

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of February 2, 2016

**SUBJECT: 816 South Forest Avenue and 815 Church Street Rezoning
File No. Z15-007**

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the 816 South Forest Avenue and 815 Church Street Rezoning from R2B (Two-Family Dwelling and Student Housing District) to R4C with Conditions (Multiple-Family Dwelling District).

STAFF RECOMMENDATION

Staff recommends that this petition be **denied** because there have been no identified changed or changing conditions in the particular area or in the municipality in general and there has been no error identified to support an amendment to the Zoning Map. The offered conditions do not support good planning principles, the master plan recommendations or relate to the rezoning.

STAFF REPORT

This petition was postponed by the Planning Commission at its November 4, 2015 meeting as requested by the petitioner's agent. It was previously postponed by the Planning Commission at its October 29, 2015 meeting for the same reason.

On January 7, 2016, the petitioner uploaded to the project file a memorandum addressed to staff with an offer of voluntary conditions in accordance with State enabling legislation regarding conditional zoning. The two conditions offered are:

I. Lot Combination language

"If the owner of the lot seeks to combine the lot with one or more adjoining lots of record, the owner shall submit the combination request to the Planning Commission, which may evaluate the proposed lot combination based on consistency with the City's Master Plan and other relevant City ordinances and planning documents, and make a recommendation to the City Assessor regarding the proposed lot combination."

If the rezoning is approved, this condition shall be recorded with the Register of Deeds and shall run with the land so as to be binding on the owners and future owners of the parcels.

II. Design Review language

“Any future construction of a new principal building on the lot (as opposed to construction of a permitted accessory structure, or any renovation of or additions to the principal building existing as of the date of the rezoning) shall be reviewed by the City Design Review Board (or equivalent board or commission), and the owner of the lot shall make good faith efforts to comply with the design suggestions of the Design Review Board.”

If the rezoning is approved, this condition shall be recorded with the Register of Deeds and shall run with the land so as to be binding on the owners and future owners of the parcels.

Conditional Zoning in General – First, zoning is the regulation of land use by local government. Zoning districts separate broad categories of land uses (such as residential, commercial, office, industrial, and mixed-use) and regulate the use and orderly growth and development of land in a city as envisioned by the city’s master plan. Zoning is a police power extended by the State through the Zoning Enabling Act and can only be adopted or amended by a legislative body – the Ann Arbor City Council in our case. Zoning regulations apply equally to all lands within the same districts.

Conditional zoning is a specific tool authorized by the Zoning Enabling Act that allows for a property owner to voluntarily offer in writing certain use and land development terms as a condition to a rezoning of the land or an amendment to a zoning map. Legislative bodies cannot ask for or require conditions, but they can accept offers and enforce the approved conditions.

A significant benefit to conditional zoning is the potential to reduce or eliminate the “what ifs” of a traditional rezoning by linking the rezoning to a specific action. Concerns about maximum density of a particular district can be addressed with an offer to limit the number of dwelling units, for example. Concerns about all of the possible permitted uses in a district may be addressed by an offer to limit the possible permitted uses to a select few.

Care must be taken when using conditional zoning to ensure that good planning principles are applied, the conditions support the master plan recommendations, the conditions are a reasonable restriction to development of the land and the offered conditions relate to the rezoning itself.

Staff Comments – The proposed conditions do not resolve concerns expressed by the Planning Commission, neighbors, or staff that the rezoning is intended to increase permitted occupancy at 816 Forest. Staff previously wrote that while increasing appropriate density near campus and downtown areas (an increase in the number of dwelling units) is in keeping with the Land Use Element, increasing occupancy to simply increase occupancy (more persons per dwelling unit) is contrary to many stated city goals and policies.

The conditions offered only relate to the physical appearance of the lots upon future redevelopment which may or may not occur and do not relate to the immediate concerns of

increased occupancy of structures built and approved with single and two-family development standards.

Staff continues to recommend denial of the rezoning petition.

Prepared by Alexis DiLeo

Reviewed by Ben Carlisle

1/29/2016

Attachments: September 29, 2015 Planning Staff Report
November 4, 2015 Planning Staff Report

c: Petitioner's Agent: Scott Munzel
603 W. Huron Street
Ann Arbor, MI 48103

Owners: S&H 816 LLC
4320 Hillside Drive
Ann Arbor, MI 48105

Mollmax, LLC
602 Soule Street
Ann Arbor, MI 48103

Systems Planning
File No. Z15-007

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of September 29, 2015

**SUBJECT: 816 South Forest Avenue and 815 Church Street Rezoning
File No. Z15-007**

PROPOSED CITY PLANNING COMMISSION MOTION

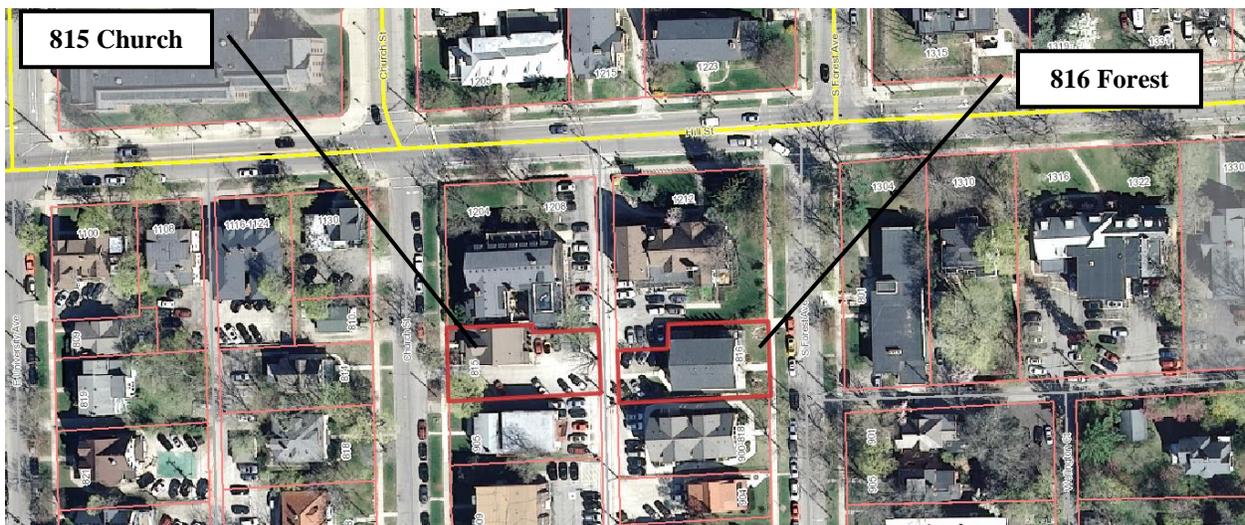
The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the 816 South Forest Avenue and 815 Church Street Rezoning from R2B (Two-Family Dwelling and Student Housing District) to R4C (Multiple-Family Dwelling District).

