adjacent neighborhood and Lockwood residents.

The petitioner is installing 374 feet of public sidewalk along Jackson Avenue and has volunteered to install an additional 495 lineal feet of public sidewalk from the property boundary to Wagner Road and the AATA bus stop. This new sidewalk will significantly increase pedestrian safety and has been identified as a missing sidewalk link in that area. The total length of new sidewalk to be constructed along Jackson Avenue will be 869 lineal feet. With the petitioner constructing the public sidewalk, this saves the residents along this section of Jackson Avenue from a special assessment if the City were to install the sidewalk later. The petitioner will plant approximately 14 street trees along this sidewalk as part of the alternative mitigation required for tree removal on the site.

Affordable housing is required as part of any residential PUD petition that includes housing density above what is permitted under the existing zoning. The formula for the required amount is listed in Chapter 55 (Unified Development Code). The current petitioner exceeds the base density by over 25%, which requires a minimum of 15% (14 units) of the total units be dedicated as affordable. The petitioner is exceeding what is required and providing a minimum of 40% (38 units) of affordable housing. This will be required for 99 years and adopted as part of the supplemental regulations for the property. If these units are not provided at any time during the designated term, the site will be deemed in violation of the zoning and the approved site plan.

Natural Area Preservation (NAP) staff worked with the petitioner to plan a trail linkage from Jackson Avenue to the existing paths in Dolph Park. The developer will install the path and grant easements for locations where the path crosses onto the Lockwood property.

Parks staff also worked to locate an active playground on the site. Parks staff and the Parks and Recreation Open Space (PROS) Plan identified this as a priority need for the area. Path linkages are planned from Ferry Street and Jackson Road. The playground will not be designed to be a regional attraction; rather it will be designed to serve the adjacent neighborhoods and residents/guests of the Lockwood project. The developer will work with staff to create the final design. There will be two spaces dedicated to Parks use in the Lockwood parking lot adjacent to Jackson Avenue.

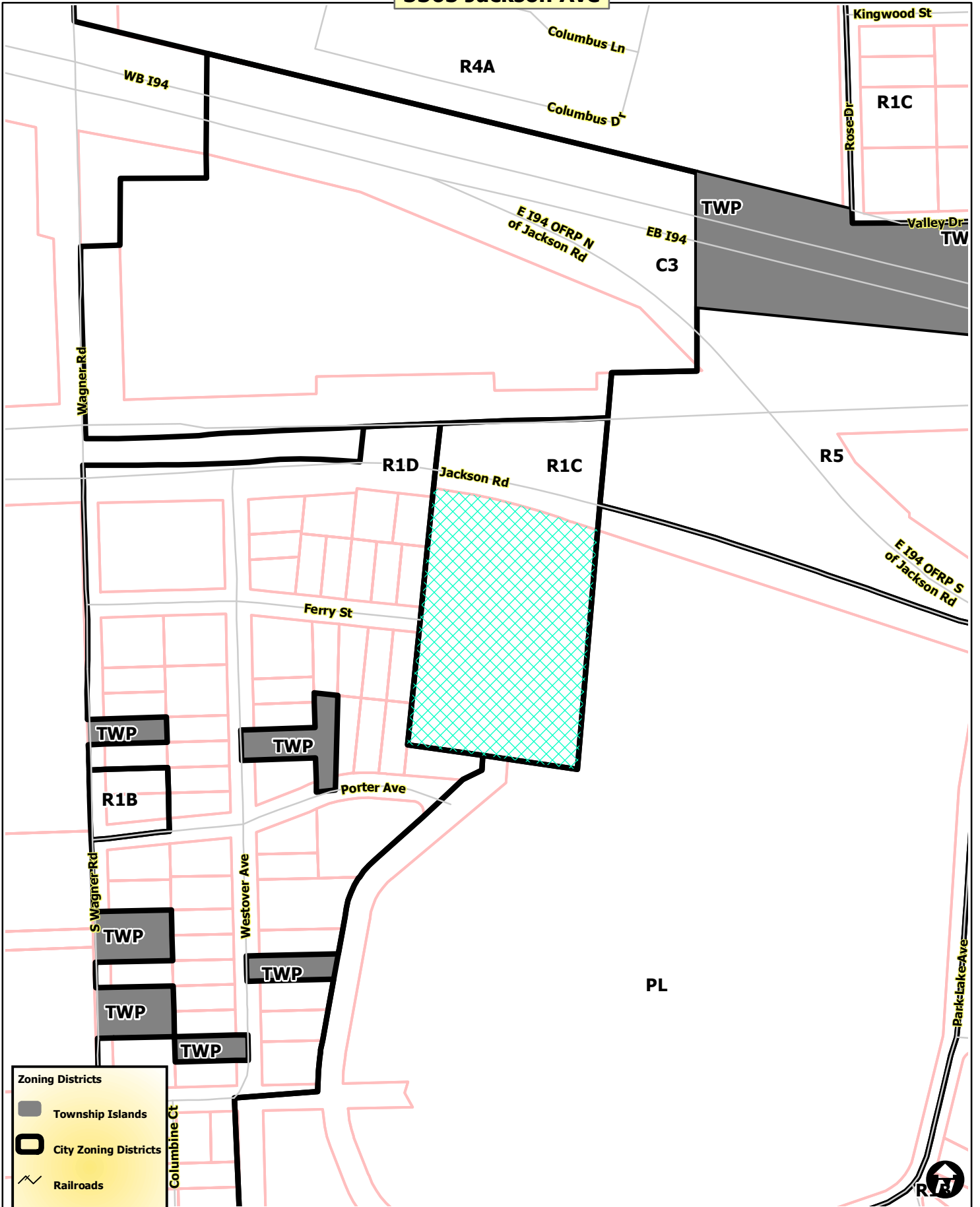
The Draft Development Agreement and Draft Supplemental Regulations have not yet been reviewed by the city attorney's office. This review takes place after City Planning Commission makes a recommendation and before City Council considers the petition.

