

ANN ARBOR PLANNING DEPARTMENT STAFF REPORT

For Planning Commission Meeting of May 21, 2019

**SUBJECT: The Garnet – Zoning & Site Plan for City Council Approval
(325 East Summit)
Project Nos. Z18-044, SP18-021**

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve The Garnet Rezoning Petition to C1A (Campus Business District) based on the proposed zoning and recommended commercial-office land use designation and accept these conditions:

- The maximum building height is four stories and 65 feet.
- The highest elevation is limited to elevation 850.00 feet.
- The parcel is limited to a floor area ratio (FAR) of 199%.

The approval is subject to executing a Conditional Zoning Statement of Conditions.

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve The Garnet Site Plan and Development Agreement.

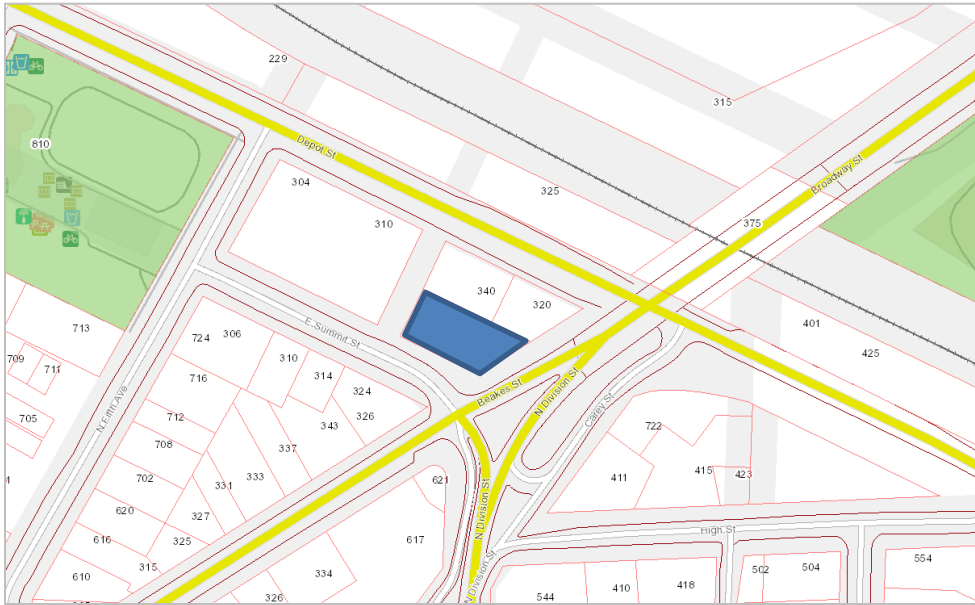
STAFF RECOMMENDATION:

Staff recommends that the **zoning petition** be **approved** because, with the offer for a height limit for this district location, it is generally consistent with the Master Plan: Land Use Element and is compatible with the surrounding zoning designations and land uses.

Staff recommends that the **site plan** be **approved**, because the contemplated development would comply with all applicable state, local, and federal law, ordinances, standards and regulations; and the development would not cause a public or private nuisance, limits the disturbance of natural features to the minimum necessary to allow a reasonable use of the land, and would not have a detrimental effect on the public health, safety or welfare; and the modifications meet the required conditions.

LOCATION:

This site is located on East Summit at the corner of Broadway Street (which is a continuation of Beakes). It is one block east of North Fifth Avenue, and one parcel south of Depot Street.



SUMMARY:

A proposal to rezone a 0.2 acre (8,571 square foot) parcel that lies north of the intersection of East Summit Street and Beakes Street from C1B (Community Convenience Center) to C1A (Campus Business District) With Conditions and to develop one mid-rise residential building with parking underneath (partially at grade and partially below grade).

