

**PLANNING AND DEVELOPMENT SERVICES STAFF REPORT**

**For the Planning Commission Meeting of January 5, 2021**

**SUBJECT: Near North Development (700 North Main Street)  
Rezoning – Project no. Z18-012  
Site Plan for City Council Approval with Planned Project  
Modifications – Project No. SP18-033**

**PROPOSED CITY PLANNING COMMISSION MOTION**

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Near North rezoning from PUD (Planned Unit Development) to R4C (Multiple-Family Dwelling).

**PROPOSED CITY PLANNING COMMISSION MOTION**

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Near North Site Plan with Planned Project Modifications to a) increase the maximum height to 33 feet 6 inches, b) decrease the south side setback to 15 feet, and c) decrease the rear setback to 22 feet, subject to i) maintaining 43% open space, ii) maintaining 132 feet north side setback, and iii) having front doors facing North Main Street, garages underneath and accessible only from the interior of the site, and Development Agreement, subject to receiving preliminary approval from the Washtenaw County Water Resources Commissioner and addressing outstanding Engineering comments prior to scheduling for a public hearing of the City Council.

**SUMMARY:**

Postponed following a public hearing and discussion on November 17, 2020 – A petition to rezone a 1.2 acre site from PUD (Planned Unit Development) to R4C (Multiple-Family Dwelling) and a site plan to develop 22 townhomes. Planned project modifications are requested to reduce the south side and rear setbacks and increase the allowed height.

Concerns and requested revisions by the Planning Commission included providing additional renderings, more information on solid waste/recycling operations and zoning history of the site, analyses on conformance to proposed or anticipated ordinance amendments, and additional resident engagement.

### **STAFF RECOMMENDATIONS:**

Staff recommends that the **rezoning** petition be **approved** because the proposed district is compatible with the existing and proposed uses, the Master Plan future land use recommendation, and the surrounding districts.

Staff recommends that the **site plan**, including **planned project modifications** to increase the maximum height and decrease the minimum south side and rear setbacks, be **approved** because, with the modifications, the contemplated development complies with all applicable state, local and federal laws, ordinances, standards and regulations; the development limits the disturbance of natural features to the minimum necessary to allow a reasonable use of the land; and the development does not cause a public or private nuisance and does not have a detrimental effect on the public health, safety or welfare. The planned project modifications will provide excess open space, balanced setbacks and pedestrian orientation of buildings.

### **REPORT:**

**Solid Waste and Recycling Operations** – An enclosure to hold a single solid waste dumpster and a single recycling dumpster is proposed outside of the building on the east side of the driveway. Residents will deposit solid waste and recycling materials into these shared facilities and will not be issued individual carts. The driveway and parking space layout allow service trucks to access the dumpsters and turn around. Service vehicles (and fire trucks) enter and exit the site head-first.

**Additional Resident Participation and Engagement** – At the time this staff report was written, the applicant had made arrangements for a video meeting with neighbors and residents who expressed concerns at the November 17<sup>th</sup> public hearing. Staff expects the applicant will provide written materials prior to the January 5, 2021 meeting (which will be forwarded to the Planning Commission separately as soon as available) and share any updates during their brief presentation to the Planning Commission.

**Proposed Floodplain Management Overlay District and Regulations** – The Floodplain and Stormwater Management Coordinator has confirmed that, because the proposed Near North building is out of the floodplain, the current Flood Resistant Construction Standards in the Michigan Building Code and the proposed regulations in the Floodplain Management Overlay Zoning District do not apply.

**Pending Amendments to Planned Project Modifications** – Staff provided an analysis of the planned project modification request in our November 17, 2020 Staff Report. It analyzed the request relative to UDC Section 5.30.1.

As requested by the Planning Commission, staff offer an analysis of the planned project modifications compared to the pending amendments to delete Section 5.30.1 and add new provisions to Section 5.18.3 Additional Area, Height and Placement Standards and Section 5.18.4 Exceptions to Height Limits.

***Pending amendments:***

**5.18.3 Additional Area, Height, and Placement Standards**

- A. No portion of a Lot used in connection with a Building, Structure or use and necessary for compliance with the area, height, and placement regulations of this chapter, shall, through sale or otherwise, be used again as a part of the Lot required for any other Building, Structure or use, except as provided in Subsections B or C below.
- B. After an official site plan approval of attached Single-Family Dwellings, Two-Family Dwellings, or Townhouse Dwellings, or condominium Buildings in conformity with all area, height, and placement regulations, applicable to the primary Building(s) the platting and/or conveyance of individual Dwelling Units within the primary Structure shall not be deemed to render either the primary Building(s) or any individual Dwelling Unit a Nonconforming Structure. Platting and/or conveyance of individual Dwelling Units shall be subject to the provisions of Section 2:33, Chapter 27, Title II of this Code relating to multiple services.

**C. Setback Line and Yard Alternatives**

**1. Multiple-Family Residential Zoning Districts**

As an alternative to uniformly increasing the Required Side Setback dimension required in Table 5.17-3, Footnote A, along the length of a Side Lot Line, a variegated dimension may be provided as long as minimum Required Side Setback and total increased Side Setback Area are maintained. Examples of developments with variegated setback dimensions include T, L and C-shaped buildings.

**2. Mixed Use, Nonresidential and Special Purpose Zoning Districts**

The Required Setbacks, including Front, Side and Rear, may be increased or decreased by up to 50% of the distance required in Tables 5.17-4 and 5.17-5 provided that the cumulative Required Setback Area for the Lot is provided as part of an approved site plan.

- D. Nothing in this section is intended to allow a greater density of population, greater intensity of land use, or less required Open Space than that provided in the approved site plan or plat.

**5.18.4 Exceptions to Height Limits**

**A. Certain Architectural and Mechanical Features**

The height limits of this chapter shall apply to spires, belfries, cupolas, penthouses, domes, water Towers, observation Towers, power transmission lines and Towers, Roof-mounted Dish Antennas, masts and aerials, flagpoles, chimneys, smokestacks, ventilators, skylights, derricks, conveyors, cooling Towers, and other similar mechanical appurtenances. However, if such facilities are proposed specifically to house and disguise Wireless Communications Facilities, their height limits shall be those in Section 5.16.5D. The applicable height limit of the zoning district in which such a facility is proposed may be modified by the Zoning Board of Appeals.

**B. Wireless Communications Antennas**

Wireless Communications Antennas are not subject to the height limits of this chapter, except when attached to Wireless Communications Towers. Wireless Communications Towers and their associated facilities are subject to the height limits found in Section 5.16.5D.