Reference Documents: [PUD Zoning Application](#)
 [Site Plan](#)
 [Architectural Plans](#)
 [Landscape Plan Additional Materials](#)
 [Parking Research and Data](#)
 [May 2018 Neighborhood Meeting](#)
 [Public Benefit Summary](#)
 [Shadow Study](#)
 [R1C Zoning Layout Overlay](#)






Attachments: Zoning Map
 Aerial Photo
 Draft Development Agreement
 DRAFT Supplemental Regulations

c: Mark Korinek, Lockwood Companies, LLC (Owner)
 Joe Maynard, Washtenaw Engineering, LLC (Project Engineer)
 Jordan London, Edmund London & Associates
 Systems Planning
 Project No. SP17-014, Z17-014

3365 Jackson Ave



Zoning Districts

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



Map date 5/17/2016
 Any aerial imagery is circa 2015
 unless otherwise noted
 Terms of use: www.a2gov.org/terms

3365 Jackson Ave



- Railroads
- Parcels
- Huron River



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LOCKWOOD OF ANN ARBOR DEVELOPMENT AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 2018, by and between the City of Ann Arbor, a Michigan Municipal Corporation, with principal address at 301 East Huron Street, Ann Arbor, Michigan 48107, hereinafter called the CITY; and Lockwood Development Company, LLC, a Michigan Limited Liability Company, with principal address at 27777 Franklin Road, Suite 1410, Southfield, MI. 48034 hereinafter called the PROPRIETOR, witnesses that:

WHEREAS, the PROPRIETOR owns certain land in the City of Ann Arbor, described below and site planned as *Lockwood of Ann Arbor* and

WHEREAS, the PROPRIETOR has caused certain land in the City of Ann Arbor, described below to be surveyed, mapped and site planned as *Lockwood of Ann Arbor as above*, and desires *site plan* and development agreement approval thereof, and

WHEREAS, the PROPRIETOR desires to build or use certain improvements with and without the necessity of special assessments by the CITY, and

WHEREAS, the CITY desires to ensure that all of the improvements required by pertinent CITY ordinances and regulations be properly made, and that the PROPRIETOR will install these improvements prior to any permits being issued.

