

**ANN ARBOR PLANNING DEPARTMENT STAFF REPORT SUPPLEMENT**

**For Planning Commission Meeting of April 2, 2019**

**SUBJECT: 841 Broadway Zoning and Area Plan (841 Broadway Street)  
File Nos. Z18-018 and AP18-003**

**PROPOSED CITY PLANNING COMMISSION MOTION**

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the 841 Broadway Street PUD (Planned Unit Development District) Zoning and Area Plan.

**STAFF RECOMMENDATION:**

Staff recommends that the 841 Broadway 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 **approval** of the PUD Area Plan because the contemplated development would comply with all applicable state, local and federal law, ordinances standards and regulations; the development would limit the disturbance of natural features to the minimum necessary to allow a reasonable use of the land; the development would not cause a public or private nuisance and would not have a detrimental effect on the public health, safety or welfare; and the proposed uses or other uses permitted under the proposed zoning would be compatible with the city's adopted plans and policies. Staff notes that the proposed layout plan can change at the site plan stage as further analysis of natural features and other site aspects are considered.

**UPDATE:**

On March 5, 2019, Planning Commission postponed this petition in order to allow staff time to work with the petitioner to revise the PUD supplemental regulations. Planning Commission expressed concerns regarding the nature of the Area Plan versus a Site Plan and how the supplemental regulations could be revised to more closely reflect the concept plan shown and still allow for some final site design flexibility. Working with the petitioner, staff revised the supplemental regulations to include more required recreational amenities, revised parking counts, reduce FAR to more closely reflect what is shown on the plan and remove the option of development without the secondary emergency-only access. The requirement for a secondary emergency-only access has been added as a separate item in the supplemental regulations. Additional items such as innovative stormwater treatment features and hotel design were acknowledged by the developer but will need to be addressed at site plan stage. A more detailed explanation of the conservancy model and how the funding and operations will work was also requested by the Commission.

At the request of the Planning Commission, parking standards were revised to reflect the ordinance requirement for proposed uses rather than basing the parking required on total floor area of the project. The request for an additional 50 parking spaces, specifically designated for public use will remain in the regulations. The petitioner requested the ability to share required parking with off-site locations and agreed to structure parking for at least 50% of the parking total if all parking was provided on site. Planning staff has agreed to allow off-site parking to the extent it is permitted in City Code, which requires that the shared parking areas be improved to meet current city codes for parking lots, which includes stormwater and landscaping regulations. Planning staff believes that limiting the impact of parking, and resulting impervious surface, is an integral feature of the plan presented and allowing for shared parking helps to accomplish this goal. Any parcels used for shared parking must meet the requirements of the Zoning ordinance and most likely will trigger a rezoning of the adjacent parcel to P (Parking) or inclusion into the proposed PUD zoning district and site plan.

The petitioner has presented the proposal for secondary emergency access through Broadway Park to the Park Advisory Commission (PAC) on March 19. There was no action taken by PAC at the meeting. The PAC did agree to review the formal proposal for the project after the detailed design has been approved by the Fire Marshall. The petitioner must obtain approval from PAC prior to site plan approval for the project.

Additional information was provided by the applicant regarding the open space conservancy model. A summary is provided in petitioner's cover memo and is currently being reviewed by the Parks manager. Details will be finalized before final approval of the PUD Zoning.

## ANN ARBOR PLANNING DEPARTMENT STAFF REPORT

For Planning Commission Meeting of March 5, 2019

**SUBJECT: 841 Broadway Zoning and Area Plan (841 Broadway Street)  
File Nos. Z18-018 and AP18-003**

### PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the 841 Broadway Street PUD (Planned Unit Development District) Zoning and Area Plan subject to approval of the Traffic Impact Analysis by City Staff prior to City Council approval.

### STAFF RECOMMENDATION

Staff recommends that the 841 Broadway 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 **approval** of the PUD Area Plan because the contemplated development would comply with all applicable state, local and federal law, ordinances standards and regulations; the development would limit the disturbance of natural features to the minimum necessary to allow a reasonable use of the land; the development would not cause a public or private nuisance and would not have a detrimental effect on the public health, safety or welfare; and the proposed uses or other uses permitted under the proposed zoning would be compatible with the city's adopted plans and policies. Staff notes that the proposed layout plan can change at the site plan stage as further analysis of natural features and other site aspects are considered.

### PROJECT LOCATION

This site is located on the north side of Broadway Street, east of Depot Street and west of the Huron River. This site is located in the Central Area and located in the Huron River Watershed.

### 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:

- Remediation of an environmentally contaminated site in accordance with an MDEQ approved response activity plan and in full accordance with an Approved Brownfield Plan.
- Walkable residential condominiums and a hospitality use near Kerrytown and downtown Ann Arbor with neighborhood retail.
- Increased pedestrian convenience and publicly accessible recreation by constructing a riverfront trail connected to B2B trail and Treeline trail.
- Economical land use by reducing the need for unnecessary impervious parking surfaces, providing structured parking for the majority of site parking and increasing the usable open space on the site.
- Increased public recreational opportunities by providing a seasonal ice rink, watercraft rentals publicly accessible riverfront open space, to be maintained privately for public benefit.
- Increased required open space with a minimum of 6 contiguous acres adjacent to the river.
- Supports improvements to existing public infrastructure.

The petitioner seeks to rezone this 13.8-acre parcel from M1 (Limited Industrial District) to PUD (Planned Unit Development District) to allow the development of a mixed use project containing up to 200 attached residential units, parking garage, surface parking lots, office, retail (minimum 7,000 square feet), restaurant uses and a minimum of six contiguous acres of public open space. Residential units will have a maximum of three bedrooms per unit with the exception of a maximum of eight units which will be permitted to have a maximum of five bedrooms. The entire site will have a maximum Floor Area Ratio (FAR) of 125%, for reference the concept plan illustrates 59.5% FAR.