**C. Sustainable and Affordable Housing Developments**

The height limits of this chapter provided in the dimensional tables of Section 5.17 may be increased up to 30% for sustainable or affordable housing developments as part of an approved site plan as follows:

1. A sustainable development is an approved site plan where a) photovoltaic solar panels cover an area at least 60% of the building(s) footprint(s) are provided, operated and maintained for the life of the development, and b) electrical panels have capacity to solely power the development with electricity, and if all buildings are not fully electrified at the time of development, conduit and other necessary infrastructure is provided for future conversion.
2. An affordable housing development is an approved site plan where at least 15% of all Dwelling Units are, or at least 15% of all Floor Area is devoted to, Affordable Housing Dwelling Units.
3. For any portion of the site that is within 300 feet of any residential zoning district, the Side and Rear Setback within that buffer area shall be increased by the amount of the increased height limitation for the portion of the building(s) above the unmodified height limit. This requirement is intended to resulting in building(s) that have a step back above the unmodified height limit or building(s) that entirely comply with the increased Side or Rear Setback, at the designer's discretion.
4. The photovoltaic solar panels and electrification features of sustainable developments, or the Affordable Housing Dwelling Units of affordable housing developments, are not required by Section 5.18.6 Premiums. However, the height exception in this

paragraph may be used in addition to the premiums offered in Section 5.18.6 as long as the requirements of each are met individually.

***Analysis:***

Setbacks – As proposed, in place of the vague flexibility for any project available through the planned project modifications, multiple-family districts will maintain the existing flexibility provided in Footnote A of Table 5.17-3 and mixed use and nonresidential and special purpose districts will be offered a limited version of it, and the language is moved out of the table footnotes and into Section 5.18.3. No flexibility is currently offered for the required rear setbacks in multiple-family districts and thus none is proposed for mixed use and nonresidential and special purpose districts.

The proposed Near North Site Plan meets the Setback Line and Yard Alternatives offered for multiple-family zoning districts. The south side setback, proposed to be 15 feet, meets or exceeds the minimum side required setback of 12 feet and the combined side yards (17,700 square feet) on the site meets or exceeds the increased side setback area (5,000 square feet). But, because no flexibility is offered for rear required setbacks, a variance of 14.25 to 25.25 feet from the rear required setback (due to angle of rear lot line) would be necessary to approve the proposed site plan under the pending amendment.

Height – The proposed Near North Site Plan could meet the pending exception to height limits for sustainable and affordable housing developments. The proposed building height (32 feet 6 inches) is less than a 30% increase (39 feet). However, the top 2 feet 6 inches would need to be set back 2 feet 6 inches from the lower 30 feet of the building, or the entire building would need to be set back an additional 2 feet 6 inches to comply with the provision in pending Section 5.18.4.C.3. Such a move could be still be accommodated through the pending Setback Line and Yard Alternatives in pending Section 5.18.3.C, but it would push the building into the floodplain. The grading plan would need to be reworked and the disturbance and mitigation to natural features would need to be reassessed. Also, the site plan would need to propose solar panels covering at least 60% of the roof surface plus electrification, or at least 15% of the dwelling units must be made affordable housing dwelling units.

Summary – The proposed Near North Site Plan complies with some of the pending amendments related to planned project modifications but some aspects require commitments to sustainability or affordability by the developer that have not been made and thus cannot be confirmed, and some aspects would require variances and significant changes.

This analysis, in staff's opinion, illustrates that more discussion is needed about the impacts of the pending planned project modifications and whether further flexibility should be considered beyond what is pending.

**Sustainability and Affordability** – The Planning Commission noted the top priorities of the City are sustainability and affordability. It specifically suggested solar panels be installed and used to help power the building.

At the time this staff report was written, the applicant had agreed to include solar panels on the building roof and was determining how many would be shown on the site plan.

**Zoning History** –

The site was zoned O (Office) until September 21, 2009, when City Council approved the Near North PUD Zoning and Supplemental Regulations.

On September 27, 2004, a petition for Terraces on Main, to rezone from O to PUD and a site plan, was submitted and promptly reviewed by staff. Revised materials were submitted on March 26, 2007 and again reviewed by staff. The file was closed due to inactivity on August 29, 2008.

On December 29, 2008, the petition for Near North, to rezone from O to PUD and a site plan, was submitted. It was approved as mentioned above on September 21, 2009.

The proposed petition to rezone from PUD to R4C was submitted on August 24, 2018 and assigned project number Z18-012. It is the first and only rezoning petition to be submitted since the Near North PUD district was approved.

The proposed Near North Site Plan with Planned Project Modifications (project no. SP18-033) is fifth site plan project to be submitted since the 2009 Near North PUD zoning and site plan was approved, three of which were closed or withdrawn.

**Additional Renderings** – Additional renderings are expected but were not available at the time this staff report was written.

**Conformance to EV parking requirements** – An amendment to the Unified Development Code is scheduled for first reading by City Council on December 21, 2020. If passed, it is expected to have a second reading and public hearing on January 19, 2021 and would go into effect ten days after. Any site plan approved after the effective date, such as this Near North site plan, would need to comply with the approved amendment.

As currently drafted in the proposed EV ordinance, 35 of the parking spaces must be EV capable (having an electrical panel and dedicated infrastructure leading to the parking space), 14 must be EV ready (having an electrical panel with a dedicated circuit

and conduit terminating at the parking space), and 6 must be EV installed (having a charging station adjacent to the parking space).

At the time this staff report was written, the applicant was working to locate 6 installed EV charging stations. Given that the proposed development is entirely new construction, it is a simple exercise to revise the site plan to demonstrate each townhouse garage is either EV capable and/or EV ready.

Prepared by Alexis DiLeo  
Reviewed by Brett Lenart  
12/17/20

Attachments: November 17, 2020 Planning Staff Report

Links: [Site Plan #6 \(10-23-20\)](#)

c: Owner and Applicant – Trowbridge Companies, 2617 Beacon Hills Dr., Auburn Hills, MI 48326 (Anthony Randazzo, [awr@trowbridgeco.com](mailto:awr@trowbridgeco.com))  
Applicant's Engineer – Powell Engineering & Associates (Michael Powell, [mike@powelleng.net](mailto:mike@powelleng.net))  
Applicant's Architect – Jarratt Architecture (William Jarrett, [billj@jarrattarchitecture.com](mailto:billj@jarrattarchitecture.com))  
Development Review Team  
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**SUMMARY:**

A petition to rezone a 1.2 acre site from PUD (Planned Unit Development) to R4C (Multiple-Family Dwelling) and a site plan to develop 22 townhomes. Planned project modifications are requested to reduce the south side and rear setbacks and increase the allowed height.



## **LOCATION:**

The site is located on the east side of North Main Street between East Summit and East Kingsley.

## **STAFF RECOMMENDATIONS:**

Staff recommends that the **rezoning** petition be **approved** because the proposed district is compatible with the existing and proposed uses, the Master Plan future land use recommendation, and the surrounding districts.

