

**From:** Baker, Christopher P. <[cpbaker@varnumlaw.com](mailto:cpbaker@varnumlaw.com)>

**Sent:** Monday, April 16, 2018 5:11 PM

**To:** Cheng, Christopher <[CCheng@a2gov.org](mailto:CCheng@a2gov.org)>; Planning <[Planning@a2gov.org](mailto:Planning@a2gov.org)>; CityClerk <[CityClerk@a2gov.org](mailto:CityClerk@a2gov.org)>

**Subject:** Project 18-0673 Objection Letter

Mr Cheng,

This office represents Main and Berkley LLC, the owner of the complex known as 1302 S. Main, Ann Arbor. In response to the pending petition for site plan approval of the Game Day Condominium project, I am forwarding the objection letter of our client, for circulation to the members of the planning commission. Mr. Gensheimer, Managing Member of Main and Berkley LLC, is unable to attend the meeting in person on April 17, 2018, and therefore is requesting that these comments be included in the record for this matter. Please do not hesitate to contact me if you have any questions or require additional information.

**Christopher P. Baker**

Attorney

Direct: (248) 567-7425

Cell: (248) 214-7024

**VARNUM**  
ATTORNEYS AT LAW

---

Varnum LLP

39500 High Pointe Blvd.,  
Ste. 350

Novi, Michigan 48375

Main: (248) 567-7400

Fax: (248) 567-7423

[www.varnumlaw.com](http://www.varnumlaw.com)



[Beverage Control Blog](#)



39500 High Pointe Boulevard • Suite 350  
Novi, Michigan 48375  
Telephone 248 / 567-7400 • Fax 248 / 567-7423 • www.varnumlaw.com

Christopher P. Baker

Direct: 248 / 567-7425  
cpbaker@varnumlaw.com

April 16, 2018

Honorable Members of the City of Ann Arbor  
Planning Commission  
301 E. Huron Street  
Ann Arbor, MI 48104  
Attn: Office of the City Clerk – [cityclerk@a2gov.org](mailto:cityclerk@a2gov.org)

Re: Project 18-0673 Game Day Condominium

Dear Sir or Madam:

This correspondence constitutes the written objection of Main and Berkley LLC ("M&B"), owner of the resident apartment complex at 1302 S. Main (the "Complex") to the pending application of Wick 1300 LLC ("Petitioner") for site plan approval of Game Day Condominiums at 1300 S. Main, Ann Arbor ("Site"). We understand that the site plan is scheduled for review and consideration as part of the April 17, 2018 agenda of the Ann Arbor Planning Commission.

Generally, the plans, as proposed to the Planning Commission under version #1 violate the spirit and intent of the zoning ordinance of the City of Ann Arbor by creating a private nuisance that deprives the ownership of the Complex and its residential tenants of their full use and enjoyment of the property. Specifically, the condominium site plan includes the construction of a four (4) story building in a residential area that is fifty five (55) feet in height, that shall tower over and be a physical intrusion upon the occupants of the Complex, and will create a noise problem given the placement of air conditioning units in close proximity to the M & B structure, within the conflicting land use buffer. This buffer is specifically intended to provide an open area between the Site, zoned Office, and the residential nature of the Complex.

As the notes of the planning department undoubtedly reflect, M & B owns and maintains a two-story apartment complex that is roughly fifteen (15) feet above ground elevation, with the sole access from the building situated on the north side of the Complex. The management and occupants strive to maintain open window circulation in the summer months as an energy savings endeavor. This practice and the general living conditions at the Complex will be detrimentally impacted by certain facets of the condominium site plan for the Site, many features of which appear to be less than fully addressed by the present version of such plans.

There are several problems inherent with the plans. First, the Site is zoned O, yet there is an inadequate conflicting buffer proposed between the four story structure and the Complex, in violation of 5:602, which provides that:

5:603-Conflicting land use buffers.

A conflicting land use buffer shall be provided under the following conditions:

(C) The portion of a parcel zoned O, abutting a public park or parcel principally used or zoned for residential purposes”.

The value of the land use buffer is or should be evident: The buffer requirements of 5:603 are intended to eliminate the effects of a physical intrusion of an over-shadowing Office zoned project from the occupants of a residential neighbor, whose front door and windows are a mere eight (8) feet from the southern line of the Site property line.

Despite the conflicting buffer requirements, the plans contemplate the placement of a minimum of two air conditioning units for the Site within the fifteen (15) foot side (south side) set back of the Site structure. These air condition units are inconsistent with the City's buffer requirements regardless of any trees or plantings that may otherwise be proposed for this southern area. During the summer months, the tenants will be forced to experience the electronic motor of the air conditioning units potentially twenty four (24) hours daily, situated no more than 6 yards from the existing windows of the Complex. Unlike the future residents of the Site who can elect when and if the air conditioners will operate, the residents of the Complex will be forced to keep their windows shut to avoid the noise. Given this close proximity, there will be little opportunity for the residents of the Complex to escape this noise. This appears to be a problem that the developers of the Site are voluntarily creating: all air conditioning units could be placed on the west side of the Site structure, with a greater distance from any neighboring owner, or on the roof top. Again, further analysis should be undertaken to analyze any such alternative locations for the units as well as potential screening for the air conditioning units. Removing two of the four units from the southern conflicting buffer does not satisfy the city code requirements.

The placement of the air conditioning units within the side set back additionally poses a health and safety issue, in addition to the sight and noise blight: If fire or other calamity should occur, fire or emergency crews will not have access for their equipment to the south side of the Site as a result of the placement of these air conditioning units within the close confines of the side set back.

Finally, the placement of the Site, as presently proposed under the plans with a towering structure without barriers and noise mitigation will likely result in a decrease to the value of the Complex.

Honorable Members of the City of Ann Arbor  
Planning Commission  
April 16, 2018  
Page 3

For the foregoing reasons, M & B hereby object to the present plans of the Petitioner and strongly urges this commission to deny 18-0673, or at a minimum, table the request, pending the receipt of additional analysis of the outstanding issues.

Very truly yours,

VARNUM

A handwritten signature in blue ink, appearing to read 'CPB', is written over the word 'VARNUM'.

Christopher P. Baker

CPB/kap

13444344\_1.docx