STAFF RECOMMENDATION

Staff recommends that this petition be **denied** because there have been no changed or changing conditions in the particular area or in the municipality in general, and there has been no error identified to support an amendment to the Zoning Map.

LOCATION

These sites is located south of Hill Street between South State Street and Washtenaw Avenue (Central Area; Ward 3).



DESCRIPTION OF PROJECT

The petitioners request their properties at 816 South Forest Avenue and 815 Church Street be rezoned from R2B (Two-Family Dwelling and Student Housing District) to R4C (Multiple-Family Dwelling District) in order to increase the density and residential occupancy potential of each. There has not been any submitted development plans for these properties in association with the requested rezoning.

816 South Forest Avenue – This approximately 7,800-square foot nonconforming lot is the first lot on the west side of Forest south of Hill Street after the corner lot. On December 21, 2005, the Zoning Board of Appeals granted a variance of 708 square feet from the required 8,500-square foot minimum lot area to allow a two-family dwelling to be constructed. A two-family dwelling was built in 2006 with four bedrooms and two studies in each unit. The maximum residential occupancy of each unit is 4 unrelated persons. (Without the variance, only a single-family dwelling would be permitted.) An alley runs along the rear of the lot, providing the only vehicular access to the site.

815 Church Street – This approximately 7,800-square foot nonconforming lot is the first lot on the east side of Church south of Hill Street after the corner lot. It contains a two-story building built in 1900 that now includes a dental office, a nonconforming use, on the first floor and a two-bedroom apartment on the second. The maximum residential occupancy of the apartment is 4 unrelated persons. An alley runs along the rear of the lot. The site includes a driveway to Church Street which also connects to a rear alley.

SURROUNDING LAND USES AND ZONING

	LAND USE	ZONING
NORTH	Sorority	R2B
EAST	Two-family dwelling	R2B
SOUTH	Multiple-family dwelling	R4C
WEST	Multiple-family dwelling	R4C

DISTRICT COMPARISON CHART

	R2B Two-Family Dwelling and Student Housing District	R4C Multiple-Family Dwelling District
Intent	<i>Intended to permit 1- and 2-family dwellings as well as to permit in the vicinity of The University of Michigan Campus the operation of fraternities, sororities and student cooperatives affiliated with the university as well as privately-owned fraternities, sororities and student cooperatives. It is the further intent of this zoning district to preserve the unique character and quality of the physical environment in this area of the city. The area is characterized by the presence of many large and architectural distinctive houses set on relatively large lots. Many sites housing such structures are characterized by large front yard setback, mature and harmonious tree growth, and a uniformity in architectural characteristics such as scale and use of materials. Any alteration to existing structures and/or construction of new facilities should harmoniously reflect the overlying character of the surrounding environs.</i>	<i>The R4C multiple-family dwelling district is intended to be located in the central area of the city, in close proximity to the central business district and The University of Michigan Campus.</i>
Principal Uses	Single family dwellings Two-family dwellings	Single family dwellings Two-family dwellings Multiple-family dwellings Rooming and Boarding Houses
Special Exception Uses	Fraternities, Sororities and Student Cooperatives Club Headquarters Boarding Houses	Fraternities, Sororities and Student Cooperatives Hospitals
Minimum Lot Size	8,500 sq ft	8,500 sq ft
Min. Lot Area Per Dwelling Unit	4,250 sq ft per dwelling unit 350 sq ft per occupant (fraternity/sorority/cooperative)	2,175 sq ft per dwelling unit 350 sq ft per occupant (fraternity/sorority/cooperative)
Residential Occupancy	Up to 4 unrelated persons	Up to 6 unrelated persons

	R2B Two-Family Dwelling and Student Housing District	R4C Multiple-Family Dwelling District
Open Space	None	40% min. including 300 sq ft active open space per dwelling unit
Setbacks	Front – Established or 25 ft min Side – 8 ft min Rear – 30 ft min	Front – Established or 25 ft min Side – 12 ft min plus additional for excessive building length Rear – 30 ft min plus additional for excessive building width
Height	30 ft max.	30 ft max.

PLANNING BACKGROUND

Recommendation – The Master Plan: Land Use Element future land use plan recommends multiple-family uses for these sites. Chapter 7 of the Land Use Element focuses on the Central Area. Prior to the current zoning ordinance, much of the Central Area was zoned for multiple-family dwellings. With the adoption of our current zoning ordinance in 1963, large portions of the Central Area continued to be zoned for multiple-family residential use through the R4C zoning classification. As noted in the Land Use Element, “the prevailing planning philosophy was that the private sector would assemble, clear and redevelop vast areas, and allowing the higher densities would encourage this.” However, this did not happen (at least to the extent envisioned by planners in the early 1960s).

There are two goals identified in the Land Use Element for the Central Area:

Goal A – To promote sound and attractive residential neighborhoods which meet the housing needs of the current and future population, which are adequately served by urban services, infrastructure and facilities and which conserve environmental quality. (Page 62)

Goal B – To encourage sensitive, attractive, and innovative development and renovation in downtown Ann Arbor and in adjacent neighborhoods. (Page 66)

Objectives and Action Statements, notable and particularly relevant to the rezoning petition, include:

- Objective 1: To protect, preserve and enhance the character, scale and integrity of existing housing in established residential areas, recognizing the distinctive qualities of each neighborhood.
- Objective 5: To develop density thresholds for each neighborhood that are appropriate in relation to the character, available services and infrastructure of the neighborhood, and in accordance with the norms of that neighborhood, resulting in improved quality of life for all residents.

- Objective 6: To protect and maintain the diversity of people and housing by promoting a stable balance among the various interests.
 - Action Statement b) Educate real estate agents about zoning limitations to reduce unrealistic expectations about income-producing property.
- Objective 13: To ensure that new infill development is consistent with the scale and character of existing neighborhoods, both commercial and residential.
- Objective 16: To encourage amicable coexistence within neighborhoods between students and other residents of the community, while maintaining the diversity of all residents and their different lifestyles.

Overall, the Land Use Element speaks to rezoning areas for lower density to reflect the established development pattern rather than rezoning to higher densities. Exceptions are certainly allowed but the prevailing sentiment is to reduce pressure on established neighborhoods and concentrate development, redevelopment and increased densities in the downtown.

The Land Use Element does recommend two specific zoning changes in the vicinity of, but not including, the subject sites. The first is Central Area Site 16 at the northwest quadrant of the Washtenaw Avenue and Hill Street intersection. The second, Central Area Site 17, is a large area on the east side of Packard Street from South Fifth Avenue (essentially the Germantown neighborhood) to Greenwood Avenue (roughly the East North Burns Park neighborhood). Both are “student neighborhoods to be reviewed for new zoning ordinance definitions and standards that support group housing opportunities.”