- The C1A district does not have a height limit. The applicant has offered to condition the rezoning to include a maximum building height of four stories and 65 feet. In addition, the building may not exceed elevation 850.00.
- The floor area ratio in the C1A district is capped at 200%. The applicant has offered to condition the rezoning to include a maximum floor area ratio of 199%.
- The site plan proposes 10 residential units in one building, with 14 parking spaces.

REZONING PETITION:

Current Zoning – The site is currently zoned C1B (Community Convenience Center). Permitted principal uses allowed include residential, religious assembly, day care centers, schools, hotel, retail, restaurants, office, and medical/dental. The district is intended to primarily serve the needs of the surrounding community. This means the surrounding neighborhood, but could also include a larger service area.

Proposed Zoning – The applicant requests rezoning the site from C1B to C1A (Campus Business District) with the conditions listed above, as offered in a [signed letter](#).

SITE PLAN PETITION:

Existing Conditions – The 8,571 square foot site consists of one lot which contains a 2,500 square foot single-family home.

Proposed Development – The proposed [site plan](#) is for a 16,790 square foot, four-story residential condominium building over 14 parking spaces in a ground-floor-entry parking garage. A driveway from the public alley on the west side of the site leads into the garage and solid waste/recycling storage area. The proposed FAR is 196%.

Other development details include:

- Dwelling Units – The proposed site plan provides 10 dwelling units. Mixed use zoning districts are regulated by FAR and not dwelling unit density. Therefore, the number of dwelling units may increase or decrease at the developer’s discretion as long as the size and shape of the building does not change.
- Landmark Trees – There are two landmark trees on the site that are proposed to be removed. Mitigation will be provided for the landmark trees.
- Storm Water Management – Storm water management for the first flush volume is required. Storm water will be captured by a green roof with a minimum size of 3,075 square feet that will cover much of the building’s roof. Infiltration is not proposed on the site because of known soil contamination.
- Parkland Contribution –The PROS Plan suggests a formula that equates to a contribution of \$625 per dwelling unit in order to maintain the current ratio of acres of parkland per dwelling unit in the City. For 10 dwelling units, the requested contribution would be \$6,250.00, which the petitioner has agreed to contribute.

	EXISTING	EXISTING REQUIRED	PROPOSED	PROPOSED REQUIRED
ZONING	C1B	n/a	C1A	n/a
USES	Office	n/a	Residential	n/a
NUMBER OF UNITS	n/a	n/a	10	n/a
BUILDING				
EXISTING BUILDINGS	2,500 sf	n/a	n/a	n/a
USABLE SQUARE FOOTAGE	2,500 sf	n/a	16,790 sf	n/a
PROPERTY REGULATIONS				
LOT AREA MIN	8,571 sf	3,000 sf	8,571 sf	None
LOT WIDTH MIN	77.42 ft	20.00 ft	77.42 ft	None
BUILDING HEIGHT AVE	25 ft	4 stories/50 ft	56 ft 6.75 in	None
USABLE FLOOR AREA (FAR) MAX	29%	150%	196%	200%
PROPERTY SETBACKS				
FRONT SUMMIT	9.26 ft	10 ft to 25 ft	10.30 ft	None
FRONT BROADWAY	63.40 ft	10 ft to 25 ft	7.18 ft	None
SIDE NORTH	19.71 ft	None	0.31 ft	None
SIDE WEST	1.00 ft	None	0.01 ft	None
OFF STREET PARKING				
PARKING:				
1 SPACE PER UNIT RESIDENTIAL 1/333 sf to 1/250 sf OFFICE	6	7.5	11	10
BICYCLE PARKING				
1 PER 5 UNITS RESIDENTIAL 1/3000 sf OFFICE	0	0 Total 30%A, 70% C	3 A	2 Total 50% A, 50% C

* MAX BUILDING HEIGHT 61 ft 3.5 in. MIN BUILDING HEIGHT 51 ft 1.75 in.