THE PROPRIETOR(S) HEREBY AGREE(S):

(P-1) To prepare and submit to the CITY for approval plans and specifications ("the Plans") prepared by a registered professional engineer for construction of public water, private storm water management systems, and sidewalks ("the Improvements") provided that no work on said Improvements shall be commenced until the Plans have been approved by the City Administrator or designee, and until such other relevant information to CITY service areas as shall be reasonably required has been provided.

(P-2) To construct all improvements set forth in Paragraph P-1 of this Agreement in accordance with the approved Plans and to repair all defects in the improvements that occur within one year from the date of acceptance of the Improvements by the CITY, commencing on the latest date of the acceptance of any Improvements by the CITY. If the PROPRIETOR fails to construct the improvements, the CITY may send notice via first class mail to the PROPRIETOR at the address listed above requiring it to commence and complete the improvements in the notice within the time set forth in the notice. The CITY may cause the work to be completed at the expense of the PROPRIETOR, if the PROPRIETOR does not complete the work within the time set forth in the notice. Every owner of a portion of the property, including co-owners of condominium units, shall pay a pro-rata share of the cost of the work. That portion of the cost of the work attributable to each condominium unit shall be a lien on that

Property and may be collected as a single tax parcel assessment as provided in Chapter 13 of the Ann Arbor City Code.

(P-3) To furnish, within 30 days of completion, an engineer's certificate that the construction of the public improvements set forth in Paragraph P-1 above have been completed in accordance with the specifications of the CITY in accordance with the approved plans. The engineer's certificate will cover only those items the PROPRIETOR'S engineer inspects.

(P-4) Prior to the issuance of building permits to deposit with a mutually acceptable escrow agent fully executed documents in a form acceptable to the CITY, which will convey, upon delivery to the CITY, easements for the construction and maintenance of public utilities. The escrow agreement shall provide for delivery of the documents to the CITY solely upon the condition that the CITY has accepted the public Improvement to be conveyed by the easement.

(P-5) To provide, prior to the issuance of building permits, a signing plan to the Fire Department and install all signs according to CITY specifications and to provide and install such temporary warning signs during the construction period as are appropriate to protect the health, safety and welfare of the public.

(P-6) To install all water mains, storm sewers, and the private driveway, through the first course of asphalt, pursuant to CITY approved plans and specifications, necessary to connect the site with existing CITY systems adjacent to the site prior to the issuance of any building permits.

(P-7) To be included in a future special assessment district, along with other benefiting property, for the construction of additional improvements to Jackson Avenue, such as street widening, storm sewers, curb and gutter, sidewalks, bike paths, street lights, and the planting of trees along Jackson Avenue frontage when such improvements are determined by the CITY to be necessary.

(P-8) To convey to the CITY, prior to the issuance of Building permits and subject to acceptance by the Ann Arbor City Council, 60 feet for dedication of Jackson Road Right of Way

(P-9) Prior to request for any Certificate of Occupancy, to design and construct after review and approval by the City Administrator or designee public sidewalk from the western property boundary of the site along Jackson Avenue to the terminus of the existing public sidewalk near the Wagner Road intersection as shown on the approved site plan.

(P-10) To indemnify and hold the CITY harmless from any claims, losses, liabilities, damages or expenses (including reasonable attorney fees) suffered or incurred by the CITY based upon or resulting from any acts or omissions of the PROPRIETOR, its employees, agents, subcontractors, invitees, or licensees in the design, construction, maintenance or repair of any of the Improvements required under this Agreement and the approved site plan.

(P-11) To cause to be maintained General Liability Insurance and Property Damage Insurance in the minimum amount of \$1,000,000 per occurrence and naming the CITY as named insured to protect and indemnify the CITY against any claims for damage due to public use of the public improvement(s) in the development prior to final written acceptance of the public improvement(s) by the CITY. Evidence of such insurance shall be produced prior to any construction of improvement and a copy filed with the City Clerk's Office and shall remain in full

force and effect during construction of the public improvement(s) and until notice of acceptance by the CITY of the Improvements.