All of the uses described above are permitted only if a secondary emergency-only access is obtained to the site. The petitioner is currently working on obtaining the secondary access through the adjacent Broadway Park and will follow the required process for obtaining permission which includes the Parks Advisory Commission (PAC) and city council. This emergency-only access must be obtained before submission of a site plan for the project. The requirement for secondary emergency-only access to permit mixed uses on the site is noted within the supplemental regulations for the project.

If no secondary emergency-only access is obtained, only a maximum of 200 fire-suppressed residential units and recreational amenities (excluding the pavilion gathering space) uses will be

permitted. No pavilion event space, retail, restaurant or hotel uses will be permitted. If this access is achieved, then the full complement of uses is permitted.

As detailed in the supplemental regulations, parking will be provided in a structured garage and additional surface lots at a rate of one space per 500 square feet of floor area regardless of use(residential, office or commercial). In addition to the required parking 50 additional spaces shall be provided solely for public use in support of the recreational opportunities on site.

A minimum of six contiguous acres of will be designated for permanent public open space with limited recreational and associated uses permitted. This is a requirement of the supplemental regulations for the site regardless of the final layout and composition of land uses or emergency-only access. In addition, a maximum of 57% of the site can be covered with impervious surface according to the supplemental regulations.

In order to help delineate designated use areas, the attached map indicates areas where proposed uses are permitted depending on access provided to the site. These area designations correspond directly to the supplemental regulations where permitted/required uses are described in detail.



Natural features are composed of landmark trees and floodway/floodplain. The majority of the landmark trees are located along the western edge of the property and adjacent to the river.

All of the proposed buildings and improvements are in the floodplain of the Huron River. The impact of this proposal on the floodplain is reviewed by the Michigan Department of Environmental Quality (MDEQ) during the permitting process. The feasibility of this proposed major development in the floodplain is heavily dependent on the ability of obtaining a floodplain permit from the MDEQ. As proposed, a site plan for the parcel is not approvable due to numerous floodplain issues. The proposed residential/hotel buildings are located in the FEMA mapped floodway of the Huron River, and are therefore prohibited by state law. The petitioner has applied to FEMA for a Letter of Map Revision (LOMR) to move the floodway boundary away from the location of the proposed residential/hotel buildings. Approval of the floodway boundary adjustment is a requirement that must be met before approval of any site plan for the parcel.

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% of the total units be dedicated as affordable or a contribution in lieu of units. The petitioner has elected to provide the payment in lieu of units consistent with the formula adopted by City Council resolution. The final amount will be determined at site plan stage.

This development is proposed to be built in two phases at an approximate cost of \$75 million. The first phase of development will include all residential, parking structure, open space development, ice rink, launch, pavilion, ice rink, pedestrian bridge. Phase two will include the retail, restaurant and hotel.

A neighborhood meeting was held on August 8, 2018 at University of Michigan's Palmer Commons. Minutes of this meeting are attached.

### **AREA PLAN**

An area plan, or site plan is required when an amendment to the City Zoning Map is proposed [Chapter 55 5.29.7]. In this case, the petitioner has proposed amending the City Zoning Map from R1C to PUD, Planned Unit Development District, with the proposed Area Plan. The purpose of an area plan is to demonstrate that the property could be developed consistent with the requested zoning classification. Area plans are required to provide a brief description of the development program, a community analysis, a site analysis, general information, and a schematic design for the entire development site. Area plans are not required to include the number and type of dwelling units proposed; placement of proposed structures; front, side and rear open space and setback lines; number and dimensions of parking spaces; landscaping; soil erosion and sedimentation control plans; storm water management plans; utilities; the accurate location and description of all natural features; the location and extent of natural features open space; or a natural features protection plan, mitigation plan and alternative analyses. These are, however, requirements of site plans.

The accompanying area plan depicts 104 dwelling units in four six-story buildings with a two-story parking deck attached. Approximately 10,900 square feet of retail is proposed on the site. The retail space will be divided between two detached buildings containing a total of 7,700 square feet and one smaller retail unit in each of the four residential buildings. Several surface parking lots are also proposed, this parking will be provided for the retail, restaurant and recreational amenities. The petitioner is proposing outdoor recreation and open space on at least six acres of the site. Recreation opportunities provided will include: ice rink,

Interactive water feature, non-motorized watercraft launch area and canoe/kayak rental area. A 7,800 square foot pavilion and concession building is proposed in the recreation area.

Internal vehicular circulation is proposed by private streets accessed by one curb cut off Broadway Street. Sidewalks are proposed along the edge of the outer internal private streets leading to the existing Broadway sidewalk.

For stormwater management, the site is under the jurisdiction of the Washtenaw County Water Resources Commission (WCWRC). The WCWRC has stated that given the site's classification as a brownfield, no stormwater infiltration system will be permitted on the site. The WCWRC agrees to waive the requirement for on-site detention of the 100-year storm volume for the proposed development. However, water quality treatment prior to discharging storm water runoff into the Huron River is still required. A copy of the MDEQ permit allowing discharge of water from the site to the Huron River is required before site plan approval.

### SURROUNDING LAND USES AND ZONING

	LAND USE	ZONING
NORTH	Huron River	PL (Public Land District)
WEST	Railroad & Commercial/Office	M1 (Limited Industrial District) & C3 (Fringe Commercial District)
SOUTH	Train Station & Office	M1 (Limited Industrial District)
EAST	Broadway Park (Public Park)	PL (Public Land District)

### HISTORY

The Huron River was re-routed from the middle of this site to its current location in 1915. The site was used by the Michigan Consolidated Gas Company as a coal gasification facility in the early part of the 20<sup>th</sup> century. During that time, the soils were contaminated. The gasworks operation ended decades ago and Michcon removed many of the older structures and eventually replaced them with a service center in the middle to latter part of the 20<sup>th</sup> century. Over the past few years, Michcon has removed all of the structures on the site. The access drive, parking lots, and building pads remain.