Planning Initiatives – Since 1963, the community has struggled with the appropriate density for the neighborhoods adjacent to downtown and campus. Higher residential densities are generally desired but so are preserving the existing stock of single family structures and streetscape character. The R4C/R2A Zoning District Study, begun in 2009, is the latest in a long list of efforts to achieve that delicate balance.

The April 16, 2013 Planning Commission Proposal for the R4C and R2A districts recommends reducing the minimum lot size 4,350 square feet in the R4C district and 6,000 square feet in the R2A district. It also recommends regulating lot combinations through the special exception use tool or similar case-by-case method to maintain the character and scale of the block.

ZONING PETITION AND ANALYSIS

In accordance with Chapter 55 Zoning Ordinance, Section 5:107(1), the Zoning Ordinance and Zoning Map shall not be amended except “because of changed or changing conditions in a particular area or in the municipality generally, to rezone an area, extend the boundary of an existing Zoning District or to change the regulations and restrictions thereof.”

The petitioner’s *Application For Changes In Or Additions To The Zoning Chapter*, a form provided by the Planning Department to assist petitioners in providing the necessary information to justify their petition is attached. The questions posed in the application are not standards for approval, rather guides to providing sufficient evidence of changed or changing conditions.

Staff Analysis – The petitioner has provided a well written, throughout and comprehensive application for staff and the Planning Commission to consider. Their justification is more

compelling than most petitions for rezoning and includes a report from an independent planner. However, staff concludes that there has not been a change in conditions nor an error that supports the petition.

The petitioner states that a student cooperative was located at 816 Forest for most of the time since 1963 and was the most likely reason why it is zoned R2B rather than R4C. The coop burned down and a duplex was constructed in 2006, but only after receiving a rare lot size variance. Planning staff explicitly explained to the property owner/developer at the time that the maximum occupancy permitted in the R2B zoning district was 4 unrelated persons, but they nevertheless choose to construct the dwelling units with two study rooms in addition to the four bedrooms.

Further, by their own account, no changes would occur at 815 Church Street as a result of this rezoning. It is a nonconforming lot and its one dwelling unit is a two-bedroom apartment certified for 4 occupants. The Application states that "the rezoning of 815 Church allows more flexibility in the future, should the practice of dentistry at this location become less economically feasible." The only obvious reasons for rezoning 815 Church is to make the Zoning Map look nicer by moving the boundary between R2B and R4C uniformly north on this block.

As there has not been any submitted development plans for these properties in association with the requested rezoning, it appears that the rezoning is intended to increase permitted occupancy at 816 Forest. While increasing appropriate density near campus and downtown areas is in keeping with the Land Use Element, increase occupancy to simply increase occupancy is contrary to many stated city goals and policies.

Furthermore, when considering a rezoning it is important to consider the future development potential of the property. A rezoning of the properties may lead to a future teardown and redevelopment that would be contrary and inconsistent with the adjacent properties.

CITIZEN PARTICIPATION

The petitioner held a meeting for neighboring citizens on July 9, 2015 (report attached). Invitations were sent to over 1,300 addresses of property owners and residents. Ten people attended the meeting.

AREA PLAN WAIVER

As no new development is proposed, the petitioner requested a waiver from the requirement to submit an area plan in conjunction with a rezoning application which was granted by the planning manager.

COMMENTS PENDING, DISMISSED OR UNRESOLVED

Planning –Staff agrees the request is small and would further some of the broad concepts in the Land Use Element, but because the sites would remain nonconforming lots, the rezoning is contrary to many stated policies in the Land Use Element, namely lot combinations resulting in out of scale development. Staff carefully debated the pros and cons and all other aspects of this petition and finds that until a redevelopment of either site or the proposed R4C/R2A

ordinance revisions are adopted, there are no changed or changing conditions to support the rezoning request.

Prepared by Alexis DiLeo

Reviewed by Ben Carlisle

9/23/2015

Attachments: Zoning Map
Aerial Photo
Application for Changes In Or Additions to The Zoning Chapter
Petitioner's Citizen Participation Report

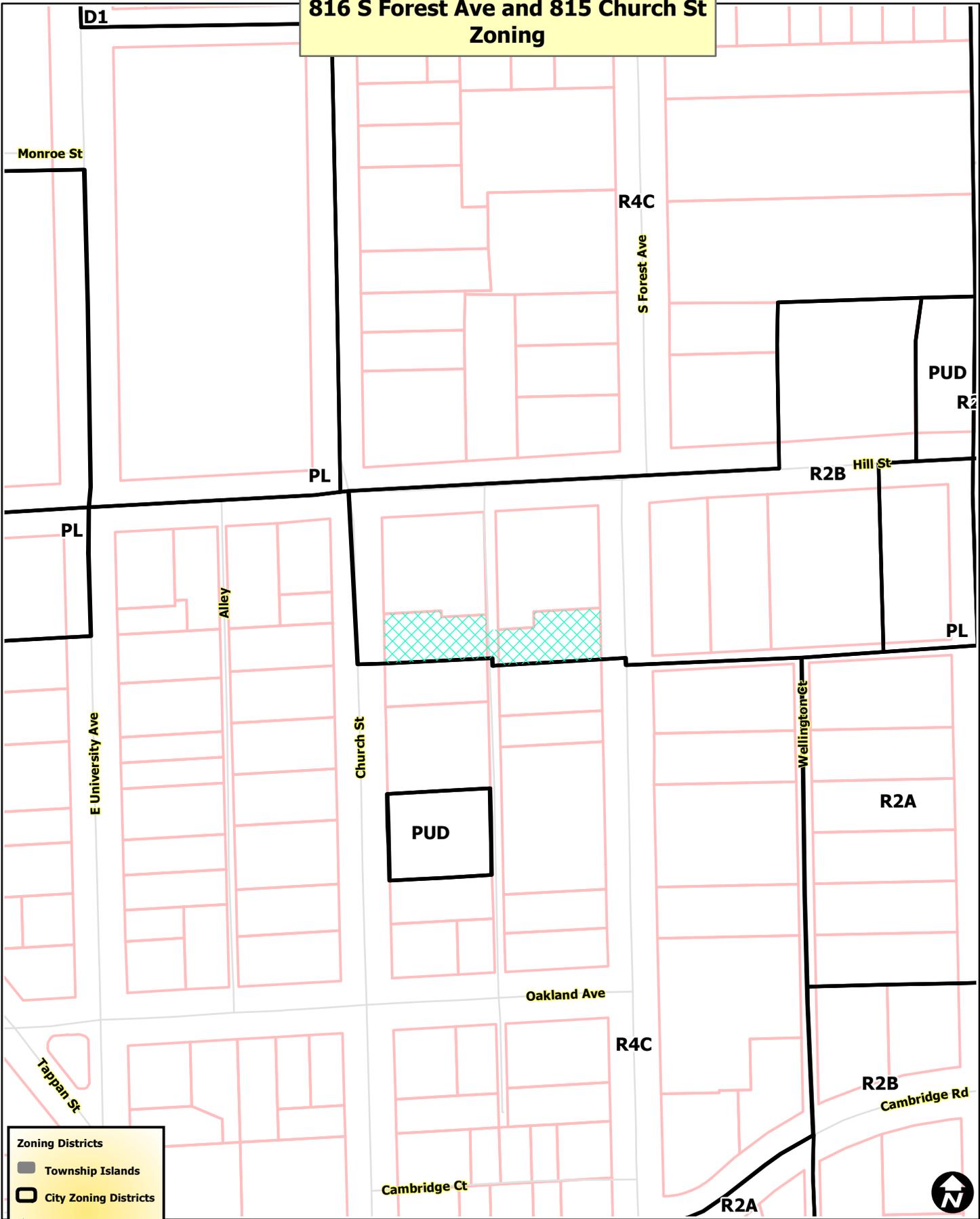
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Owners: S&H 816 LLC
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Systems Planning
File No. Z15-007