Staff recommends that the **site plan**, including **planned project modifications** to increase the maximum height and decrease the minimum south side and rear setbacks, be **approved** because, with the modifications and conditions, the contemplated development complies with all applicable state, local and federal laws, ordinances, standards and regulations; the development limits the disturbance of natural features to the minimum necessary to allow a reasonable use of the land; and the development does not cause a public or private nuisance and does not have a detrimental effect on the public health, safety or welfare. The planned project modifications will provide excess open space, balanced setbacks and pedestrian orientation of buildings.

## **REZONING PETITION:**

**Description** – The site is currently zoned Near North PUD (Planned Unit Development), approved on September 21, 2009. The PUD district requires between 38 and 40 one-bedroom dwelling units affordable to households at or below 50% of area median income to be provided in a single building. Up to 5000 square feet of general office and retail use is permitted but not required. The development is required to earn LEED certification for new construction.

The applicants have petitioned to rezone the site from PUD to R4D. The R4D district only allows residential uses and has a maximum density of 20 dwelling units per acre.

**Master Plan Recommendation** – The [City Master Plan](#) includes 8 elements, adopted individually between 2009 and 2017, and together by resolution in 2015. Together, the City Master Plan elements seek to guide the City towards sustainability, conservation, and increasing livability, affordability, transportation choices, and dense, mixed uses on vibrant, active, friendly streets. The Land Use Element recommends “single and two-family residential” for this site.

However, there are several important factors to note regarding the future land use recommendation for the site:

- The recommendation for single and two-family residential future land use was based on the desire to better align the then-current land use (single and two-family residential) with the then-current zoning designation of the site (O [Office]).
- The site was rezoned from O to PUD on September 21, 2009. This action partially achieved the future land use recommendation, but was not in keeping with most of the extensive language in the Master Plan for preserving neighborhood character.
- Four of the lots that made up the site are in the floodplain with most of that area also in the floodway. Residential use is prohibited in the floodway and must be elevated above the floodplain.
- The four single-family homes in the floodplain were demolished in 2013. Today, none remain on the site.

**Standards for Approval** – Changes to the text or map of the Unified Development Code (Chapter 55 of the Ann Arbor City Code) may be made pursuant to Section 5.29.9. To assist the Planning Commission and City Council with their decision, applicant submitted [a petition with justifications](#) in support of the request. The petition is [linked](#) and attached, and addresses:

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

**Staff Comments** – This petition is an example of how PUD zoning is a strong tool to achieve desired land uses of a time, but is inflexible and does not adapt to changing conditions or new development programs.

The rezoning petition from O to PUD was a difficult decision for staff, the Planning Commission and City Council in 2009. The affordable housing component of the PUD zoning and site plan was greatly appreciated but it came within a large multiple-family building of a different scale as the neighborhood and the Future Land Use Plan. The difficulties balancing these facts was apparent in staff and Planning Commission's recommendations for denial and City Council's approval after some additional revisions were made.

This proposed rezoning from PUD to R4C is more straightforward. The requested R4C district moves the zoning designation closer to the recommended future land use of single and two-family residential use. The accompanying site plan for 22 attached single-family homes is in keeping with the recommended development both in land use and in building form. It is appropriate to consider a multiple-family zoning district such

as R4C for this site because it allows attached homes, enabling dwellings to be clustered on a smaller footprint and outside of the floodplain, meeting natural feature protection and sustainability goals of the City.

### **SITE PLAN APPLICATION:**

**Description** – The site is currently vacant. Eight single-family dwellings were demolished in 2013. The northern third of the site is in the Allen Creek 1% Chance Floodplain and rises significantly and steeply to the south. The [proposed site plan](#) calls for constructing two parallel buildings\* each containing 11 townhouse dwellings. Every unit has a garage at the ground level, accessed from a central interior driveway covered by a common deck at the second level. Front doors of the western building all face North Main Street. (\*Considered one building for code purposes due to the design of the foundation.)

## Ann Arbor Near North



**Figure A: Architectural Rendering (Site Plan #6)**

A development standards review is provided below. Additional descriptions and notable details of the site plan include:

- **Setbacks** – The R4C district requires the front setback to be consistent with the average front yards on either side of the site, and requires additional distance when the building depth or width exceeds certain thresholds. The proposed development is located at the average front setback line. Planned project modifications are requested to allow reduced south side and rear setbacks. On the south side, the reduced distance is greater than the standard side setback minimum but is less than the total amount required due to the deep building depth. At the rear, the reduced distance is less than the standard rear setback

minimum. In both cases, the proposed setback still allows for a conflicting land use buffer.

- Height – The R4C district requires a maximum height of 30 feet. The proposed building is 32 feet 6 inches. It includes garages underneath more than 35% of the footprint that in all other R4 districts but R4C allows maximum heights to increase by 10 feet. Planned project modifications are requested to allow the increased height.
- Floodplain – The northern third of the site is in the 1% Chance Floodplain as shown in Figure B. The development includes a small amount of fill in the floodplain to construct the driveway and surface parking area and a compensating cut to maintain the floodplain volume.
- Landmark Trees – Five landmark trees are proposed to be removed as part of the development. Mitigation trees are proposed, most to be planted on the site and a contribution to the Stormwater Fund will cover the remaining inches. Street trees are paid from the Stormwater Fund.
- Alternatives Analysis – As required whenever natural features are proposed to be disturbed (here, floodplain and landmark trees), an alternatives analysis is included in the site plan. Four layouts were analyzed. None were able to save all landmark trees. The proposed layout minimizes, but does not entirely avoid, any disturbance within the floodplain with the most dwelling units.
- Park Contribution – In lieu of on-site recreation area or play structures, or donating land, the applicant proposes to contribute \$13,750.00 to be used for improvements at a park within walking distance of this site such as Argo Park, Hunt Park, Wheeler Park, North Main Park or Farmer’s Market.