In 2012 as part of an ongoing environmental remediation of the site, MichCon removed contaminated soil in some locations of the site, replaced the soil with clean fill, and constructed a containment cap along the Huron River. The work will required the removal of landmark trees along the riverbank in order to remove contaminated soil underneath them. The work and the resulting disturbance to the protected Natural Features (landmark trees, river buffer) on the site required approval from the Planning Commission. The work also triggered the need for a storm water detention system to be provided on the site. It was determined that because contaminated soil would remain on the site after remediation, installing a new detention system will be harmful to groundwater and the Huron River. The petitioner could have avoided providing detention systems if they removed the impervious surface on the site. However, removing impervious surfaces would allow contaminants in the soil to leach into the

Huron River and ground water. At that time since no development was proposed, it was agreed that leaving the existing impervious surfaces would continue to provide a cap on top of the contaminated soils that remained after initial remediation. The plan was consistent with Part 201 of the Michigan Natural Resources and Environmental Protection Act

On May 15, 2012, the Planning Commission granted approval of the natural features disturbance plan contingent upon a variance granted by the Zoning Board of Appeals (ZBA) from providing required storm water detention on the site. On May 23, 2012, the ZBA granted the requested variance.

### **PLANNING BACKGROUND**

The Master Plan: Land Use Element recommends Commercial/Office uses in the eastern half of the site adjacent to Broadway and Parks/Open Space on the western half of the property.

### **DEPARTMENT COMMENTS**

Systems Planning – The plan shows a number of platted public rights-of-way labeled as vacated. The City does not have record of these rights-of-way or vacations thereof. Provide the Liber and Page or reference to other recorded documents for the vacations within the notes on Sheet 5 of 5. This should be completed before site plan is submitted for review.

Additional comments regarding the proposed public utilities, including sizing and alignment, will be completed during the site plan review. Sanitary sewer flow data comparing the proposed flow as a result of this project versus the existing flow shall be included on the utility sheet of the site plan for review. Impacts to the sanitary sewer system may need to be modeled.

Parks – Parks staff is continuing to work with the petitioner on final site amenities provided. The City will own or operate any watercraft rental on the site. Requirements for this arrangement are detailed in the supplemental regulations. The petitioner will establish a private conservancy that will manage the additional recreational opportunities. Additional details will be provided at site plan stage.

Planning – Commercial/Office uses are recommended for the eastern site and recreation/open space are recommended for the western half. Staff supports the proposed mix of uses, density and rezoning as this site is located near bus stops, existing utilities, public parks and provides direct linkages to a pedestrian and non-motorized pathways. While the exact details of the site layout and design will be presented at site plan stage, a minimum of six acres will be preserved as publically accessible open space no matter what the final layout is. The open space requirement is written into the supplemental regulations as part of the zoning district. It should be noted this Area Plan may not resemble the future Site Plan submission as review of the plans will be in much greater detail, with the benefit of additional information. An alternatives analysis showing different layouts of the site showing impacts on natural features will be required at this submission. At the site plan stage, alterations to the site design could result in a different density on the site, but not to exceed that written into the supplemental regulations.



Planning staff is requesting at least half of all parking constructed on the site be provided in a parking structure. The requirement for a parking structure is based on the desire of Planning staff to limit the total amount of surface parking provided on the site. This requirement is noted within the supplemental regulations. The petitioner has indicated the intent to build a parking structure, but would prefer not to have it as a requirement of the PUD. Their preference is that surface parking controlled through a limitation on total impervious surface on the site.

#### Traffic Review

The petitioner and City's Traffic Engineer have been working extensively to address concerns regarding traffic. The City has also hired a consultant to assist in the review. Review is ongoing and there is a large amount of data and research being obtained before any recommendations are made. The City and the consultant will continue to work together with the petitioner to finalize any plan. It is possible that recommendations to address traffic impact include significant upgrades to surrounding public infrastructure. This may change the final design of the site plan. Traffic Impact Study must be approved before site plan approval is granted.

#### Stormwater and Floodplain Programs Coordinator

Under current conditions a site plan is not approvable due to numerous floodplain issues. All of the following issues can be addressed as conditions of the Area Plan approval or in the supplemental regulations; however they will all have to be addressed prior to submission of a site plan.

##### Floodplain Management:

State law prohibits "human habitation" in the floodway. Human habitation is interpreted as residential uses, including hotels. The City and State are obligated to utilize the current Flood Insurance Rate Map (FIRM) provided by the Federal Emergency Management Agency (FEMA), dated April 3, 2012. The proposed residential/hotel buildings are located in the FEMA mapped floodway of the Huron River, and are therefore prohibited by state law. The petitioner has applied to FEMA for a Letter of Map Revision (LOMR) to potentially move the floodway boundary away from the location of the proposed residential/hotel buildings. However, the LOMR process can be a lengthy process and until the process is fully complete and approved by FEMA, it is unknown if FEMA will agree to relocating the floodway boundary. .

Due to the limitations on building in the floodway, the PUD Zoning should state that there would be no residential uses, including hotels, in the floodway. Staff recommends this be taken a step further and that the PUD Zoning should state that there would be no buildings located within the floodway.

All of the proposed buildings and improvements are in the floodplain of the Huron River. The impact of this proposal on the floodplain is reviewed by the Michigan Department of Environmental Quality (MDEQ) during the permitting process. The feasibility of this proposed major development in the floodplain is heavily dependent on the ability of obtaining a floodplain permit from the MDEQ. The proposed PUD Zoning and Area Plan approval process should be postpone until input has been received for the MDEQ that the project is feasible; or the approval heavily conditioned that it is not valid unless the MDEQ approves the development exactly as it is shown on the proposed Area Plan.

Dam Failure Inundation Area Recommendations:

The 841 Broadway Street site is immediately downstream of the Argo Dam. The City has a dam break study for Barton Dam that includes Argo Dam. In the event of a dam break, this site could have as much as 15 feet of water moving across it. While there are not laws against building in dam inundation areas, it is recognized as hazardous, and puts a burden on the municipality to provide emergency services to the development in the event of a dam failure.