816 S Forest Ave and 815 Church St Zoning



Zoning Districts

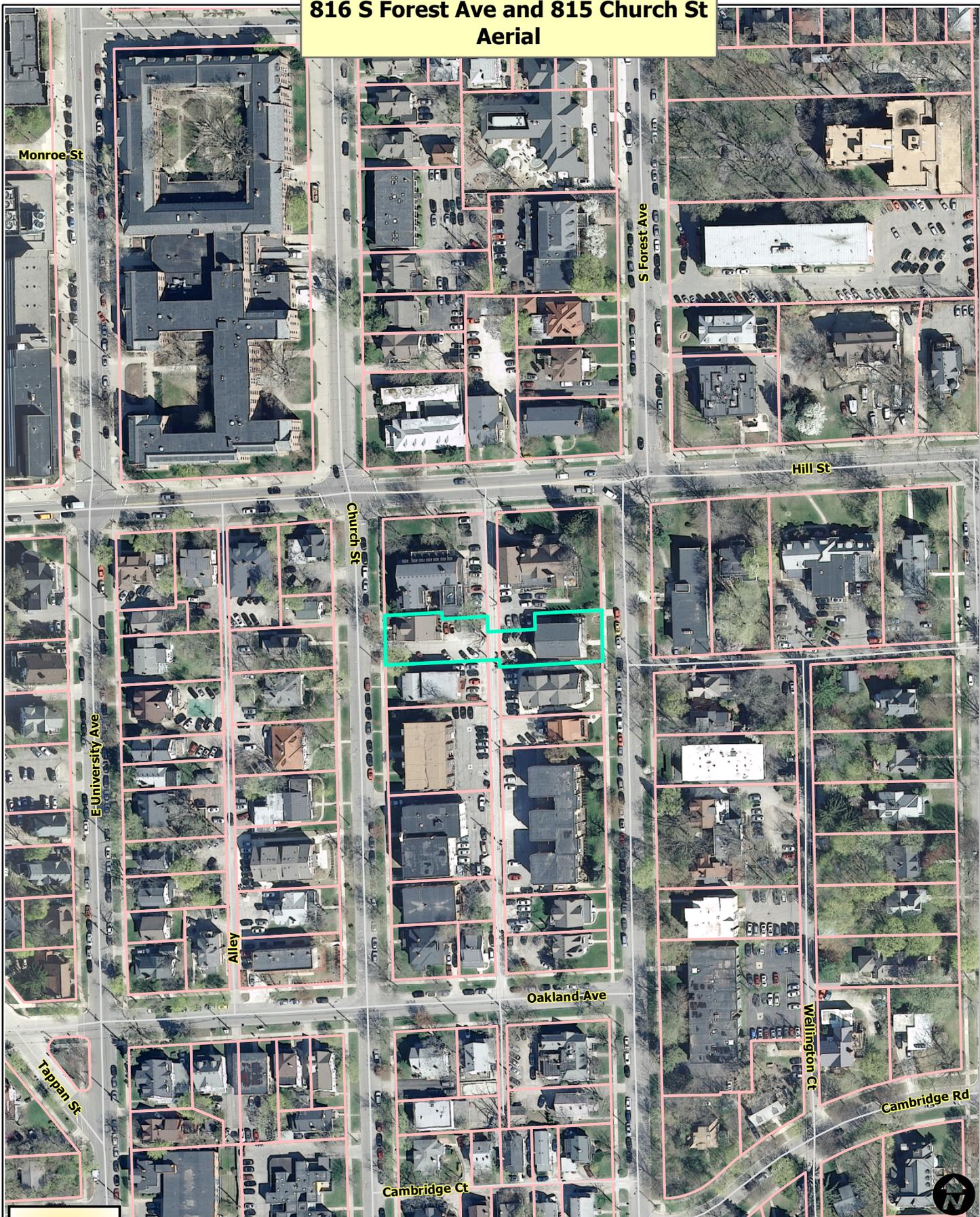
- Township Islands
- City Zoning Districts
- Railroads
- Parcels
- Huron River



Map date 6/11/2015
 Any aerial imagery is circa 2012
 unless otherwise noted
 Terms of use: www.a2gov.org/terms