• **SITE PLAN DATA ANALYSIS:**

LAND USE ANALYSIS (SURROUNDING LAND USES AND ZONING):

	LAND USE	ZONING
NORTH	Commercial & Multiple-Family Residential	C1B (Community Convenience Center)
EAST	Single- & Multiple-Family Residential	R4C (Multiple-Family Dwelling)
SOUTH	Single- & Multiple-Family Residential	R4C (Multiple-Family Dwelling)
WEST	Commercial & Office	C1B (Community Convenience Center)

CITIZEN PARTICIPATION:

The petitioner held a meeting for interested citizens October 11, 2018. Invitations were sent to all residents and property owners within 1,000 feet of the site. The applicant’s report of the meeting can be found [here](#).

HISTORY:

Sanborn maps show this site and the two lots to the north as a gas, coke, coal, and ammonia storage site from 1888 (earliest map) to 1899. By 1908, all but an aboveground 38,000 cubic foot iron gas tank had been removed, and the existing house and the barn to the north had been built. The tank was removed by 1916.

CITY MASTER PLAN:

City Master Plan – The Land Use Element (2009) recommends a future land use of Commercial-Office for this block.

REZONING ANALYSIS:

Changes to the text or map of the Zoning Ordinance (Chapter 55 of the Ann Arbor City Code) may be made pursuant to Sections 5:107 and 5:108. 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:

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

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

Staff Comments – The property is currently zoned C1B (Community Convenience Center), as is the rest of this block. This district is intended to “...serve the needs of the surrounding community. This includes establishments that although they primarily serve a surrounding neighborhood, could also serve a larger trade or service area.”¹ It goes on to say that office could be appropriate if adequate parking can be provided.

The requested zoning is C1A (Campus Business), which is “...intended primarily to serve as a neighborhood shopping area for the university oriented population that is concentrated around it.” It adds, “These districts shall be located in close proximity to the central area of the city.”² It has been suggested that the proposed site is not in the shadows of the University of Michigan Central Campus and therefore the requested rezoning to C1A (Campus Business) district is not appropriate. The C1A/R (Campus Business Residential) district was originally a companion to the C1A (Campus Business) district and its intent is integrally related to the C1A. When the current zoning format was adopted in 1963, residential uses were not permitted in commercial districts. Later, so-called “slash R” districts were created for most commercial districts as companions to allow both commercial and residential mixed use buildings. The C1A/R is “designed to encourage the orderly clustering and placement of high-density residential and complementary commercial development near the campus business district.”³ Then, residential uses were added to the commercial districts (while the slash-R districts remained).

In general, all of the C1 districts (C1, C1A, C1A/R, C1B) are designed to allow mixed uses to serve the residents within and nearby to that particular district location. Retail shops ideally providing goods necessary for day-to-day needs, as described in the C1 district intent, are permitted. Business, financial, medical and dental offices are also permitted. And, all forms of residential, including single and two-family, townhouses, and multiple-family apartments are permitted.

The primary difference between the various C1 districts is scale and location. The C1 and C1B districts allow 100% or 150% FAR, respectively, and have height limits of 3 and 4 stories. Although exceptions abound, these districts were designed to be pedestrian-oriented but still accommodating to cars, small commercial nodes throughout the city, well outside of downtown.

The C1A and C1A/R districts respectively allow 200% and 300% FAR. Neither has a height limit. These two districts were established to enable downtown-like development surrounding the University of Michigan campus at a time when downtown Ann Arbor solely meant the Main Street shopping district, and there was only one central campus. Today, downtown encompasses 66 blocks – including the Main Street, East Liberty Street corridor, South State Street, Kerrytown and South University areas. The University of Michigan now has North, Central, South and Medical campuses.

A portion of the Mixed-Use Zoning District Dimensions table is provided below for reference.