(P-12) Existing landmark trees shown on the site plan as trees to be saved shall be maintained by the PROPRIETOR in good condition for a minimum of three years after acceptance of the public improvements by the CITY or granting of Certificate of Occupancy Existing landmark trees that are determined by the CITY to be dead, dying or severely damaged due to construction activity within three years after acceptance of the public improvements or granting of Certificate of Occupancy shall be replaced by the PROPRIETOR as provided by Chapter 57 of the Ann Arbor City Code.

(P-13) For the benefit of the residents of the PROPRIETOR'S development and residents of the City of Ann Arbor, to grant a public access easement for the public playground in the northwest corner of the site as shown on the approved site plan prior to the request for or issuance of any certificate of occupancy.

(P-14) For the benefit of the residents of the PROPRIETOR'S development and residents of the City of Ann Arbor, install a woodchip path along the eastern property boundary, as shown on the approved site plan, prior to request for or issuance of any certificate of occupancy. This work shall be performed in consultation and with approval of the City of Ann Arbor's designated staff.

(P-15) To deposit, prior to the issuance of any building permits, a street tree planting escrow account with the Parks and Recreation Services Unit in the form of a check payable to the City of Ann Arbor. The escrow amount shall be based on the CITY policy in effect at that time and is to include all on-site public streets. The City Administrator may authorize the PROPRIETOR to install the street trees if planted in accordance with CITY standards and specifications. If the street trees are found to be acceptable by the CITY, the escrow amount will be returned to the PROPRIETOR one year after the date of acceptance by the CITY.

(P-16) To provide a minimum of 40 percent of the total housing units in this Project leased at or below 50 percent of the City of Ann Arbor median household income, as defined by the United States Department of Housing and Urban Development (HUD) in perpetuity. The PROPRIETOR or its designee shall verify the income eligibility of the tenant using a form approved by the CITY and the CITY or its designee shall certify that the renter is income eligible. The affordable units shall remain available to individuals and families with income at or below 50 percent of the City median income in perpetuity. The PROPRIETOR agrees to execute a Housing Affordability Covenant with the CITY, and to record such covenant prior to recording of the Master Deed.

(P-17) To construct, repair and/or adequately maintain on-site storm water management system. If the PROPRIETOR fails to construct, repair and/or maintain the private storm water management system, the CITY may send notice via first class mail to the PROPRIETOR at the address listed above, requiring it to commence and complete the items stated in the notice within the time set forth in the notice. The CITY may cause the work to be completed at the expense of the PROPRIETOR if the PROPRIETOR does not complete the work within the time set forth in the notice.

(P-18) After construction of the private on-site storm water management system, to commission an annual inspection of the system by a registered professional engineer evaluating

its operation and stating required maintenance or repairs, and to provide a written copy of this evaluation to the CITY Public Services Area.

(P-19) To design, construct, repair and maintain this development in accordance with the provisions of Chapter 119 (Noise Control) to ensure that any noise emanating from said development will not impact nearby residents or businesses. In addition, PROPRIETOR shall review existing noise sources surrounding said development and incorporate necessary design and construction techniques to ensure that future tenants will not be exposed to noise sources in violation of Chapter 119.

(P-20) To include the elevation drawings, as submitted to City Council, as part of the approved site plan and to construct all buildings consistent with said elevation drawings. If the PROPRIETOR proposes any substantive changes to the approved building elevations, setbacks, aesthetics, or materials, that those changes be brought back to the City Council for consideration. The PROPRIETOR is required to submit signed and sealed drawings to staff reflecting the elevations, setbacks, aesthetics, materials and site plan approved by City Council.

(P-21) To remove all discarded building materials and rubbish from the development at least once each month during construction of the development improvements, and within one month after completion or abandonment of construction.