816 S Forest Ave and 815 Church St Aerial

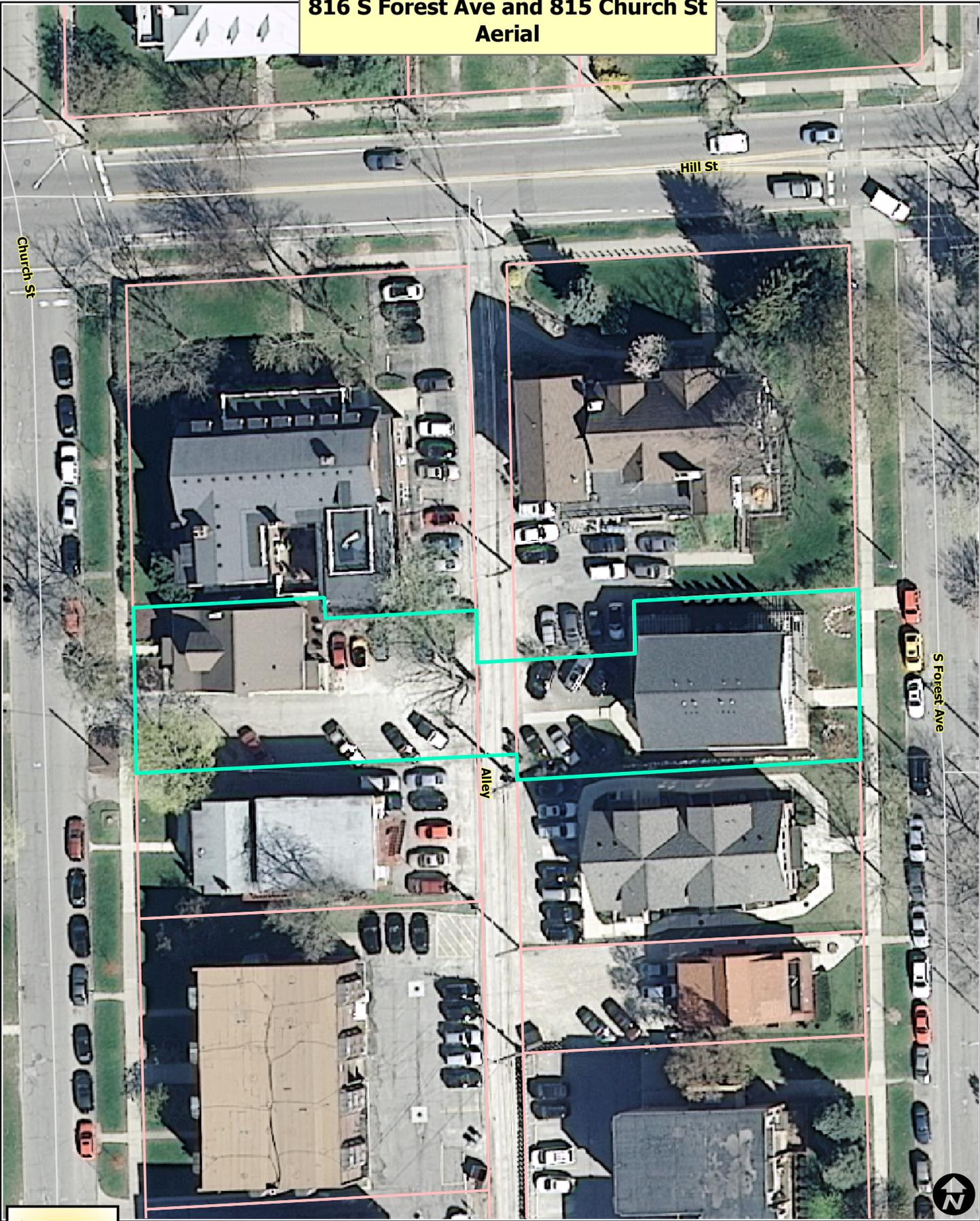


- Railroads
- Parcels
- Huron River



Map date 6/11/2015
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**816 S Forest Ave and 815 Church St
Aerial**



-  Railroads
-  Parcels
-  Huron River



Map date 6/11/2015
Any aerial imagery is circa 2012
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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

APPLICATION FOR CHANGES IN OR ADDITIONS TO THE ZONING CHAPTER

See 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 Attachment to Application

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.)*

See Attachment to Application

Also interested in the petition are:

(List others with legal or equitable interest)

NA

The applicant requests that the Official City Zoning Map be amended to reclassify this property from _____ to _____ to permit the following use(s): _____

See Attachment to Application

(state intended use)

Justification:

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

See Attachment to Application

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

See Attachment to Application

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

See Attachment to Application

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

See Attachment to Application

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:

See Attachment to Application

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

See Attachment to Application.

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.

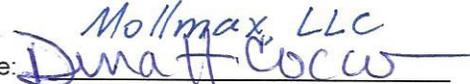
The undersigned states he/she is interested in the property as aforesaid and that the foregoing statements are true and correct to the best of his/her knowledge and belief.

Dated: July 24, 2015

S & H 816, LLC

Signature: By:  Se Kim

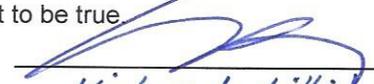
Its: Authorized Member
4320 Hillside Drive, Ann Arbor, MI
(Print name and address of petitioner) 48105

Signature:  Dina Cocco

By: Dina Cocco
Its: Authorized Member
602 Soule Street, Ann Arbor, MI
(Print name and address of petitioner) 48103

STATE OF MICHIGAN
COUNTY OF WASHTENAW

On this 24th day of July, 2015, 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:  Victor L. Lillich
(Print name of Notary Public)

My Commission Expires: 3-17-21

**Attachment to Application for Change in Zoning Chapter
816 Forest/815 Church
July 24, 2015**

I. Legal Description of Properties subject to Rezoning request

- A. 816 Forest: Lot 22, Block 3, Hill's Addition to the City of Ann Arbor, as recorded in Liber 60 of Deeds, Pages 134- 136, Washtenaw County Records, excepting the rectangular piece in the Northwest corner of the Lot measuring 20 feet in width on the alley at the West end of the Lot and 46 feet in length along the North line of the Lot.
- B. 815 Church: The North 56 feet of Lot 3 and the South 8 feet of Lot 1 and of the Westerly 16 feet of Lot 5 2, Block 3, Hill's Addition to the City of Ann Arbor, as recorded in Liber 60 of Deeds, Pages 134- 136, Washtenaw County Records.

II. Petitioners Requesting Rezoning

- A. 816 Forest: Petitioner is the sole owner of the property
S&H 816 LLC
4320 Hillside Drive
Ann Arbor, MI 48105
248 225 9520
- B. 815 Church: Petitioner is the sole owner of the property
Mollmax, LLC
602 Soule Street
Ann Arbor, MI 48103
734 320 4032

III. Rezoning Request

The Petitioners request that the Official City Zoning Map be amended to reclassify these two properties from **R2B** to **R4C** to permit the following uses:

816 Forest- it currently contains two residential units, each containing four bedrooms. Petitioner plans no exterior changes to the property, and it would remain with two residential units. The number of bedrooms, however, would increase from four to six in each unit.

815 Church- it currently contains a legal non-conforming dentist office on the first floor and one residential unit, containing three bedrooms, on the second floor. Petitioner plans no changes at all to the property, and its uses would remain as they currently exist.

IV. Existing Conditions- The Properties and Surrounding Area

A. **816 Forest (“816”).** This property is located in one of the first plats in the City, Hill’s Addition to the City of Ann Arbor (1866), attached as Exhibit A. The lot containing 816 is Lot 22, which has platted dimensions of 66 feet by 132 feet, creating a lot containing 8,712 square feet. In the 1930’s, 816 was owned by Edwin and Lillian Goddard. They also owned and resided at 1212 Hill Street, immediately to the north of 816. (By the way, Edwin was a professor at the Law School.)

In 1933, Goddards conveyed 816 to Virginia Aubrey and Helen Pratt; however, for unknown reasons, Goddards retained a rectangle in the northwest corner of Lot 22 measuring 20 feet by 46 feet. That rectangle thus continued to be owned by Goddards, and essentially was then attached to 1212 Hill Street. Eliminating this rectangle resulted in a loss of 920 square feet from 816, leaving it with 7,792 square feet. Ever since 1933, 816 has been conveyed without that rectangle, and 1212 Hill Street has been conveyed with it attached to 1212 Hill.