An inquiry was made to the Michigan Department of Environmental Quality Hydrologic Studies and Dam Safety Unit to see if there are recommendation for building in dam inundation areas. Based on the input from the State, City Staff recommends:

- There are guidance documents used by FEMA and other federal agencies that calculate risks such as loss of life, overturning of vehicles, buildings being knocked off foundations, etc. based on depth and velocity. Depth and velocity should be able to be obtained from the City's Dam Break Study. Those principles should be used by the petitioner to estimate risks associated with the proposed development. Also, the building designs should take into account potential loading from a dam breach inundation wave to minimize the risk of building damage or collapse.
- An emergency plan should be developed between the petitioner and the City Emergency Manager to ensure that site ingress/egress by residents and emergency vehicles is considered. In addition to depth and velocity of dam break floodwaters, dam breach inundation wave arrival times need to be part of planning for emergency evacuations/rescues, etc.

Urban Forestry - Based on the Area Plan review requirements set forth in Chapter 55, 5.29.7.D., the area plan "should limit the disturbance of natural features to the minimum necessary to allow a reasonable use of the land." Staff review of the natural features on the Area Plan is constrained because an Area Plan is a conceptual drawing that does not contain many elements required on a Site Plan, including, location of utilities, stormwater management, and detailed information on natural features impacts and mitigation. The elements required on a Site Plan can significantly alter the site layout. Despite any approval of this Area Plan, the site layout may need to be changed during the Site Plan approval process to comply with natural features requirements.

Prepared by Matt Kowalski  
Reviewed by Brett Lenart  
mg/3/1/19

Attachment: Zoning and Aerial Map  
***PUD Supplemental Regulations (Updated version  
attached separately in Legistar)***  
Zoning Application  
[Area Plan](#)  
[Citizen's Participation Report](#)

c: Petitioner: Roxbury Group  
Callen Vanhermert  
Lower Town Partners LLC  
117 Griswold  
Detroit, MI 48226

Owner: Detroit Edison  
Jason Clemens  
1 Energy Plaza  
Detroit, MI 48226

Petitioner's Representative: Cheryl Zuellig  
SmithGroup  
201 Depot Street  
Ann Arbor, MI 48104

Building  
Engineering - Private Development  
File Nos. AP18-003 & Z18-018

# SMITHGROUP

March 25, 2019

Matt Kowalski  
City Planner  
**City of Ann Arbor**  
301 East Huron St.  
Ann Arbor, MI 48104

Re Response to March 5 City Planning Commission Comments  
PUD Zoning District Review  
Broadway park, Ann Arbor, MI

Dear Matt,

We look forward to being in front of the Planning Commission again on April 2 to seek approval of the Broadway Park PUD Zoning District review. The Broadway Park team appreciated the feedback that the Planning Commission provided at the March 5<sup>th</sup> CPC meeting, and we offer the following responses to their comments:

1. There were several comments that can be addressed in the PUD Supplemental Regulations and we have worked with Planning Staff to make the requested modifications. Highlights of these modifications include:
  - a. Required Public Open Space Amenities: Per Sec. 4, (A),1,a of the draft Supplemental Regulations, no less than 6 contiguous acres of permanent public open space and a non-motorized watercraft launch area is required. This section has been modified to expand the required public amenities to include 1) A riverfront walkway connecting the existing riverfront path at Broadway Park to the east to the proposed Treeline Greenway path (being constructed by the City of Ann Arbor) on the west edge of the site and 2) At least two additional points of access to the river.
  - b. Mixed Use/Secondary Emergency Access: The supplemental regulations as presented to the CPC on March 5<sup>th</sup> only allowed the additional commercial and hospitality uses if a secondary emergency access was obtained but permitted a higher residential unit count with no other uses if the access was not obtained. The Planning Commission wanted to ensure that the proposed development would include a mix of uses on the site. To that end, we have modified the supplemental regulations Sec. 4, (A),2 to require that the secondary emergency access is obtained on or before issuance of the PUD Site Plan approval, thereby allowing the construction of the residential, commercial and hospitality uses.
  - c. Setbacks: To address concerns regarding the proximity of the hotel to the river, a minimum setback of 20' from the north property line has been added to Sec. 4 (B) to provide suitable distance between the river and proposed development to accommodate the riverfront trail. In addition, the minimum front setback has been modified from 0' to 10'.
  - d. Building Height: In order to more closely align the supplemental regulations with the PUD Concept plan, Sec. 4, (C) has been modified to reduce the maximum height of the residential buildings from 115' to 80'.

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- e. Floor Area Ratio: In order to more closely align the supplemental regulations with the PUD Concept plan, Sec. 4, (E) has been modified to reduce the maximum FAR from 124% to 80%.
  - f. Vehicular Parking Standards: Minimum parking standards have been revised to require parking by the uses proposed on the site rather than by a single generalized formula. This will allow the parking to more accurately respond to the mix of uses on the site. In the interest of addressing the concern from CPC that we not provide too much parking on the site 1) Hotel parking has been reduced from 1 space per room to 0.75 spaces per room and 2) Pavilion parking is based on the assembly area excluding areas that do not influence building capacity (i.e. Mechanical areas, kitchens, restrooms and corridors), and a clarification was provided that minimum parking standards may be achieved through a combination of on-site and immediately adjacent off-site parking. The last item allows for a combined parking solution with the Amtrak parcel. In addition to the foregoing, additional parking standards preserve the concept of 50% structured parking, but only in the case where minimum parking standards can only be achieved on-site. This allows for the possibility of a less intensive parking solution if Amtrak shared access is achieved and creates the possibility for a green-roof covered parking area, as discussed with CPC.
  - g. Open Space Conservancy: The CPC raised questions about the non-profit conservancy and how it will be structured, governed and funded. It is understood that the CPC wants to be confident that the costs for operation of the park will be sufficient to build and maintain the space as proposed. To address this, Sec. 4, (U) has been added to the Supplemental Regulations. This section requires that:
    - A non-profit 501c3 be established prior to the C of O.
    - A Board of Directors be established and that it will include City representation
    - By-Laws and an operating budget are established and agreed upon by the Board of Directors
    - The developer will initially fund the Conservancy in the minimum amount of \$1,000,000 towards ongoing operations and maintenance of the public open space.
2. In addition to the comments that we have addressed in the Supplemental Regulations, the following additional feedback and information is in response to CPC comments :
- a. Stormwater Management: The proposed preliminary stormwater management plan has been developed in close coordination with the Washtenaw County Water Resources Commission staff and with the Michigan Department of Environmental Quality. As the development team moves into PUD Site Plan development (after PUD Concept Plan approval), we look forward to exploring the potential for additional stormwater management methods with City Planning staff and as requested by the Planning Commission.
  - b. Hotel Pad: As the development team moves into PUD Site Plan development (after PUD Concept Plan approval), we will continue to refine the proposed hotel pad location to respond to required building setbacks and to explore massing in a way that respects public access to the Huron River.