(P-22) PROPRIETOR is the sole title holder in fee simple of the land described below except for any mortgage, easements and deed restrictions of record and that the person(s) signing below on behalf of PROPRIETOR has (have) legal authority and capacity to enter into this agreement for PROPRIETOR.

(P-23) Prior to building permits being issued, to restrict, but not prohibit, by covenants and restrictions recorded with the Washtenaw County Register of Deeds, the use of lawn care chemicals and fertilizers in order to minimize the impacts on Dolph Nature Area.

(P-24) Failure to construct, repair and/or maintain the site pursuant to the approved site plan and/or failure to comply with any of this approved development agreement's terms and conditions shall constitute a material breach of the Agreement and the CITY shall have all remedies in law and/or in equity necessary to ensure that the PROPRIETOR complies with the approved site plan and/or the terms and conditions of the approved development agreement. The PROPRIETOR shall be responsible for all costs and expenses including reasonable attorney fees incurred by the CITY in enforcing the terms and conditions of the approved site plan and/or development agreement.

(P-25) In addition to any other remedy set forth in this Agreement or in law or equity, if PROPRIETOR fails to make a timely or full payments to the CITY as set forth elsewhere in the Agreement to the CITY in the agreed upon manner, any unpaid amount(s) shall become a lien, as provided under Ann Arbor City Code and recorded with the Washtenaw County Register of Deeds, against the land described below and may be placed on the CITY tax roll as a single lot assessment, or if the development is converted to condominium ownership, every owner of a portion of the property shall pay a pro-rata share of the amount of the payments attributable to each condominium unit. If the unpaid amount(s), in whole or in part, has been recorded as a lien on the CITY'S tax roll and with the Washtenaw County Register of Deeds, upon payment of the amount in full along with any penalties and interest, the CITY, upon request, will execute an

instrument in recordable form acknowledging full satisfaction of this condition. *(or against that portion of the cost of the work)*

(P-26) To pay for the cost of recording this Agreement with the Washtenaw County Register of Deeds, and to pay for the cost of recording all documents granting easements to the CITY.

THE CITY HEREBY AGREES:

(C-1) In consideration of the above undertakings, to approve the *Lockwood of Ann Arbor PUD Site Plan*.

(C-2) To provide timely and reasonable CITY inspections as may be required during construction.

(C-3) To record this agreement with the Washtenaw County Register of Deeds.

GENERAL TERMS

Both the PROPRIETOR and the CITY agree as follows:

(T-1) This agreement is not intended to create a contractual right for third parties.

(T-2) This Agreement and any of its terms, conditions, or provisions cannot be modified, amended, or waived unless in writing and unless executed by both parties to this Agreement. Any representations or statements, whether oral or in writing, not contained in this Agreement shall not be binding on either party.

(T-3) This Agreement and any of its terms or conditions shall not be assigned or transferred to any other individual or entity unless prior approval of the CITY is received. Such approval shall not be withheld unreasonably.

(T-4) The obligations and conditions on the PROPRIETOR, as set forth above in this Agreement and in the approved site plan, shall be binding on any successors and assigns in ownership of the following described parcel:

Commencing at the Northwest corner of Section 25, T2S, R5E, City of Ann Arbor, Washtenaw County, Michigan; thence N8r48'27"E 701.33 feet (recorded as 702.00 feet) along the North line of said Section; thence S08°57'38"W 51.80 feet along the Easterly line of WESTOVER HILLS as recorded in Liber 5 of Plats, Page 32, Washtenaw County records to the POINT OF BEGINNING; thence Easterly along the centerline of Jackson Road 310.52 feet along the arc of a 1910.00 foot radius circular curve to the right, through a central angle of 09°18'54", having a chord that bears S72°53'59"E 310.18 feet; thence continuing along said centerline S68°14'32"E 35.72 feet; thence S09°02'28"W 478.40 feet; thence N81°00'19"W 137.54 feet along the Northerly line of said WESTOVER HILLS to a concrete monument; thence continuing along said Northerly line N80°55'43"W 204.34 feet; thence N09°07'33"E 232.21 feet along the Easterly line of said WESTOVER HILLS to the

centerline of Ferry Street; thence continuing along said Easterly line N08°57'38"E 297.55 feet to the Point of Beginning. Being a part of the Northwest 1/4 of Section 25, T2S, R5E, City of Ann Arbor, Washtenaw County, Michigan and containing 4.00 acres of land, more or less. Being subject to the rights of the public over Jackson Road as occupied. Also being subject to easements and restrictions of record, if any.