Historically, the building on 816 has always faced Forest Street, and has always related to the streetscape on Forest, not Hill Street. Attached as Exhibit B are several photographs of 816 and its environs. 816 is zoned R2B, as is 1212 Hill Street (immediately north of 816); however, R4C zoning is immediately to the south.

B. **815 Church (“815”).** This property is also located in Hill’s Addition to the City of Ann Arbor. The lot containing 815 is Lot 3, which has platted dimensions of 66 feet by 132 feet, creating a lot containing 8,712 square feet. In 1927, Ella Sugden conveyed 815, via a complicated legal description, to Nellie Cumin and Mark Sugden. There is no particular rationale for this that we have been able to discover. The legal description is basically the north 56 feet of Lot 3, plus the south 8 feet of Lot 1, plus the south 8 feet of the west 16 feet of Lot 2. This conveyance resulted in 815 containing 7,926 square feet. Ever since 1927, 815 has been conveyed via this legal description.

The building on 815 has always faced Church Street, and relates to the streetscape on Church, not Hill Street. Attached as Exhibit C are several photographs of 815 and its environs. 815 is zoned R2B, as is 1204 Hill Street (immediately north of 815). To the immediate south of 815, however, the zoning is R4C.

C. **Hill Street Frontage.** North of 816 and 815 are two large sorority houses, both of which front on Hill Street. Across Hill are more large apartment buildings as well as one sorority house, all of which front on Hill Street. The south side of Hill is zoned R2B; however the north side of Hill is zoned R4C. Attached as Exhibit D are several photographs of the north and south sides of Hill.

D. **East of 816 Forest.** To the east of 816 is land that was platted in 1891 as Olivia B. Hall’s Subdivision, attached as Exhibit E. The lots fronting on Hill have a depth of 200 feet, at which point, they are bounded by an alley. While the property north

of the alley and fronting on Hill is zoned R2B, the land south of the alley fronting on Forest is zoned R4C.

E. **West of 815 Church.** To the west of 815, starting at Hill Street and continuing south along Church, the land is all zoned R4C.

F. **Zoning of the Area.** It appears that the R2B zoning was instituted in this area before 1963 (as far back as the City planning library contains documents which I could discover). The R2B zoning to the east of 816 follows Hill Street, with the alley serving as the delineation between R2B and R4C to the south. (See Zoning Map attached as Exhibit F). For some unknown reason, the R2B designation then continues west in about the same line as the alley, thus including 816 and 815 in R2B, notwithstanding that their orientation is **not** Hill Street, but rather Forest and Church Streets respectively. The property to the immediate south of both 816 and 815 is zoned R4C (as is much of this entire area). 816 used to be occupied by the Stevens Housing Cooperative, which had an occupancy level of about 20 students (according to old City assessing records). While it was a cooperative, it faced and related to Forest Street. Nor did it have any significant vegetation or trees, or a large front setback, as do many of the sororities in the area.

V. **Rationale for Re-zoning to R4C**

While R2B allows two-family dwellings near the U of M campus, its true intent, pursuant to the language of the Zoning Ordinance, Section 5:10.4(1), is to preserve the unique character and quality of this physical environment, characterized by large front yard setbacks, mature and harmonious trees, and a uniformity in architectural characteristics such as scale and use of materials. As such, its main purpose is to reflect the many large and attractive fraternities and sororities that were constructed in the Hill and Washtenaw Avenue area.

The R4C zoning designation also allows multiple-family dwellings and, pursuant to Section 5:10.8(b), is intended to be located in the central area of the City, in close proximity to the U of M campus (and the central business district).

While the language of the R2B district is appropriate and depicts the Hill Street environment, it does not accurately reflect the structures and setting of 816 and 815. These two structures do not relate at all to the Hill Street environment, but relate to the environment to the south of each, on Forest and Church Streets, which are all zoned R4C. Nor do 816 or 815 have mature trees, or any significant architectural features. It appears that the R2B zoning designation (appropriately) followed the alley to the east, and at that point, rather than notching north to include just the parcels fronting Hill Street, it continued straight west and included 816 and 815, notwithstanding that they bear none of the R2B characteristics noted in the Ordinance. As such, it appears that both 816 and 815 were zoned R2B in error, as opposed to zoning them R4C, which more accurately reflects their structures and physical characteristics. This provides a basis for seeking a re-zoning under the Ordinance from R2B to R4C.

There has also been a change in conditions since before 1963, when 816 and 815 were zoned R2B. It is possible that at that time, there was a student cooperative located at 816 Forest. To the extent R2B mentions cooperative housing, that is one possible explanation for why 816 was classified R2B, notwithstanding that the cooperative would have been much smaller than many of the student cooperative houses. In any event, that structure burned in the early 2000's. It was replaced with the current structure, which is not a student cooperative, but rather a duplex structure. As such, the current conditions have changed since this property was zoned R2B prior to 1963.

Another change in conditions since before 1963, is that the University has expanded dramatically the number of students who attend, yet it has only increased by a modest amount the number of University housing units in the Central Campus area. As such, there has been an increased pressure on the residential neighborhoods surrounding and close to Campus. Because of this, it would be appropriate to allow increased density in the area of 816 and 815, which is essentially across the street from Campus (East Quadrangle sits just to the northwest of these two properties).

Urban planning now recognizes that increased density within the urban core provides many advantages, including reducing pollution, increasing transit use, and creating a vibrant urban center and street activity. A recent County/City study urges the creation of more housing units affordable to those earning moderate incomes. Re-zoning these two properties from R2B to R4C would allow for a very modest increase in density, thus accommodating the change in conditions from the 1950's and meeting City goals. As such, this change in conditions provides another basis for a re-zoning under the Ordinance from R2B to R4C.

It is important to note 816 could accommodate an increase in 4 bedrooms without any exterior change to the structure. As such, the re-zoning would not result in any physical change apparent from the street. 816 also meets the parking requirements. There is no plan for 815 to change its current use as a dentist office on the first floor with an apartment on the second floor. The re-zoning, however, would potentially allow a more efficient building to be constructed in the future that would be consistent with City goals. Of course, even with a re-zoning to R4C, these two properties would still be less densely used than the two sororities immediately to their north. While both 816 and 815 would be below the minimum lot size required in R4C, they are already legal non-conforming parcels in that they are slightly below the minimum lot size for the R2B district; therefore, a re-zoning would not increase any non-conformities.

This proposed re-zoning is also supported by an independent urban planning consultant. Attached as Exhibit G is the report of Building Place, the urban planning consulting firm of Rodney Nanney, AICP. It notes that the proposed re-zoning "...is compatible with the surrounding neighborhood and plans for the city's Central Area, and is consistent with sound planning and zoning principles."

VI. Justification

1. The extent to which the re-zoning requested is necessary

The re-zoning is necessary to allow a more sensible use of 816 Forest, which can accommodate 4 additional bedrooms in its 2 residential units without any exterior changes. Re-zoning 816 to R4C would allow the zoning classification to more closely match the existing physical and built environment. The re-zoning of 815 Church allows more flexibility in the future, should the practice of dentistry at this location become less economically feasible.