**Figure B: Floodplain Map (floodway in blue, floodplain in green)**

**Development Standards Review** – Staff has reviewed the site plan for compliance with all applicable development standards of the R4C district provided in Chapter 55 [Unified Development Code](#). A summary of staff findings is provided in the chart below. Shading highlights planned project modification requests.

|                 | CURRENT   | PROPOSED   | REQUIRED/<br>PERMITTED  |
|-----------------|---|--|---|
| Zoning          | PUD   | R4C  | R4C   |
| Lot Area        | 51, 444 sq. ft.   | 51,444 sq. ft.   | 8,500 sq. ft. MIN   |
| Density         | Equivalent to 1,286 sq. ft. MIN - 1,354 sq. ft. MAX<br><br>[Actual: MIN 38 – MAX 40 dwelling units; 5,000 sq. ft. nonresidential MAX; 100% FAR MAX] | 2,338 sq. ft. per dwelling unit                                      | 2,175 sq. ft. per dwelling unit MIN   |
| Dwelling Units  | 38 – 40   | 22   | Up to 23  |
| Setbacks        | Front   | 15 ft. MIN   | 10 ft. MIN<br><br>(Averaging)   |
|                 | Side (N)  | 115 ft. MIN  | 19 ft. 3 in. MIN  |
|                 | Side (S)  | 13.5 ft. MIN   | 15 ft.<br><br>(12 ft. plus 7 ft. 3 in. due to building depth)                                     |
|                 | Rear  | 55 ft. MIN south half of building, 24 ft. MIN north half of building | 22 ft. at closest point, 27.5 ft. average<br><br>(30 ft. plus 17 ft. 3 in. due to building width) |
| Height          | 50 ft. MAX  | 32 ft. 6 in.   | 30 ft. MAX  |
| Vehicle Parking | 50<br><br>(1 per d.u. MIN, plus 12)   | 55   | 33 MIN  |
| Bicycle Parking | 30 Class A MIN<br>4 Class B MIN<br>4 Class C MIN  | 22 Class A<br>4 Class C  | 4 @<br>50% Class A<br>50% Class B   |

**Staff Comments** – The site plan has been reviewed by the entire development review team, including staff from Engineering, Transportation, Natural Features and Urban

Forestry, Land Development, Floodplain/Stormwater, Parks and Recreation, Solid Waste/Recycling, and the Fire Marshal.

The site plans have also been provided to the Washtenaw County Water Resources Commissioner (WCWRC) for review as well as the Michigan Department of Transportation (MDOT).

- The WCWRC's preliminary approval is pending.
- Two outstanding items have been noted by Engineering and must be addressed prior to City Council action – proposed trees within ten feet of the fire hydrant must be moved, and connections to the Allen Creek Drain as well as extending public storm sewer must be reviewed and approved by the WCWRC and MDOT respectively.

**Resident Participation** – A meeting was held on July 28, 2018 for all residents and property owners within 1000 feet of the site. The applicant's report of that meeting is linked [here](#) and part of the project file.

**Planned Project Modification Standards and Analysis** -- The Planning Commission may recommend, and City Council may approve, modifications to the area, height and placement regulations of the Unified Development Code in the form of a planned project site plan, as set forth in Section 5.30.1 of the UDC.

As set forth in Section 5.30.1.C Standards for Approval, planned projects must:

- a) Meet the lot size requirement of their zoning district, and
- b) Provide one or more of certain features, and
- c) Not create hazardous traffic to adjacent properties, and
- d) Be consistent with proper development, and
- e) Provide required off-street parking and landscaping and screening, and
- f) Met the density or floor area ratio and open space requirements of their zoning district, and
- g) Have only permitted uses of their zoning district.

The applicant [requests](#) the following modifications:

1. Reduce the rear setback by 25 feet 3 inches, from 47 feet 3 inches to 22 feet.
2. Reduce the south side setback by 4 feet 3 inches, from 19 feet 3 inches to 15 feet.
3. Increase building height by 2 feet 6 inches, from 30 feet to 32 feet 6 inches.

As stated by the applicant in their [petition](#), the request modifications “[for] the reduced side and rear setbacks allows reasonable development of a narrow and shallow parcel also encumbered by the 100[-Year] floodplain and floodway. The adjacent neighbors do not object to [the] proposal. The buildings are designed with garages under living space. The garage access at the lower level causes building height to exceed 30 feet. Building height adjacent to east neighbors is 24 feet.”



**Staff Comments** -- Staff finds the requested planned project modifications meet the standards for approval provided in Section 5.30.1.C. The development provides several of the justifying features as noted below. Staff traditionally emphasizes that the approval standards require only one feature to be provided. Analyzing this particular modification request, staff find that no one feature adequately supports the request but when taken together, the features combined are greater than each part individually.

- Open space in excess of the minimum required, 43% proposed versus 40% required (Section 5.30.1.C.1.b.i)
- The north side setback exceeds the minimum required and offsets the modest reduction for the south side setback, which still provides more than the standard minimum distance and is sufficient to provide a conflicting land use buffer (Section 5.30.1.C.1.b.ii)
- The arrangement of buildings is pedestrian-oriented and positively contributes to the North Main Street streetscape. Front doors face the street and there are no visible garages. Further, all garages are underneath the building which in other multiple-family zoning districts (but not R4C) earns an automatic 10-foot increase in maximum building height. (Section 5.30.1.C.1.b.iii)

The complete planned project modification petition is available [here](#) and is attached.

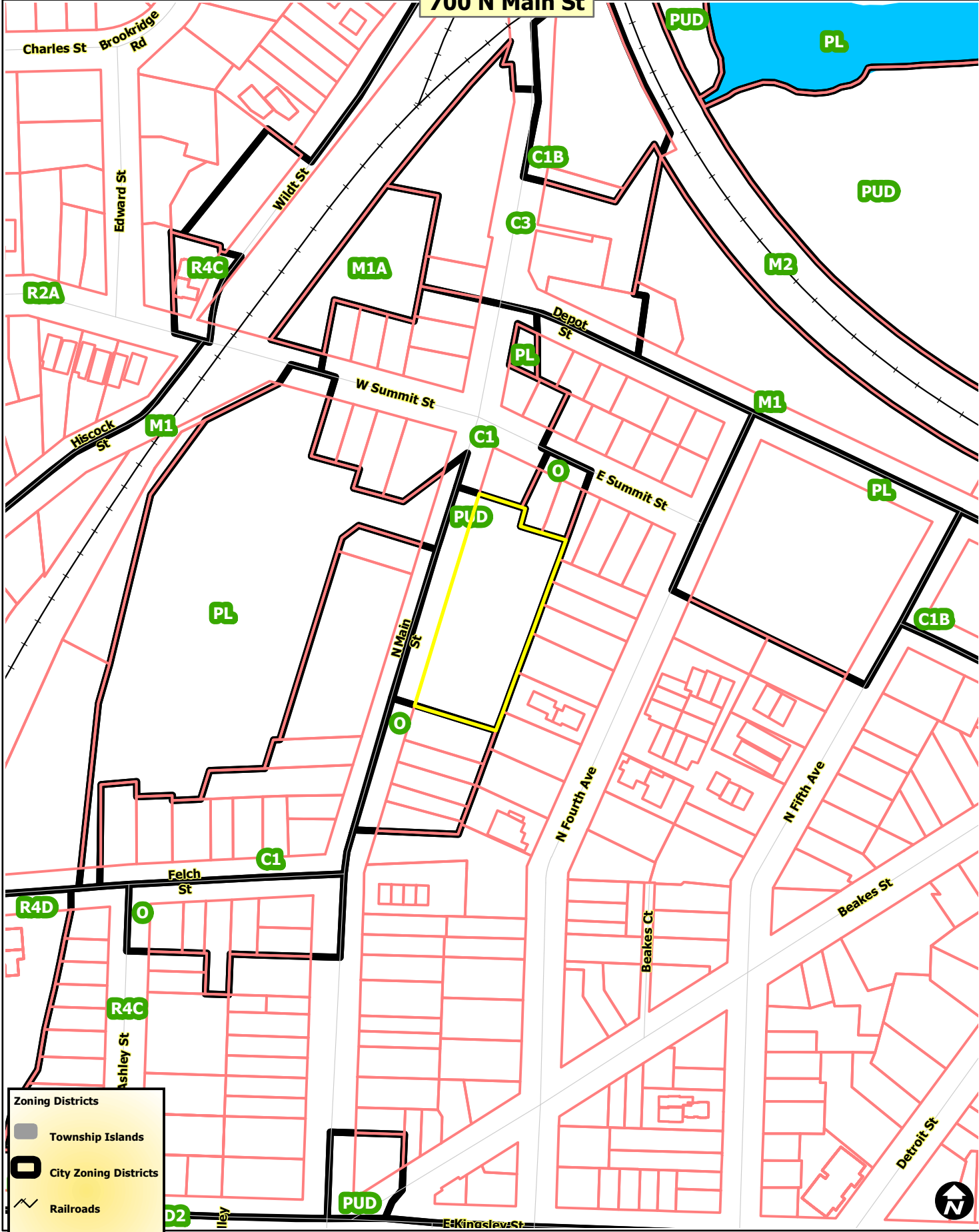
Prepared by Alexis DiLeo  
Reviewed by Brett Lenart  
11/12/20