(T-5) In addition to any other remedy in law or in equity failure to comply with all of the above paragraphs on the part of the PROPRIETOR, or any part of the approved site plan, in part or in whole, shall give the CITY adequate basis and cause to issue a stop work order for any previously-issued building permits and shall be an adequate basis and cause for the CITY to deny the issuance of any building permits, certificates of occupancy, or any other permits unless and until the CITY has notified the PROPRIETOR in writing that the PROPRIETOR has satisfactorily corrected the item(s) the PROPRIETOR has failed to perform.

(T-6) This agreement shall be interpreted, enforced and governed under the laws of the State of Michigan and Ann Arbor City Code.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day first above written.

Witnesses:

CITY OF ANN ARBOR, MICHIGAN
301 East Huron Street
Ann Arbor, Michigan 48107

By: _____
Christopher Taylor, Mayor

By: _____
Jacqueline Beaudry, City Clerk

Approved as to Substance:

Howard Lazarus, City Administrator

Approved as to Form:

Stephen K. Postema, City Attorney

DRAFT

Lockwood of Ann Arbor Supplemental Regulations

Section 1: Purpose

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

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

Section 2: Applicability

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

Commencing at the Northwest corner of Section 25, T2S, R5E, City of Ann Arbor, Washtenaw County, Michigan; thence N8r48'27"E 701.33 feet (recorded as 702.00 feet) along the North line of said Section; thence S08°57'38"W 51.80 feet along the Easterly line of WESTOVER HILLS as recorded in Liber 5 of Plats, Page 32, Washtenaw County records to the POINT OF BEGINNING; thence Easterly along the centerline of Jackson Road 310.52 feet along the arc of a 1910.00 foot radius circular curve to the right, through a central angle of 09°18'54", having a chord that bears S72°53'59"E310.18 feet; thence continuing along said centerline S68°14'32"E 35.72 feet; thence S09°02'28"W 478.40 feet; thence N81°00'19"W 137.54 feet along the Northerly line of said WESTOVER HILLS to a concrete monument; thence continuing along said Northerly line N80°55'43"W 204.34 feet; thence N09°07'33"E 232.21 feet along the Easterly line of said WESTOVER HILLS to the centerline of Ferry Street; thence continuing along said Easterly line N08°57'38"E 297.55 feet to the Point of Beginning. Being a part of the Northwest 1/4 of Section 25, T2S, R5E, City of Ann Arbor, Washtenaw County, Michigan and containing 4.00 acres of land, more or less. Being subject to the rights of the public over Jackson Road as occupied. Also being subject to easements and restrictions of record, if any.

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

Section 3: Findings

During the public hearings on this Planned Unit Development Amendment, the Planning Commission and City Council determined that:

- (A) It is desirable to develop the property described above for a 95 unit three-story independent senior living facility
- (B) The surrounding neighborhood contains Dolph Park to the east and to the south, and abuts Jackson Avenue to the north and an existing single-family neighborhood to the west.
- (C) It is in the best interest of the City of Ann Arbor that the developer reduce impervious surface and provide high quality independent senior living facility with designated affordable housing units, increased open space, public playground, off-site public sidewalk connection to a bus stop, and public path to the existing park adjacent. The project will have a beneficial effect on, and will not adversely affect, the surrounding properties or the City, in terms of public health, safety, or welfare.
- (D) The PUD zoning district provides:
 - Senior independent housing with a minimum of ~~20~~40% affordable housing designated for households with income no higher than 50% of the Area Median Income;
 - Economical land use by reducing the need for unnecessary impervious surface by reducing the parking provided and increasing useable open space;
 - Increased pedestrian safety and convenience by constructing requiring construction of approximately 495 feet of public sidewalk from the boundary of the site west to Wagner Road;
 - Increased Dolph Park access Developer will also by requiring two dedicated parking spaces and construct approximately 480 feet of public path along the east of the site to connect with existing trails in Dolph Park.
 - Increased public recreation opportunities by providing an approximately 1600 square foot public playground designed by Parks Staff, constructed, and maintained by the developer.
 - Increased required open space and setbacks adjacent to the residential neighborhood than existing zoning(R1C) regulations.
- (E) The parcel described above meets the standards for approval as a Planned Unit Development, and the regulations contained herein do not constitute the granting of special privilege nor deprivation of property rights.

Section 4: PUD Regulations

- (A) Permitted Principal Uses of the development as depicted in the attached Site Plan shall be:
 - Multiple-Family Residential
- (B) Permitted Accessory Uses shall be:
 1. Shuttle transportation for residents only.
 2. Food preparation for residents only

3. Personal salon services for residents only
 4. Medical Clinic for residents only
 5. Chapel Room for residents only
 6. Fitness Room for residents only
- (C) Setbacks
- North (Jackson Avenue): ~~267~~ 267 feet
- East (Dolph Park): ~~6671~~ 6671 feet
- South (Dolph Park): ~~92103~~ 92103 feet
- West (Single-Family): ~~42 41~~ 42 41 feet
- (D) Height. Maximum of three-stories, not to exceed 42 feet, as measured to the midpoint of the proposed roof.
- (E) Lot Size. 153,331 square feet (3.52 acres).
- (F) Floor Area. Maximum ~~112,000~~ 107,000 square feet.
- (G) Parking. 65 vehicle spaces and 6 Class C bicycle parking spaces. Parking shall include dual charging station for two electric vehicles and two spaces designated for use by Dolph Park and the onsite public playground.
- (H) Off-Site Sidewalks. Installation of 495 feet of public sidewalk from the boundary of the subject site to the Wagner Road intersection
- (I) Park Path. Installation of 480 feet of a three-foot wide public woodchip path from the Jackson Road sidewalk to the existing path systems within Dolph Park.
- (J) Public Playground. Installation and maintenance of minimum 1,500 square foot public playground. Petitioner shall dedicate an easement for public use and access.
- (K) Site Access. One curb cut shall be permitted on Jackson Road.
- (L) Architectural Design.
1. Exterior Materials -- Principle building materials shall be brick, stone, cast stone, precast concrete, vinyl and glass as shown on the approved site plan. Panel brick and EIFS are not permitted.
 2. Screening -- All mechanical units and solid waste shall be screened from view from adjacent properties.
- (M) A minimum of ~~20~~ 40 percent of the total residential dwelling units in the PUD zoning district shall be affordable to lower income households, as defined in Chapter 55 of Ann Arbor City Code, and shall be made available for lease to eligible households under

such negotiated terms reasonably acceptable to the City and the petitioner, in a separately approved affordability agreement or similar document.

Ann Arbor City Council may approve payment of an affordable housing contribution in lieu of providing some or all of the required residential dwelling units affordable to lower income households on-site. Payment shall be made for up to 20 percent of the units constructed on-site to the City of Ann Arbor Affordable Housing Trust Fund, based on Chapter 55, Section ~~5:80~~ [5.29.10.F.5](#), of Ann Arbor City Code and the formula approved annually by City Council.

(N) Affordable Housing for Lower Income Households

Provisions to assure the affordability and availability of such housing shall be as follows:

At all times, ~~20~~ [40](#) percent of the bedroom units shall not exceed the housing expense limit for lower income (50 percent of median) single-person households. The housing expense limit shall be based on the Ann Arbor Primary Metropolitan Statistical Area (PMSA) Housing Expense Limits, which is produced annually by the U.S. Department of Housing and Urban Development.