2. This re-zoning will affect the public welfare and property rights of persons located in the vicinity in the following ways:

The proposed re-zoning will have little, if any, impact on property rights of persons located in the vicinity. No exterior changes are proposed, and the only change will be an additional 4 persons residing at 816 Church. Such a change will be imperceptible in this neighborhood, where the vast majority of structures are occupied by students, as well the existing sororities with many students.

The re-zoning, to a very small degree, will enhance the public welfare by allowing more students to live very close to the University Campus. Perhaps (all things being equal) it would reduce the pressure on the owner-occupied structures at the edge of Burns Park, allowing one structure to remain owner-occupied, as opposed to student rentals (or perhaps allow non-students to reside there). This re-zoning also allows for more density, albeit to a very small degree, in a very appropriate location in town.

3. This re-zoning will be advantageous to the City in the following ways:

This proposed re-zoning is of very modest size; only two parcels containing two structures. As such, the impact of the re-zoning is also modest. Nevertheless, it would allow more students to live very close to Campus, thus relieving in a small way, the pressure on the owner-occupied neighborhoods located south of Campus.

Re-zoning of both parcels would bring the zoning classification in to better conformity with the existing conditions. Neither 816 or 815 relate to Hill Street, where many sororities and fraternities are located, and for which R2B zoning makes sense. Nor do 816 or 815 have significant vegetation or architectural features, as noted in the language for the R2B classification. In reality, both 816 and 815 relate to their respective streets and to the RC4 districts that immediately abut them to the south, and the surrounding area. As such, the re-zoning would match the built environment more closely with the zoning classification of the two properties.

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

Given the location of these two properties just south of Campus, they are ideal locations for student housing. As such, allowing 4 more students to occupy 816 would meet the convenience of those new students. No change is planned for 815; as such, it continues to meet the convenience of the dental patients and students who live upstairs. Furthermore, at the Citizen's Participation Meeting, the owner of 816 met the house directors of the two sororities immediately to the north, and had very productive discussions about having the tenants in 816 be members of the sororities. As such, that would provide an extra convenience to those students, who would also be very close to their sororities.

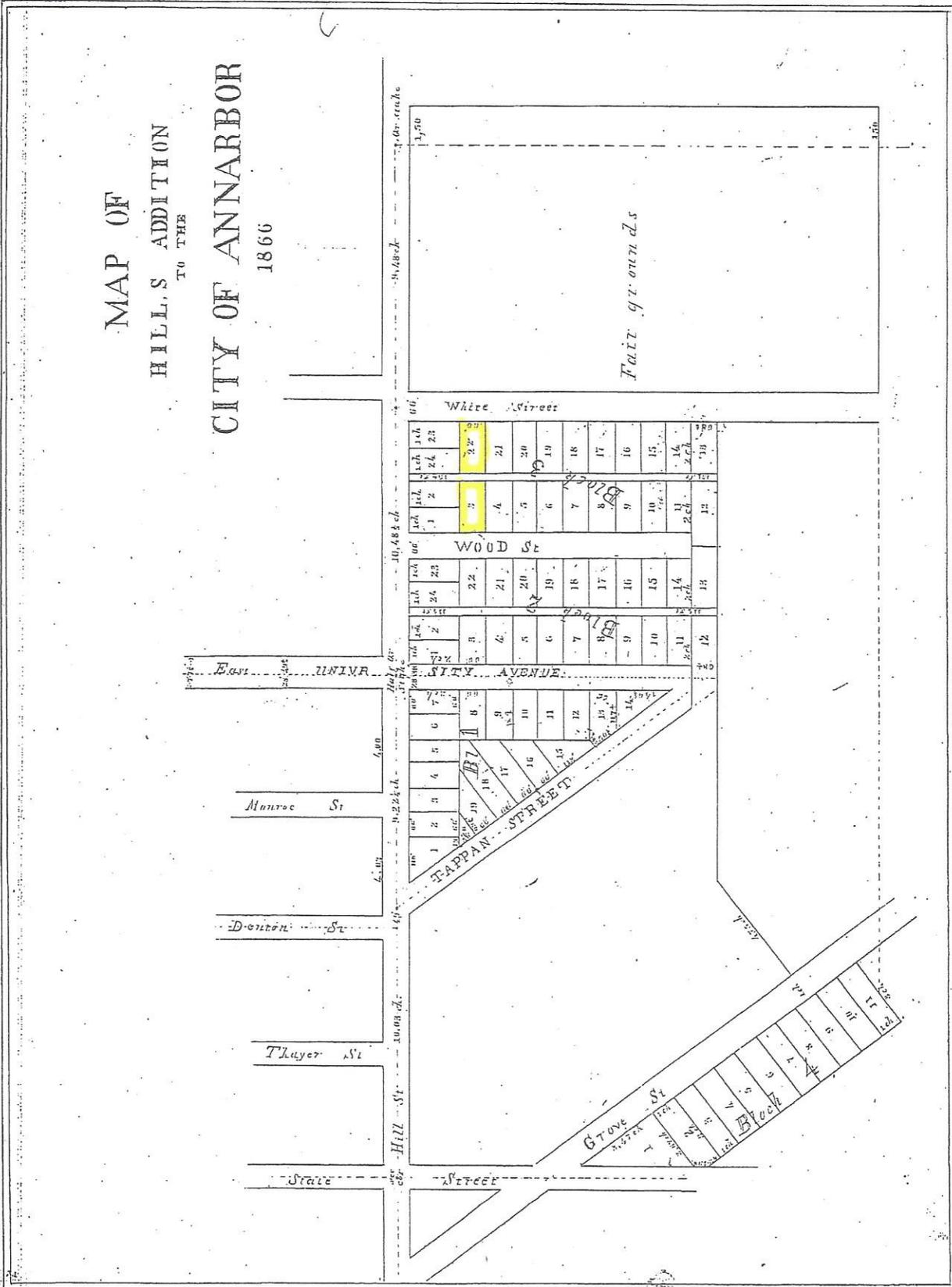
5. Any changed or changing conditions in any particular area, or in the City generally which have a bearing on the proposed re-zoning.

It may be that one reason for the R2B classification on Forest was the presence of the Stevens Housing Cooperative. That structure burned in the early 2000's. As such, if that was a possible reason for the R2B zoning, that condition has changed, and 816 now contains a duplex with none of the characteristics mentioned in the Zoning Ordinance that are abundant in the R2B district; R4C is now the more appropriate classification. Furthermore, the University has grown significantly since the 1960's, when the R2B zoning classification was selected. The R2B restriction to four unrelated persons per unit serves no useful purpose at this time. As such, the R4C makes more sense, particularly given the prevalence of that zoning designation in the surrounding area.