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- c. Parks Advisory Board: The development team met with the Parks Advisory Board on March 19 to present the proposed public open space and to receive feedback regarding the secondary emergency access route through Ann Arbor's Broadway Park (east of the Broadway Bridge). The Board expressed support for the public open space and was also supportive of the proposed emergency access route along the existing sidewalk. Formal approval of the route will occur on or before PUD Site plan approval.

Again, we look forward to presenting the modified Supplemental Regulations to the CPC on April 2 and respectfully request approval of the PUD Zoning District so that we are able to move forward with the PUD Site Plan.

Best Regards,



Cheryl Zuellig  
Vice-President, Landscape Architect

## 841 Broadway Supplemental Regulations

### Section 1: Purpose

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

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

### Section 2: Applicability

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

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

Beginning at the Northwest corner of Lot 1 of said Block 14, thence South 20 degrees 01 minutes 45 seconds East along the North line of Michigan Central Railroad, 106.00 feet to the Southwest corner of Lot 1 of said Block 14; thence South 24 degrees 55 minutes 15 seconds East along the North line of Michigan Central Railroad, 99.00 feet to the Southwest corner of Lot 2 of said Block 14; thence South 29 degrees 38 minutes 55 seconds East, 18.61 feet to the intersection of the North line of the Michigan Central Railroad and the Southerly face of a steel seawall, as extended, also being the point of beginning; thence North 60 degrees 54 minutes 09 seconds East along said Southerly face of a steel seawall, 24.79 feet; thence the following two

(2) courses along said the Southerly face: 1) 89.96 feet along the arc of a curve to the right, radius of 269.37 feet, central angle of 19 degrees 08 minutes 09 seconds, chord bearing North 71 degrees 46 minutes 28 seconds East, 89.55 feet and 2) South 69 degrees 37 minutes 45 seconds East, 11.66 feet to the end of said seawall, also being Point 'A'; thence Southeasterly along the water's edge of relocated Huron River 1540 feet, plus or minus, to a point on the West line of Broadway Street (98 feet wide); thence South 56 degrees 30 minutes 00 seconds West along said West line of Broadway Street, 22.00 feet, plus or minus, to a point being South 69 degrees 37 minutes 45 seconds East, 107.27 feet and North 72 degrees 18 minutes 19 seconds East, 175.00 feet and South 84 degrees 12 minutes 49 seconds East, 310.00 feet and South 67 degrees 40 minutes 35 seconds East, 400.00 feet and South 50 degrees 11 minutes 00

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

Further, the provisions of these regulations shall be adopted and incorporated into the 841 Broadway Planned Unit Development Zoning District. These regulations, however, are intended to supplement only those provisions in the 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 and Analysis**

During the citizen participation phase of this rezoning, the petitioner has determined that:

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



MDEQ approved response activity plan and in full accordance with an Approved Brownfield Plan.

- Walkable residential condominiums and a hospitality use near Kerrytown and downtown Ann Arbor with neighborhood retail.
- Increased pedestrian convenience and publicly accessible recreation by constructing a riverfront trail connected to B2B trail and Treeline trail.
- Economical land use by reducing the need for unnecessary impervious parking surfaces; ~~providing structured parking for the majority of site parking~~ and increasing the usable open space on the site.
- Increased public ~~recreational~~ opportunities by ~~permitting~~ ~~providing~~ a seasonal ice rink, watercraft rentals ~~and~~ publicly accessible riverfront open space, to be maintained privately for public benefit.
- Increased required open space.
- Supports improvements to existing public infrastructure.

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

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

The proposed development is sensitive to the unique conditions of this special site and neighborhood, and responds with a balanced mixed-use concept that reflects the

massing, scale, and materials of the neighborhood. The intended relationships are further outlined in the attached Appendix: Neighborhood Context.

- (D) A comprehensive analysis of the unique features of the site, including topography, site orientation, circulation, tree preservation, protection, utilization and enhancement of the site's unique features is provided in the Site Analysis, Conceptual PUD Circulation Pattern and Conceptual Overlay drawings accompanying this submittal.
- (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)~~ A secondary emergency-only access is required in order to permit uses as described below. Accordingly, u-Uses below are not permitted unless a permanent secondary access is approved by the Fire Marshall prior to issuance of any permits for construction of the site.

~~(A)~~(B) Uses

~~1. 4.~~ The following uses are required and/or permitted as set forth below in Area 1:

a. Area 1 (Attachment A):

Required Principal Uses: Open space - The approximate area of Area 1 as designated in Attachment A shall be designated as permanent open space with limited recreational and associated uses permitted. In no case shall such area be less than six contiguous acres.

The permitted accessory uses in Area 1 are described below.

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

The required accessory uses in Area 1 are described below.

- ~~1)~~ A riverfront walkway connecting to the existing riverfront path at Broadway Park to the East of the site and to the existing riverfront path to the West of the site,
- ~~4)2)~~ Non-motorized watercraft launch area (including an ADA ramp)
- ~~3)~~ At least two additional points of access to the river in accordance with Section 4(M) below.

