

# Brownfield Plan for 303 N. Fifth Ave., 312/314 Detroit Street, Ann Arbor

## City of Ann Arbor Brownfield Review Committee

Meeting Date: June 2, 2022

Brownfield Plan Version March 21, 2022

### Proposed Project:



The petitioner seeks to demolish several existing single-story buildings and parking lot on three adjacent lots (0.2 acres total), and construct a 30,000 s.f. five-story flatiron style mixed-use residential and retail building with underground and integrated ground level parking. Approximately 1,900 s.f. of retail or office will be located in the northern tip of the building. A total of 14 condominiums are proposed.

Ten parking spaces will be located in the portion of the ground level not proposed for office/retail, and another 13 spaces below ground level. The parking will be accessed via a commercial drive from North Fifth Avenue. The building is proposed to be LEED Gold certified.



Proposed Brownfield Plan includes \$2,674,011 in Eligible Environmental Activities. As shown in Table 1 of the Brownfield Plan, this includes Environmental Investigation, demolition and hazardous materials abatement of the existing structures, response activities such as removal of former underground storage tanks and soil remediation, and Due Care compliance planning during construction and for future use. Additional costs include 15% Contingency, and costs to prepare the Brownfield Plan and Act 381 Work Plan. Non-Environmental activities are not being requested.

The Brownfield Plan notes a base Taxable Value of \$304,296, with an increase to \$8,500,000 upon completion. A 2% annual appreciation of Taxable Value is projected. The developer is projected to be full reimbursed in 8 years, and all Eligible Activities are projected to be reimbursed after 9 years, including Administrative and Local Brownfield Revolving Loan capture. It is proposed to cap the Brownfield Plan at 12 years maximum.

All three existing parcels meet the definition of a “facility” due to the presence of arsenic, barium lead, mercury, selenium, and zinc in the soil beyond residential use criteria established by the Michigan Department of Environment, Great Lakes, and Energy (EGLE).

In 2019, the City Council adopted the City of Ann Arbor Brownfield Policy, and the proposed Brownfield Plan is reviewed per this policy as follows:

### Brownfield Plan Review Criteria

1. Developer-reimbursable Brownfield TIF shall not exceed 20% of overall project investment. This limit does not apply to projects with \$3 million or less in private investment, not including property acquisition costs.

The Brownfield Plan meets this standard. Proposed developer-reimbursable Brownfield TIF is \$2,674,011 (16%) of a total project investment of \$17,000,000.

2. Brownfield TIF incentives shall not be reimbursed to (benefit) a Liable Party, nor used to finance brownfield activities that are otherwise the legal responsibility of a Viable Liable Party. Primary Responsible Parties are identified and pursued by the MDEQ.

Plan meets standard. To staff’s knowledge, no Viable Liable party has been established by the Department of Environment, Great Lakes, and Energy (EGLE).

3. If a project includes residential land use, and Non-Environmental Eligible Activities are requested, and is not already paying a Fee in Lieu of providing affordable housing as part of a Planned Unit Development, affordable housing must be included. In those cases at least 15% of the total number of units must be provided to households that earn a maximum of 60% of the Area Median Income, with rents established using MSHDA rents and MSHDA PHA Utility Allowances, for at least 99 years.

- a. If for-sale residential units are proposed, AMI limits still apply and sales price will be limited to maintain affordability over the required affordability period.

This standard does not apply, as Non-Environmental Activities are not being requested.

4. If a project does not include residential land use, and is not already paying a Fee in Lieu as part of a Planned Unit Development, and Non-Environmental Eligible Activities are requested, a payment in lieu of providing the required affordable housing is required. The payment in lieu amount shall be \$50,000 + 2% of the overall private investment, to be reserved by the Brownfield Authority and remitted to the City from first Tax Increment capture available for reimbursement to developer for Eligible Activities.

This standard does not apply, as Non-Environmental Activities are not being requested

5. If only Environmental Eligible Activities are requested, affordable housing is not required, and the project will generally be supported with the assumption of the inherent benefits of a cleaner environment and protection of public health. The City strongly favors additional remediation beyond minimum required for Due Care and compliance with applicable environmental standards. Examples include remediation beyond property boundaries within adjacent street

rights-of-way and properties where such actions will result in meaningful current and/or future protection of public health.

City and County Brownfield Staff previously asked the developer's environmental consultant to explore extending any remediation beyond property boundaries, if feasible. Given the tight street configuration and small parcel size, "chasing" any further remediation is not possible without compromising public streetscapes, sidewalks, and utility burials. Also, shoring will be needed to reach the 16 ft. depth for soil excavation, thereby holding back any subsurface soils off-site.

Additionally, a third-party review (by Tetra-Tech) of the proposed environmental activity approach was completed, and found the response activities to be appropriate and consistent with standard practices.

6. Additionally, Non-Environmental Eligible Activities will only be considered if:

i. Total of non-environmental activities does not exceed environmental, unless the project provides affordable housing, or Fee in Lieu, in accordance with #4, above; AND

This standard does not apply.

ii. Projects that can demonstrate the project meets MEDC requirements, and the MEDC has given verbal conceptual support for the project. However, projects may be supported that do not qualify for MEDC support, if determined to be a local priority;

The Brownfield Plan meets this standard. As no Non-Environmental Activities are proposed, MEDC approval is not required. EGLE will approve the Environmental Activities.

AND

iii. A real financial gap in project feasibility can be demonstrated.

Financial review indicates that a gap in project feasibility has been satisfactorily demonstrated.

7. Public Infrastructure Non-Environmental Eligible Activities must demonstrate an area-wide benefit, and not only serve the proposed development. The proposed infrastructure upgrade shall not be an improvement that would otherwise be required to support the development. The City also encourages infrastructure that result in exemplary improvements in energy efficiency.

This standard does not apply.

8. The environmental conditions and/or extraordinary costs associated with urban, infill development prevent a reasonable Return on Investment for the developer.

Financial analysis indicates that the addition of the TIF allows the developer a reasonable return on investment.

9. Interest, permit review fees, building review fees, sewer disconnect fees, as an additional brownfield eligible expense, will not be considered eligible expenses.

The Brownfield Plan meets this standard.

10. Total TIF capture period for developer reimbursement may be limited to below the maximum 30 years allowed by statute, as negotiated with the City. Any such capture period shall explicitly identify duration and eligible activities, inclusive of administrative and local brownfield revolving fund activities.

The Brownfield Plan is proposed to be capped at 12 years.

#### Recommendation:

Staff Recommends approval of the Brownfield Plan as presented, with the condition that a 12-year cap be included the approval resolution.

#### Resources:

[Ann Arbor Brownfield Policy](#)

Site Plan ([pp 1-11](#)), ([pp 12-23](#))

330 Detroit/312 N. Fifth Brownfield Plan (attached)

Tetra-Tech Review (attached)