Attachments: Zoning Map  
Aerial Photo  
Rezoning Petition  
Planned Project Petition  
Draft Development Agreement (11-12-20)

Links: [Site Plan #6 \(10-23-20\)](#)

c: Owner and Applicant – Trowbridge Companies, 2617 Beacon Hills Dr., Auburn Hills, MI 48326 (Anthony Randazzo, [awr@trowbridgeco.com](mailto:awr@trowbridgeco.com) )  
Applicant's Engineer – Powell Engineering & Associates (Michael Powell, [mike@powelleng.net](mailto:mike@powelleng.net))  
Applicant's Architect – Jarratt Architecture (William Jarrett, [billj@jarrattarchitecture.com](mailto:billj@jarrattarchitecture.com))  
Development Review Team  
Project Nos. Z18-012, SP18-033

700 N Main St



**Zoning Districts**

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



Map date: 10/28/2020  
 Any aerial imagery is circa 2018 unless otherwise noted  
 Terms of use: [www.a2gov.org/terms](http://www.a2gov.org/terms)





700 N Main St



 Railroads  
 Tax Parcels



City of Ann Arbor 

Map date: 10/26/2020  
 Any aerial imagery is circa 2018 unless otherwise noted  
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**City of Ann Arbor**  
**PLANNING & DEVELOPMENT SERVICES — PLANNING DIVISION**  
301 East Huron Street | P.O. Box 8647 | Ann Arbor, Michigan 48107-8647  
p. 734.794.6265 | f. 734.994.8312 | [planning@a2gov.org](mailto:planning@a2gov.org)

**APPLICATION FOR CHANGES IN OR ADDITIONS TO THE ZONING CHAPTER**

*See [www.a2gov.org/planning/petitions](http://www.a2gov.org/planning/petitions) for submittal requirements.*

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

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

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

See attached  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The petitioner(s) requesting the zoning/rezoning are:

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

Trowbridge Land Holdings, LLC  
\_\_\_\_\_  
2617 Beacon Hill Drive, Auburn Hills, MI 48326  
\_\_\_\_\_  
Bruce Michael, 248/703-4653  
\_\_\_\_\_  
Contract to purchase  
\_\_\_\_\_

Also interested in the petition are:

*(List others with legal or equitable interest)*

Cinnaire Lending, Inc. (fka Capital Fund Services, Inc.)  
\_\_\_\_\_  
1118 South Washington, Lansing, MI 48910  
\_\_\_\_\_  
Mark Erickson, 313/544-4012  
\_\_\_\_\_  
Fee simple property owner  
\_\_\_\_\_

The applicant requests that the Official City Zoning Map be amended to reclassify this property from PUD to R4C to permit the following use(s): Development of less than 30 for sale attached

Townhome units.  
\_\_\_\_\_  
*(state intended use)*

Justification:

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

The present PUD zoning classification was established for a failed mixed use project involving low income rental housing, retail and office.

The PUD conditions are extensive, complicated and would impede the use of the property intended by the petitioner.

R4D will allow a density of units that fits the higher density intentions of the City master plan for this near downtown area.

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

The removal of two vacant houses on the property eliminates an attractive nuisance. The zoning and resulting development of the property

will provide the neighbors with certainty about who/what their neighbors will be. The development of high quality, market rate townhomes

will enhance their property values vs a commercial or low income rental housing use. The intended development fits character of the area.

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

Attractive nuisance eliminated. Additional near downtown for sale housing provided. Substantial additional tax base generated.

A high quality development along a major gateway into the City.

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4. This particular location will meet the convenience and service requirements of potential users or occupants in the following ways:

The proposed development will provide housing opportunities to those that want to live in Ann Arbor with a walkable location near downtown.

The proposed townhome product will provide an alternative to most of the elevator structure common hallway projects presently planned or underway.

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

Numerous high density housing projects have been recently completed, are currently under construction or are approved in the immediate area.

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

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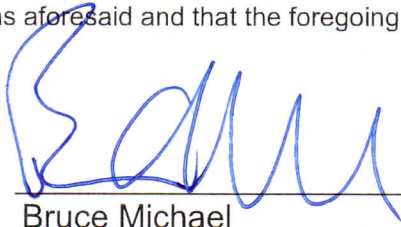
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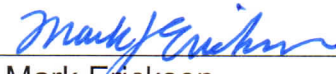
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Attached is a scaled map of the property proposed for zoning/rezoning, showing the boundaries of the property, the boundaries of the existing zones, the boundaries of the proposed zones, and the public and/or private easements located within or adjacent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

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


Dated: 6/19/17

Signature:   
Bruce Michael  
2617 Beacon Hill Drive  
Auburn Hills, MI 48326  
*(Print name and address of petitioner)*

Signature:   
Mark Erickson  
1118 South Washington  
Lansing, MI 48910  
*(Print name and address of petitioner)*

STATE OF MICHIGAN  
COUNTY OF Wayne

On this 19th day of June, 2017, before me personally appeared the above-named petitioner(s), who being duly sworn, say that they have read the foregoing petition by them signed, and know the contents thereof, and that the same is true of their knowledge, except as to the matter therein stated to be upon their information and belief, and as to those matters they believe it to be true.