~~2. Area 2 (Attachment A):~~

~~3. Required Principal Uses: Multiple Family Residential: Minimum 90 units~~

~~and maximum of 200 residential units. These units will have a maximum of 3 bedrooms per unit, with the exception of not more than eight (8) units which may have up to five (5) bedrooms.~~

~~4. A minimum of 50% of all parking shall be located in a parking structure (consistent with the parking standards set forth below).~~

~~5.~~

~~6. Subject to and in the event that a Secondary Vehicle Access Point is approved for Emergency Only Access to the site on or before issuance of site plan approval, all of the above uses and the following are required and/or permitted as set forth below in Area 2:~~

~~a.b.~~ Area 2 (Attachment A):

Required Principal Uses: Multiple-Family Residential: Minimum 90 units. These units will have a maximum of 3 bedrooms per unit, with the exception of not more than eight (8) units which may have up to five (5) bedrooms.

~~b.~~ Other Principal Permitted Uses:

~~1) a.~~ Retail Use: As permitted in the C1B (Community Convenience) Zoning District Minimum 7,000 square feet

~~2) Office Use – Office Uses shall be any such use designated in the O (Office) Zoning District.~~

~~3) Hotel~~

~~4) Surface and structured Parking in accordance with the parking standards set forth below~~

~~5) Restaurant~~

~~6) Assembly pavilion/event space~~

~~(B)2.~~ Drive-through uses are prohibited on the site

(C) Setbacks

1. Front (Broadway Street): 10 feet min, 30 feet max.

2. Side and Rear: 0 feet

~~3.~~ From north property line (along south side of river) (hotel): 4020 feet minimum

(D) Height. Maximum height for residential buildings not to exceed 80 feet. Maximum height for hotel; not to exceed 115 feet. ~~-All heights to be, -as-~~ measured to the midpoint of the proposed roof or highest point of a flat roof. Maximum height includes all architectural elements and mechanical equipment including roof access structures. Minimum First Floor Height of 14' for all mixed use or commercial buildings, with the exception of commercial uses at the base of residential buildings, which may have a Minimum First Floor Height of 10'.

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

(F) Floor Area Ratio Up to 80% maximum

~~(G)~~ Vehicular Parking Standards (Minimum standards):

1. Multi-family Residential: 1.5 spaces per unit

- 2. Hotel: .75 space per room
- 3. Restaurant: 1 space per 100 sf of floor area.
  - a. 1 space per 600 sf of floor area is required for all areas dedicated to food or beverage production.
- 4. Retail stores/centers less than 300,000 sf: 1 space per 310 sf floor area
- 5. Pavilion (enclosed assembly hall area): 1 space per 100 sf floor area (not including mechanical areas, kitchens, restrooms and corridors)

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

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

In addition to the foregoing parking formulas, the following standards shall apply:

- 1. One electric vehicle charging station must be installed per 50 vehicle parking spaces, based on the total number of parking spaces installed.
- 2. 50 additional vehicle spaces and 40 additional class C Bike Parking Spaces shall be provided and delineated solely for public use in support of recreational facilities access.
- 4.3. ~~3.~~ -Bike parking spaces shall be provided and delineated solely for public use in support of recreational facilities access.

~~(B)~~(H) Impervious Surface Not more than ~~57~~60% of the Property will be covered with impervious surfaces, inclusive of all buildings, roads, pedestrian pathways and parking.

~~(G)~~(I) Bicycle Parking Standards Per City of Ann Arbor Ordinance requirements

(J) Pedestrian Connections All pedestrian connections shall be ADA accessible.

~~(H)~~(K) Architectural Design

1. Exterior Materials – Principal building materials shall be brick, high quality wood composite, wood, precast concrete, ~~stone,~~ metal and glass. EFIS and panel brick are prohibited.

~~4.2.~~ Screening -- All mechanical units and solid waste shall be screened from view from adjacent properties and any publicly-accessible open space. Screening materials shall be provided at the time of site plan review by City Council.

~~(H)~~(L) Additional Regulations – Unless specifically noted in these regulations, all other applicable development codes in Chapter 55 shall apply.

~~(H)~~(M) Any livery operations shall be operated by the City, but may be subject to a concession agreement permitting the Developer to manage that operation on behalf of the City on mutually agreed-upon terms. This is intended to ensure a collaborative and efficient coordination with nearby public livery operations (Argo). A facility shall be constructed and provided for such purpose pursuant to plans to be reviewed and approved by the City, and to the agreed specification including rental service facility, watercraft storage, dock, and adequate vehicular access and customer parking access via designated publicly-accessible spaces.

~~(K)~~(N) Provide a maximum of three access points for public access to water's edge, conditioned upon City and Michigan Department of Environmental Quality approval per Due Care and other public health protection goals.

~~(H)~~(O) Subject to available brownfield redevelopment financing or other mutually acceptable funding source, construction and maintenance of a pedestrian bridge across the Huron River as identified in a final adopted site plan. Pedestrian bridge will provide full public use and access, with maintenance responsibility of ~~D~~ developer or other agreed to entity, and cure provisions by City with documentation of necessary maintenance by 3rd party inspection selected by City. Prior to issuance of Building permit the applicant and City shall enter into an agreement outlining and define the process and timing for funding, construction of the bridge and long-term maintenance of the facility. It is the intent of the Developer and City that reimbursement of any contribution by an owner shall be supported by tax increment financing through an approved Brownfield Development Plan and corresponding Work Plans

~~(M)~~(P) Subject to available brownfield redevelopment financing or other mutually acceptable funding sources, prior to issuance of any Certificate of Occupancy, \$1.2 million dollars will be identified for repair and upgrade of the Argo and Gallup dams. The long-term viability of development at this site is dependent upon the continued operation and maintenance of both public facilities. It is the intent of the Developer and the City that reimbursement of this funding shall be supported by tax increment financing through an approved Brownfield Development Plan and corresponding Work Plans.