This building is 60' tall on the west side (with the garage entrance) and 50' tall above the sidewalk on the east (Broadway) side. (The building sits a couple of feet below the public sidewalk, which helps it look two feet shorter from Broadway.) The surrounding neighborhood is primarily 1 to 2 ½ story structures. There are a few exceptions – the former brewery building at East Summit and North Fifth Ave is 3 ½ stories on the downhill side (at the corner), and there is a 3-story brick apartment building across Broadway on High Street. When requested by staff,

¹ Unified Development Code (UDC), Chapter 55, Section 5.12.4

² UDC, Chapter 55, Section 5.12.3

³ UDC, Chapter 55, Section 5.12.5

the petitioner declined to provide massing drawings showing this building in relation to surrounding structures.

Concerning the floodplain and possible future development on this block, if the project to punch a hole in the railroad embankment near Depot Street goes through, the block bounded by North Fifth Avenue, Depot Street, Broadway, and East Summit will no longer be in the floodplain. The Garnet site is not currently in the mapped floodplain, but the parcels to the west on this block are.

TABLE 5:17-4: MIXED USE ZONING DISTRICT DIMENSIONS											
NOTE: The requirements in this table may be superseded by the standards in Section 5.18 .											
DISTRICT	MAXIMUM FAR (% OF LOT AREA)		MAXIMUM FLOOR AREA PER NON RESIDENTIAL USE (SQ. FT.)	REQUIRED SETBACK (FT.)				MINIMUM / MAXIMUM HEIGHT		MINIMUM GROSS LOT DIMENSIONS	
	NORMAL	WITH PREMIUMS (SEE SEC. 5.18.6)		MINIMUM FRONT	MAXIMUM FRONT	MINIMUM SIDE	MINIMUM REAR	(FT.)	STORIES	AREA (SQ. FT.)	WIDTH (FEET)
O	75	N/A	None	15	40 [A]	[B][C]		[D]	[D]	6,000	50
C1	100	N/A	8,000 [E]	10	25	[B][C]		35	3	2,000	20
C1B	150	N/A	None	10	25	[B][C]		50	4	3,000	20
C1A	200	400	None	None	None	[F]		None	None	None	None
C1A/R	300	600	None	10	None	[F]		None	None	None	None
C2B	200	N/A	None	10	25	[B][C]		55	4	4,000	40

NOTES:
[A] Applies only to new detached Buildings constructed or for which a site plan was approved after January 16, 2011, otherwise none. For Lots with more than one Front Lot Line, Required Setbacks shall only apply to one Front Lot Line.
[B] 30 ft. where abutting residentially zoned land, otherwise none.
[C] Plus one foot of additional setback for each foot of Building Height above 30 feet when abutting residentially zoned land.

SERVICE UNIT COMMENTS:

The site plan and application materials were reviewed by staff from the Planning, Fire Marshal's office, Forestry/Natural Resources, Parks Planning, Engineering, Recycling/Solid Waste, Land Development, and Transportation units.

Planning – Site Plan: The proposed site plan meets all applicable development standards for the proposed zoning district. The execution of a Conditional Zoning Statement of Conditions is required as part of the motion, to formalize the conditions offered by the petitioner.

Zoning: Based on the Master Plan land use designation, it is appropriate to keep this small block (East Summit/N. Fifth/Depot/Broadway) consistently zoned commercial. Staff understands the limitations imposed by office and retail parking requirements on a small 8,571 square foot lot, and the C1B setbacks on this corner lot further limit the building envelope. As offered, at 65 feet, a structure on this lot would be one floor taller than what is allowed on the rest of the block. This is weighed against increased density in an appropriate location with access to multiple modes of transportation.

Land Development – Because there is known contamination on the site, a paragraph has been added to the development agreement to allow City staff to request analytical results of water discharged by the building's sump pump. If contamination is found, the City may require the project developers or condominium association to disconnect the sump pump from the City storm sewer system, filter the water, and/or other remedial actions.