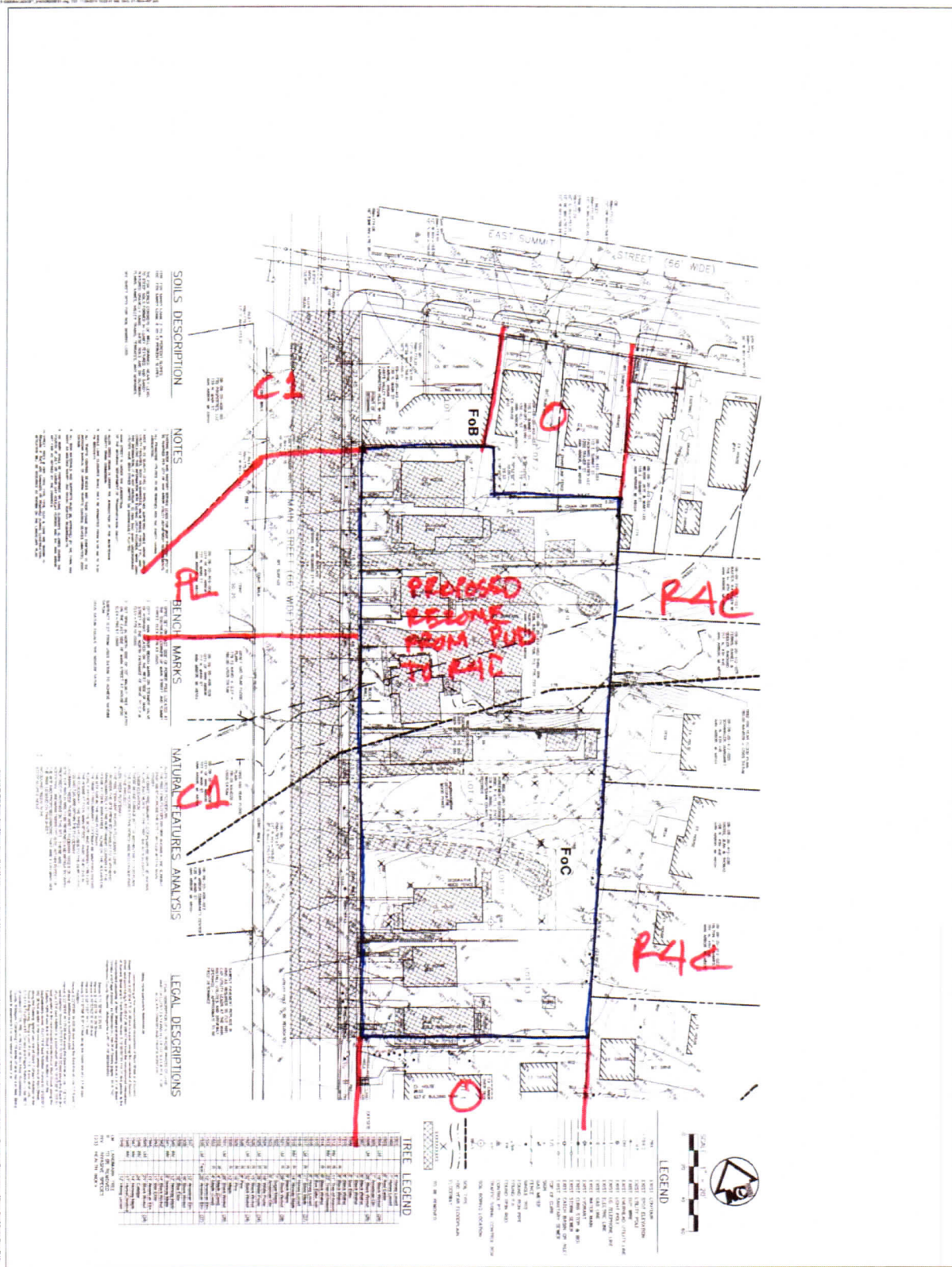
Signature:   
Megan Fuller  
*(Print name of Notary Public)*

My Commission Expires: 2/6/22

**MEGAN K FULLER**  
Notary Public, State of Michigan  
County of Wayne  
My Commission Expires 02-06-2022  
Acting in the County of Wayne



MAP OF PROPOSED ZONING



**SOILS DESCRIPTION**  
 THE SOILS ARE CLASSIFIED AS...  
 THE SOILS ARE...  
 THE SOILS ARE...  
 THE SOILS ARE...

**NOTES**  
 1. THE PROPOSED ZONING...  
 2. THE PROPOSED ZONING...  
 3. THE PROPOSED ZONING...  
 4. THE PROPOSED ZONING...  
 5. THE PROPOSED ZONING...

**BENCH MARKS**  
 1. BENCH MARK...  
 2. BENCH MARK...  
 3. BENCH MARK...

**NATURAL FEATURES ANALYSIS**  
 1. NATURAL FEATURES...  
 2. NATURAL FEATURES...  
 3. NATURAL FEATURES...

**LEGAL DESCRIPTIONS**  
 1. LEGAL DESCRIPTION...  
 2. LEGAL DESCRIPTION...  
 3. LEGAL DESCRIPTION...

**TREE LEGEND**

| Symbol   | Description          |
|----------|----------------------|
| (Symbol) | Tree to be retained  |
| (Symbol) | Tree to be removed   |
| (Symbol) | Tree to be planted   |
| (Symbol) | Tree to be protected |

**LEGEND**

| Symbol   | Description                 |
|----------|-----------------------------|
| (Symbol) | Proposed building footprint |
| (Symbol) | Proposed parking area       |
| (Symbol) | Proposed driveway           |
| (Symbol) | Proposed fence              |
| (Symbol) | Proposed boundary           |
| (Symbol) | Proposed easement           |
| (Symbol) | Proposed utility            |
| (Symbol) | Proposed structure          |
| (Symbol) | Proposed feature            |

**PRELIMINARY NOT FOR CONSTRUCTION**

**Near North Apartments**

**MIDWESTERN CONSULTING**  
 Civil, Environmental and  
 Transportation Engineers  
 303 E. Main Street  
 Ann Arbor, Michigan 48106  
 Tel: 734.966.1333  
 Fax: 734.233.2885

**Damian Farrell Design Group PLC**  
 303 E. Main Street  
 Ann Arbor, Michigan 48106  
 Tel: 734.966.1333  
 Fax: 734.233.2885