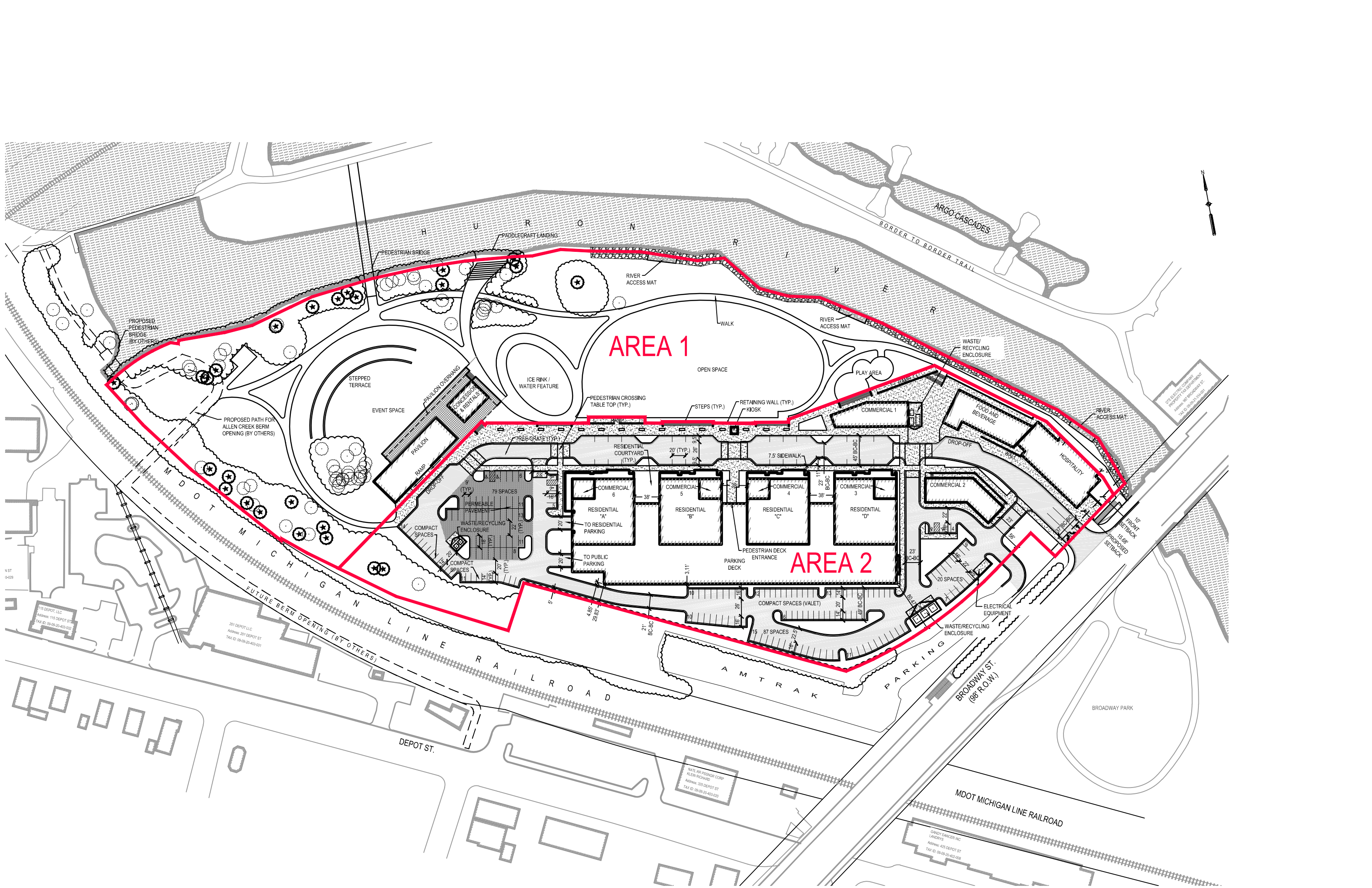
~~(N)~~(Q) Payment of an affordable housing contribution in lieu of units, consistent with the formula adopted by annual resolution of City Council, shall be provided by the developer, as defined in Chapter 55 of Ann Arbor City Code in accordance with an approved development agreement and prior to the issuance of any Certificate of Occupancy.

~~(O)~~(R) Brownfield Remediation – All remediation and associated activities shall be completed as specified in the approved Brownfield Plan, prior to the issuance of any building permit, excepting any vapor intrusion measures, which shall be prior to any certificate of occupancy. This work shall be in full accordance with the MDEQ approved Work Plan, and any required amendments to the Eligible Activities require Brownfield Plan Amendment.

~~(P)~~(S) If any remediation activity approved as part of the Brownfield Plan is not approved as part of an MEDQ Work Plan a revised Brownfield plan shall be submitted for review and approval. Failure to comply will result in termination of any brownfield plan tax increment financing associated with the lot.