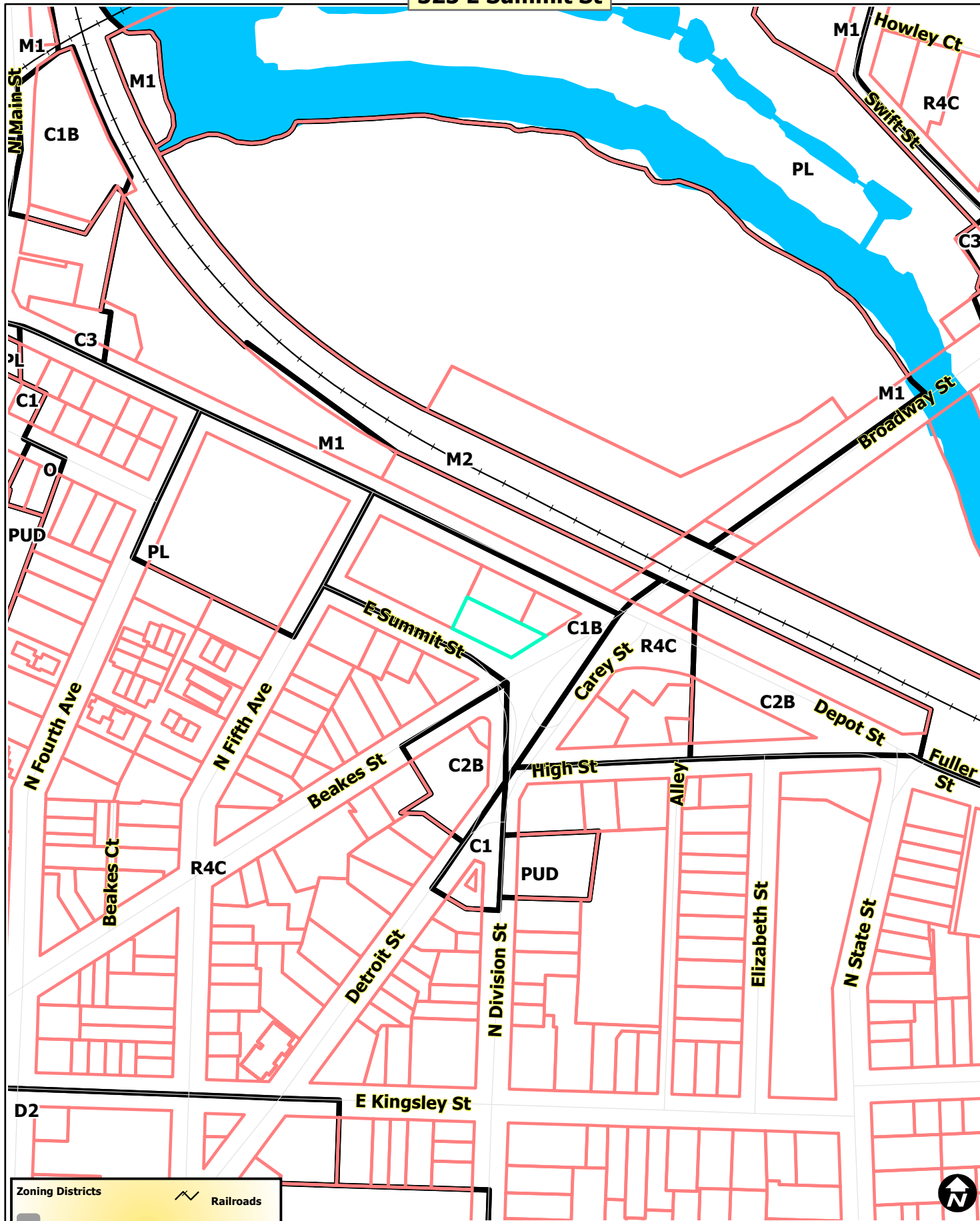
Parks – The petitioner has agreed to make the requested parks contribution of \$6,250. It will be used to improve nearby parks such as Wheeler Park, North Main Park, or the Farmer's Market.