**Existing Conditions and Removals**

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |



**City of Ann Arbor**  
**PLANNING & DEVELOPMENT SERVICES — PLANNING SERVICES**  
 301 East Huron Street P.O. Box 8647 Ann Arbor, Michigan 48107-8647  
 734.794.6265 734.994.8312 [planning@a2gov.org](mailto:planning@a2gov.org)

**APPLICATION FOR PLANNED PROJECTS**

TO: Ann Arbor City Planning Commission

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

**A. Legal Description**

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

see attached

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**B. Petitioner Information**

The petitioner(s) requesting the planned project are:

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

Trowbridge Land Holdings, LLC

2617 Beacon Hill Drive

Auburn Hills, Michigan 48326 248/703-4653

affiliate of land owner

Also interested in the petition are:

*(List others with legal or equitable interest)*

Near North Development, LLC

2617 Beacon Hill Drive

Auburn Hills, Michigan 48326 248/703-4653

owner

**C. Modification(s) Request**

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

Reduce rear yard setback from 47'3" to 22'2", Article 5.17.3, Table 5:17.3

Reduce side yard setback from 19'3" to 15'0", Article 5.17.3, Table 5:17.3

Increase building height from 30 feet to 32.5 feet, Article 5.17.3, Table 5:17.3

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

The reduced side and rear setbacks allows reasonable development of a narrow and shallow parcel also encumbered by 100 floodplain & floodway. The adjacent neighbors do not object to proposal.

The buildings are designed with garages under living space. The garage access at the lower level causes building height to exceed 30 feet. Bldg height adjacent to east neighbors is 24 feet.

**D. Standards for Approval**

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

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

see attached  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

na

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

There will be only one curb cut to Main Street, already approved by MDOT.

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

see attached

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

all applicable ordinance provisions met

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

all applicable ordinance provisions met

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

Proposed uses are permitted within the district

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8. In any residential zoning district allowing 3 or fewer dwelling units per acre and where 20 percent or more of the total area is proposed for permanent open space, projects shall meet the following standards:

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

- f. The option of utilizing a conservation easement or plat dedication for open space preservation for not less than 20 percent of the total area may be exercised only one time on a parcel of land.

na

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

### E. Supporting Plans

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

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

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_

Anthony F. Randazzo

2617 Beacon Hill Drive

Auburn Hills, MI 48326

*(Print name and address of petitioner)*

STATE OF MICHIGAN

COUNTY OF WASHTENAW

On this 19 day of February, 2019, before me personally appeared the above named petitioner(s), who being duly sworn, say that they have read the foregoing petition and by them signed, and know the contents thereof, and that the same is true of their knowledge, except as to the matter therein stated to be upon their information and belief, and as to those matters they believe it to be true.

Signature: Frances Patricia Tabbi  
FRANCES PATRICIA TABBI  
*(Print name of Notary Public)*

My Commission Expires: 7-15-2024



Frances Patricia Tabbi  
NOTARY PUBLIC - STATE OF MICHIGAN  
County of Macomb

My Commission Expires 7/15/2024  
Acting in the County of Macomb

## HISTORY

The project site was originally several single family homes. In 2009, a development proposed for the site was approved as a Planned Unit Development for a 4 story, low income housing project intended for veterans with substance abuse issues. The proposed development included:

- 39 1BR rental units
- 40 feet in height
- Total building 65,144 square feet
- 1,553 square feet of office
- 2,714 square feet of retail
- 53 parking spaces located in an underground parking structure and surface.

The PUD allowed the following reductions in minimum standards in the R4C zone.

| Category      | Existing PUD | Required R4C                                 |
|---------------|--------------|--|
| Density       | 1,329 sf/du  | 2,175 sf/du                                  |
| Front setback | 15 feet      | 10 feet (average front setbacks w/in 100 ft) |
| Side setback  | 13.5 feet    | 12 feet                                      |
| Rear setback  | 24 feet      | 33 feet (based on 67' length bldg)           |

## PLANNING BACKGROUND

This site is located in the Central planning area. The site has a specific future land use recommendation (Site 6 in the Central Area) for rezoning parcels in the area from office or commercial to residential. The proposal would do this.

The Master Plan: Land Use Element also emphasizes the following:

- Minimize displacement of residential uses by commercial and institutional uses.
- Encourage development of new architecture that complements the scale and character of the neighborhood.
- Ensure that new infill development is consistent with the scale and character of existing neighborhoods.
- Promote compatible development of sites now vacant, underutilized or uninviting.
- Identify appropriate locations for compatible and well-designed multiple family residential development.
- Encourage construction of buildings whose scale and detailing is appropriate to their surroundings.

The proposed for sale townhome development meets these goals and objectives and is much more in keeping with the scale and character of the surrounding residential uses.

## PLANNED PROJECT STANDARDS FOR APPROVAL

According to Section 5:70 of the Zoning Ordinance, the City Planning Commission may recommend approval, and City Council may approve modifications of the area, height and placement regulations of the Zoning Ordinance in the form of a planned project site plan, based upon the following standards (petitioner response in regular type, staff comments in *italics*):

**Requested modifications:**

- Modification to Article 5.17.3, Table 5:17-3 – Requires a rear yard setback of 47 feet 3 inches, based on 188 foot building length.  
*The petitioner is requesting 26-foot average rear yard setback with closest point being 22 feet in one corner of the building.*
- Modification to Article 5.17.3, Table 5:17.3 – Requires a maximum building height of 30 feet.  
*The petitioner is requesting 32.5 feet, an average of the building height at six points around the building (each corner and the building midpoint on east and west side).*
- Modification to Article 5.17.3, Table 5:17.3 – Requires a side yard setback of 19 feet 3 inches, based on 108 foot building depth  
*The petitioner is requesting 15 feet.*

**How these modifications will help achieve the objectives of the development program and the standards for planned project approval:** We request these modifications to deal with the limitations caused by the narrowness of the property, but developing the property in a much less intense and intrusive way than was approved under the PUD.

- 1. The lot(s) included in the planned project meet the minimum gross lot size requirement of the zoning district in which they are located. In residential zoning districts, the minimum gross lot size shall be the combined total of the minimum gross lot sizes for each dwelling on a parcel.**

*The proposed combination of 16 townhome dwelling units require a gross minimum lot size of 34,800 square feet. The 51,444-square foot site meets this requirement.*

- 2. The proposed modifications of zoning requirements must provide one or more of the following:**
  - a. Usable open space in excess of the minimum requirement for the zoning district.**
  - b. Building or parking setback(s) in excess of the minimum requirement for the zoning district.**
  - c. Preservation of natural features that exceeds ordinance requirements, especially for those existing features prioritized in the land development regulations as being of highest and mid-level concern.**
  - d. Preservation of historical or architectural features.**
  - e. Solar orientation or energy conserving design.**
  - f. An arrangement of buildings that provides a public benefit, such as transit access, pedestrian orientation, or a reduced need for infrastructure or impervious surface.**
  - g. Affordable housing for lower income households.**
  - h. A recorded conservation easement or similar binding instrument providing for permanent open space of 20 percent or more of the planned project.**

Proposed modifications provide: a (excess usable open space) and f (beneficial arrangement of buildings).