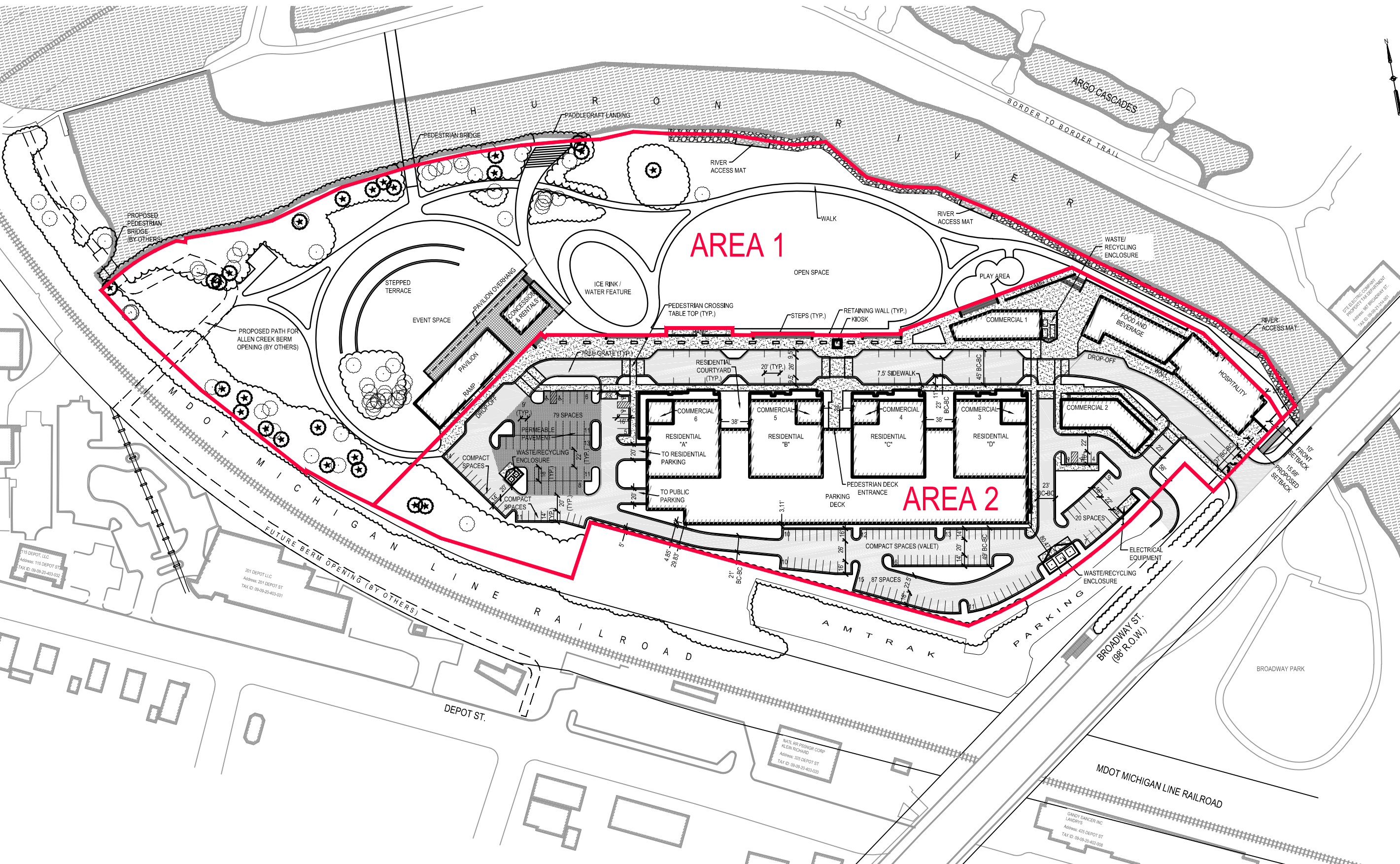
(I) All Residential and Hotel structures on the property shall be constructed to LEED Silver standard or higher. Prior to issuance of a Certificates of Occupancy the applicant may either have the buildings certified by the USGBC, the project architect or other acceptable demonstration indicating that they meet such standard to the City. Consistent with foregoing, the City at its sole discretion, may require any information it determines necessary to confirm the standard has been met. If not achieved, owner shall be subject to fines as set forth in Section 5.18.6.D.4.

(U) Prior to issuance of a Certificate of Occupancy a non-profit 501c3 Conservancy will be established to own, improve, maintain and operate the public space in perpetuity pursuant to mutually acceptable by-laws and operating budget and shall cause the establishment of a board of directors which includes representatives from residential and commercial property owners bordering the space, as well as representatives from the City of Ann Arbor Parks Department. Developer shall be responsible for initially funding the Conservancy in the minimum amount of \$1,000,000 toward the ongoing operation and maintenance of the public space.



AREA 1

AREA 2



115 DEPOT, LLC  
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TAX ID: 09-09-20-403-602

201 DEPOT LLC  
Address: 201 DEPOT ST.  
TAX ID: 09-09-20-403-031

NATL RR PASSENGER CORP  
KLEIN RICHARD  
Address: 325 DEPOT ST.  
TAX ID: 09-09-20-403-600

GANDY DANCER INC  
LAUNDRIES  
Address: 428 DEPOT ST.  
TAX ID: 09-09-20-403-008

THE ELECTRIC COMPANY  
PROPERTY TAX DEPARTMENT  
1700 E. BROADWAY ST. #1000

ARGO CASCADES

BORDER TO BORDER TRAIL

FUTURE BERM OPENING (BY OTHERS)

DEPOT ST.

BROADWAY ST.  
(98' R.O.W.)

MDOT MICHIGAN LINE RAILROAD

BROADWAY PARK

10' FRONT SETBACK  
15' PROPOSED SETBACK

DROP-OFF

HOSPITALITY

FOOD AND BEVERAGE

WASTE/RECYCLING ENCLOSURE

COMMERCIAL 1

COMMERCIAL 2

PLAY AREA

OPEN SPACE

PEDESTRIAN CROSSING TABLE TOP (TYP.)

ICE RINK / WATER FEATURE

CONCESSIONS & RETAILS

PAVILION OVERHANG

EVENT SPACE

STEPPED TERRACE

PROPOSED PATH FOR ALLEN CREEK BERM OPENING (BY OTHERS)

MDOT MICHIGAN LINE RAILROAD

AMTRAK

PARKING

WASTE/RECYCLING ENCLOSURE

ELECTRICAL EQUIPMENT

COMPACT SPACES (VALET)

15 87 SPACES

21' BC-BC

20 SPACES

23' BC-BC

PEDESTRIAN DECK ENTRANCE

3.11'

PARKING DECK

4.85'

29.83'

TO PUBLIC PARKING

TO RESIDENTIAL PARKING

PERMEABLE PAVEMENT

WASTE/RECYCLING ENCLOSURE

COMPACT SPACES

79 SPACES

RAMP

DROP-OFF

PROPOSED PEDESTRIAN BRIDGE (BY OTHERS)

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