Prepared by Jill Thacher
Reviewed by Brett Lenart
5/16/19

References: Zoning Map
Aerial Photo
[Site Plan \(#4\)](#)
[Citizen Participation Report](#)
Draft Development Agreement

c: Petitioner – 325 E Summit Condos, LLC
Petitioner's Agent – Macon Engineering LLC (Kathy Keinath)
Project No. SP18-044

325 E Summit St



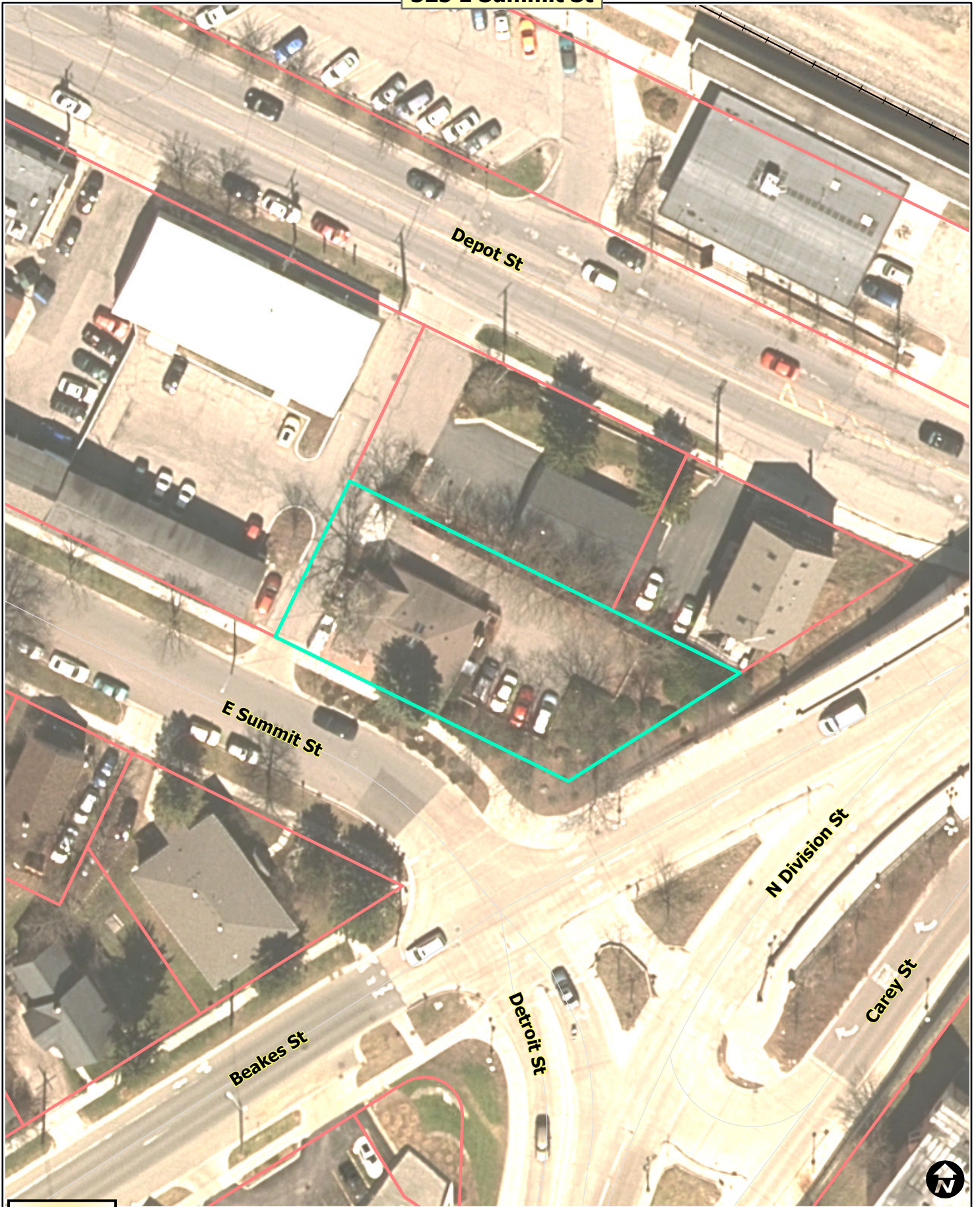
Zoning Districts	Railroads
Township Islands	Huron River
City Zoning Districts	Tax Parcels