- 3. The planned project shall be designed in such a manner that traffic to and from**

**the site will not be hazardous to adjacent properties.**

There will be only one driveway access to Main Street, the location of which has been approved by MDOT. This would replace the 7 individual home driveways that originally existed.

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

The reduction in rear yard setback allows for the development of two rows of townhomes, providing front elevations to both Main Street and neighbors to the east and providing for a central, hidden parking court. In lieu of one larger building as originally approved in the PUD, the resulting townhomes are much more in character with the single family homes to the east.

The height of the buildings exceeding 30 feet is located in the interior parking court and along Main Street, away from the single family homes to the east. The extra height allows for placement of parking underneath the living space of the units, reducing garage door, auto, paving and traffic impacts on the site and surrounding uses.

**5. Required off-street parking and landscaping must be provided in accordance with the provisions of Chapters 59 and 62.**

All applicable ordinance provisions are met.

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

All applicable ordinance provisions are met.

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

Proposed uses are permitted within the district.

**NEAR NORTH DEVELOPMENT AGREEMENT**

THIS AGREEMENT, made this [--] day of [Month], [Year], 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 Trowbridge Land Holdings, LLC, a Michigan Limited Liability Company, with principal address at 2617 Beacon Hill Drive, Auburn Hills, Michigan, 48326, hereinafter called the DEVELOPER, witnesses that:

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

WHEREAS, the DEVELOPER has caused certain land in the City of Ann Arbor, described below to be surveyed, mapped and site planned as Near North, and desires Planned Project Site Plan 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 public water main, public sanitary sewer mains, public storm water mains, and private storm water management system ("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 install all water mains, storm sewers, sanitary sewers pursuant to CITY approved plans and specifications, necessary to connect the site with existing CITY systems adjacent to the site prior to the issuance of any building permits.

(P-6) To be included in a future special assessment district, along with other benefiting property, for the construction of additional Improvements to North Main Street ,such as street widening, storm sewers, curb and gutter, sidewalks, bike paths, street lights, and the planting of trees along North Main Street frontage when such Improvements are determined by the CITY to be necessary. And, to include a provision in the master deed stating that if the CITY undertakes to establish a special assessment district to improve North Main Street each unit shall be assessed its pro rata share of the cost of Improvements allocable to the Property.

(P-7) To indemnify, defend 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-8) 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 additional 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-9) For the benefit of the residents of the DEVELOPER'S development, to make a park contribution of \$13,750.00 to the CITY Parks and Recreation Services Unit prior to the issuance of certificates of occupancy for Improvements to Argo Park, Hunt Park, Wheeler Park, North Main Park, Farmers Market, or other parks within walking distance of the site.

(P-10) Because it is not possible to install the number of trees required to mitigate for the removal of landmark trees on the site, a contribution of \$2000.00 to the Stormwater Fund for planting trees elsewhere in the City to complete the required mitigation.

(P-11) 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-12) To create an association composed of all owners of Near North condominium, hereinafter called the "Association," in which membership shall be required by covenants and restrictions recorded as part of the master deed for Near North. The association(s) shall be responsible for and shall execute the appropriate documents insuring perpetual maintenance and ownership of the landscape materials and buffers, exterior lighting, driveways, private on-site storm water management system, and all other common elements.

(P-13) 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-14) 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-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) To apply for and obtain, prior to issuance of any Certificates of Occupancy, Letters of Map Revision (LOMAR) from the Federal Emergency Management Agency for modifications in the floodplain elevations on the site, and to furnish to the CITY copies of the LOMAR and an Elevation Certificate for each building.

(P-20) 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-21) 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 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 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 Agreement.

(P-22) 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.

(P-23) 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 Near North Planned Project Site Plan.

(C-2) To use the park contribution described above for Improvements to the Argo Park, Hunt Park, Wheeler Park, North Main Park, and/or Farmers Market.

(C-3) To provide timely and reasonable CITY inspections as may be required during construction.

(C-4) 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:

Commencing at the monumented intersection of Main Street and Summit Street; thence S 62°00'42" E 37.46 feet to a point along the centerline of Summit Street, said point being N 62°00'42" W 366.67 feet from the monumented intersection of Summit Street and N. Fourth Street; thence S 19°00'00" W 114.21 feet parallel to the monumented centerline of Main Street and along the westerly line of Lot 1 of Block 1, Ormsby and Page's Addition, as recorded in Liber M of Deeds, Pages 191 and 192, Washtenaw County Records, Michigan for a Point of Beginning;

thence S 71°02'44" E 80.66 feet;

thence S 18°20'18" W 29.33 feet;

thence S 70°52'52" E 10.05 feet;

thence S 28°13'07" W 1.73 feet;

thence S 71°07'58" E 67.47 feet along the north line of Lot 5 of said Addition;

thence S 22°03'45" W 208.08 feet along the east line of lots 5, 7, 9 and 11 of said Addition to a found iron pipe;

thence S 22°36'53" W 123.99 feet along the east line of lots 11 and 13 of said Addition;

thence N 70°53'11" W 139.30 feet along the south line of Lot 13 of said Addition to a point which lines N 19°00'00" E 215.31 feet parallel to the monumented centerline of Main Street, along the easterly right-of-way line of Block 1 of said Addition from the southwesterly corner of Lot 19 of said Addition;

thence N 19°00'0" E 362.08 feet parallel to the monumented centerline of Main Street, along the easterly right-of-way line of Block 1 of said Addition to the Point of Beginning.

Being a part of Lots 1 and 2 and all of Lots 5, 7, 9, 11 and 13 of Block 1, Ormsby and Page's Addition, in the SE 1/4 of Section 20, Town 2 South, Range 6 East, in the City of Ann Arbor, Washtenaw County, Michigan.

Tax identification number 09-09-20-412-041

(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.

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:

\_\_\_\_\_  
Tom Crawford, City Administrator

Approved as to Form:

\_\_\_\_\_  
Stephen K. Postema, City Attorney

Trowbridge Land Holdings, LLC

By: \_\_\_\_\_  
[Name, Title]

STATE OF MICHIGAN )  
 ) ss:  
County of Washtenaw )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by Christopher Taylor, Mayor, and Jacqueline Beaudry, Clerk of the City of Ann Arbor, a Michigan municipal corporation, on behalf of the corporation.

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

STATE OF \_\_\_\_\_ )  
 ) ss:  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, on behalf of the \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC  
County of \_\_\_\_\_, State of \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
Acting in the County of \_\_\_\_\_

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