Map date 12/28/2017
 Any aerial imagery is circa 2015
 unless otherwise noted
 Terms of use: www.a2gov.org/terms



325 E Summit St



 Railroads
 Tax Parcels



Map date 12/28/2017
Any aerial imagery is circa 2015
unless otherwise noted
Terms of use: www.a2gov.org/terms

THE GARNET DEVELOPMENT AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 20__, 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 325 E Summit Condos, LLC , a Limited Liability Company , with principal address at _345 Glenwood St., Ann Arbor, MI 48103_, hereinafter called the DEVELOPER, witnesses that:

WHEREAS, the DEVELOPER owns certain land in the City of Ann Arbor, described below and site planned as The Garnet, and

WHEREAS, the DEVELOPER has caused certain land in the City of Ann Arbor, described below to be surveyed, mapped and site planned as The Garnet, and desires site plan approval by City Council and development agreement approval thereof, and

WHEREAS, the DEVELOPER 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 DEVELOPER will install these improvements prior to any permits being issued.

THE DEVELOPER(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 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 DEVELOPER fails to construct the improvements, the CITY may send notice via first class mail to the DEVELOPER 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 DEVELOPER, if the DEVELOPER 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 DEVELOPER'S engineer inspects.

(P-4) Prior to the issuance of building permits and recording the master deed, 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 and public streets. 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 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 DEVELOPER, 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-6) 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-7) Existing street trees shown on the site plan as trees to be saved shall be maintained by the DEVELOPER in good condition for a minimum of three years after granting of Certificate of Occupancy. Existing street trees that are determined by the CITY to be dead, dying or severely damaged due to construction activity within three years after granting of Certificate of Occupancy shall be replaced by the DEVELOPER as provided by Chapter 57 of the Ann Arbor City Code.

(P-8) For the benefit of the residents of the DEVELOPER'S development, to make a park contribution of \$ 6,250.00 to the CITY Parks and Recreation Services Unit prior to the issuance of any certificate of occupancy, for improvements to Wheeler Park, North Main Park, or the Farmers Market.

(P-9) To deposit, prior to any building permits being issued, 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 DEVELOPER 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 DEVELOPER one year after the date of acceptance by the CITY.

(P-10) To create an association composed of all owners of The Garnet condominium, hereinafter called the "Association", in which membership shall be required by covenants and restrictions recorded as part of the master deed for The Garnet. The association shall be responsible for and shall execute the appropriate documents insuring perpetual maintenance

and ownership of the landscape materials, driveways, on-site storm water management system, and all other common elements.

(P-11) To construct, repair and/or adequately maintain on-site storm water management system. If the DEVELOPER fails to construct, repair and/or maintain the private storm water management system, the CITY may send notice via first class mail to the DEVELOPER 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 DEVELOPER if the DEVELOPER does not complete the work within the time set forth in the notice.

(P-12) After construction of the private on-site storm water management system, to maintain it until non-developer co-owners elect one or more directors to the Association's board of directors. Thereafter, by provision in the master deed, the Association shall own and maintain the storm water management system. Any proposed changes to the system must be approved by the City of Ann Arbor Systems Planning and Planning and Development Services Units. If the DEVELOPER or Association, as appropriate, fails to maintain any portion of the system, the CITY may send notice via first class mail to the DEVELOPER, or Association, at the address listed above, requiring it to commence and complete the maintenance 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 DEVELOPER or Association if the DEVELOPER or Association does not complete the work, as appropriate, within the time set forth in the notice. If the CITY completes the work, and the costs remain unpaid by the Association for 60 days after notice via first class mail, the CITY may bill each condominium unit for the pro rata share of the total cost, or assess the pro rata share of those costs to each condominium unit as a single tax parcel assessment as provided in Chapter 13 of Ann Arbor City Code. Provisions for maintenance and responsibility for the storm water management system, as well as the pro rata share of each condominium unit shall be included by the DEVELOPER in the master deed.

(P-13) 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-14) The DEVELOPER shall provide, upon request by city staff, analytical results of water discharged by the sump pump. City staff are to witness the collection of the sample and will provide a list of testing parameters. The parameters may include: BTEX, SVOC's, Arsenic, Barium, Cadmium, Chromium, Copper, Lead, Manganese, Mercury, Selenium, Silver, Zinc, available Cyanide, and ammonia. Testing results are to be provided to the City Public Services Area. If at any point, sampling results show the presence of contamination, one or more of the following actions may be required: (a) disconnection of the sump discharge from the city storm sewer system, (b) routing the sump pump discharge to an alternative location, (c) the installation of an appropriate filtration system, designed to handle to constitute(s) found during sampling.

(P-15) To prepare and submit to the Planning and Development Services Unit one copy of the Master Deed, along with the required review fee, prior to issuance of building permits.

(P-16) 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, DEVELOPER 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-17) 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 DEVELOPER 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 DEVELOPER is required to submit signed and sealed drawings to staff reflecting the elevations, setbacks, aesthetics, materials and site plan approved by City Council.

(P-18) 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-19) DEVELOPER 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 DEVELOPER has (have) legal authority and capacity to enter into this agreement for DEVELOPER.

(P-20) 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 DEVELOPER complies with the approved site plan and/or the terms and conditions of the approved development agreement. The DEVELOPER 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-21) In addition to any other remedy set forth in this Agreement or in law or equity, if DEVELOPER 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-22) 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 Garnet Site Plan.

(C-2) To use the park contribution described above for improvements to Wheeler Park, North Main Park, or the Farmers Market.

(C-4) To provide timely and reasonable CITY inspections as may be required during construction.

(C-5) To record this agreement with the Washtenaw County Register of Deeds.

GENERAL TERMS

Both the DEVELOPER 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 DEVELOPER, 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:

LOTS 2, 4 & 6 BLK 8 MAP OF ORMSBY & PAGES ADDN

(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 DEVELOPER, 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 DEVELOPER in writing that the DEVELOPER has satisfactorily corrected the item(s) the DEVELOPER 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:

Steven D. Powers, City Administrator

Approved as to Form:

Stephen K. Postema, City Attorney

325 E Summit Condos, LLC

Witness:

By: _____
Name, Title

STATE OF MICHIGAN)
) ss:
County of Washtenaw)

On this _____ day of _____, 20____, before me personally appeared Christopher Taylor, Mayor, and Jacqueline Beaudry, Clerk of the City of Ann Arbor, a Michigan Municipal Corporation, to me known to be the persons who executed this foregoing instrument, and to me known to be such Mayor and Clerk of said Corporation, and acknowledged that they executed the foregoing instrument as such officers as the free act and deed of said Corporation by its authority.

NOTARY PUBLIC
County of Washtenaw, State of Michigan
My Commission Expires: _____
Acting in the County of Washtenaw

STATE OF MICHIGAN)
) ss:
County of Washtenaw)

On this _____ day of _____, 20__, before me personally appeared _____, to me known to be the person who executed the foregoing instrument, and acknowledged that he executed the foregoing instrument as his free act and deed.

NOTARY PUBLIC
County of Washtenaw, State of Michigan
My Commission Expires: _____
Acting in the County of Washtenaw

DRAFTED BY AND AFTER RECORDING RETURN TO:
Ann Arbor Planning & Development Services
Post Office Box 8647
Ann Arbor, Michigan 48107
(734) 794-6265