6. Other circumstances and factors which will further justify the requested re-zoning.

While not precisely related to the re-zoning request, the owners of 816 live in Ann Arbor, and are "hands on" property managers, in contrast to the previous owners, who were out of town landlords. They have now met their immediate neighbors, with very productive conversations, which should help in management of the area, particularly as it relates to student behavior.

MAP OF
HILL'S ADDITION
TO THE
CITY OF ANNARBOR
1866



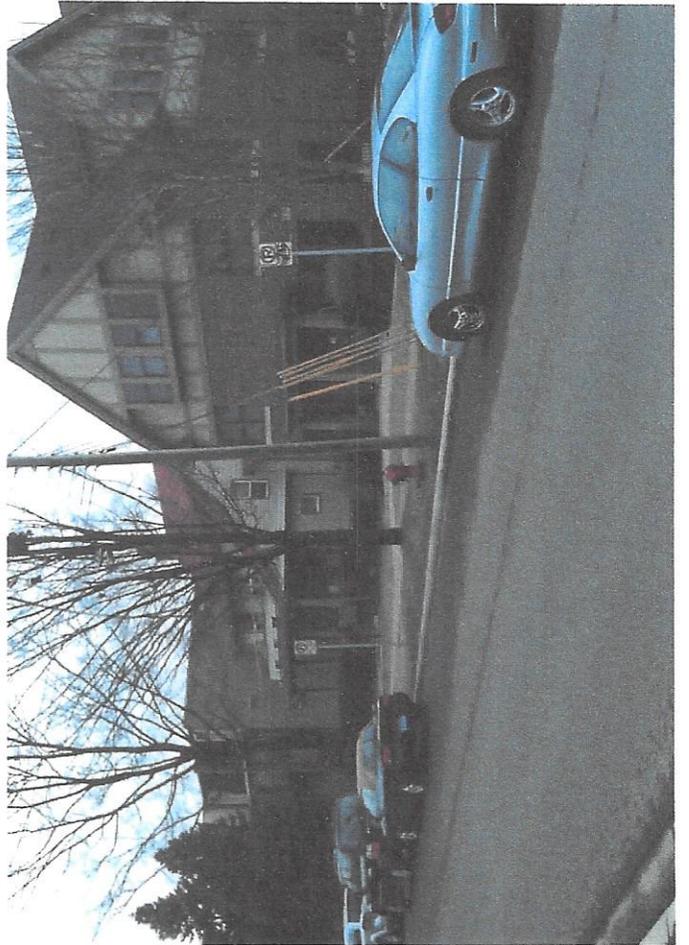


816 Forest Looking West

*View looking East
from 816*



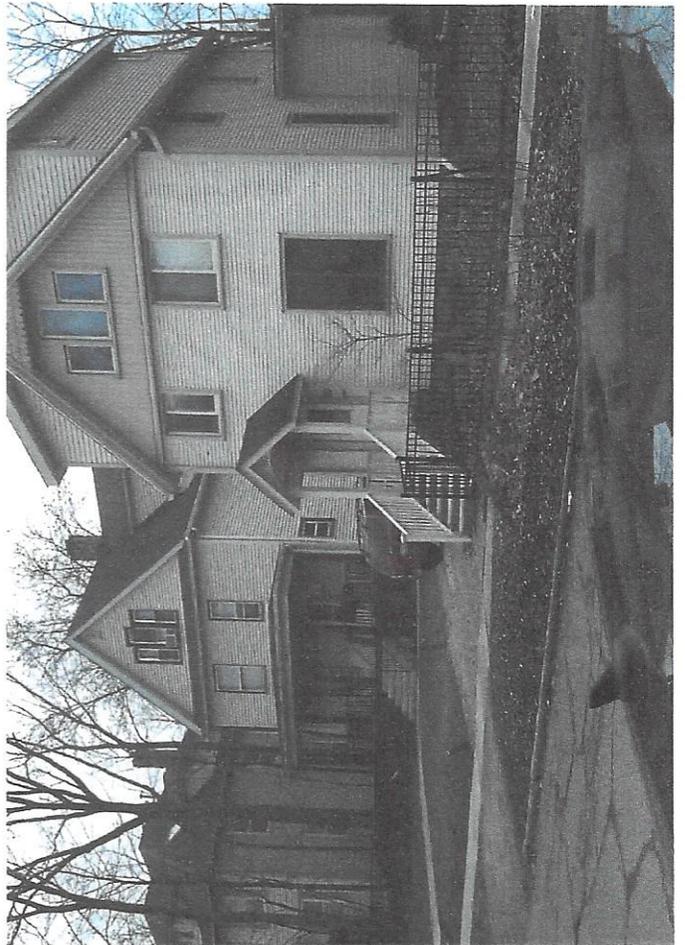
*View looking South
from B16*



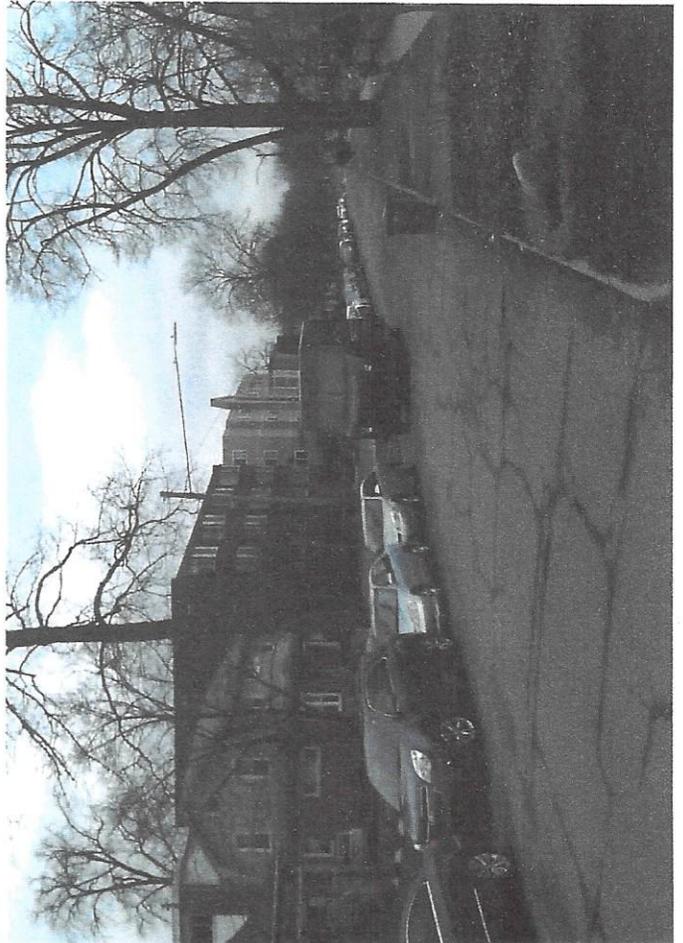


815 Church Looking East

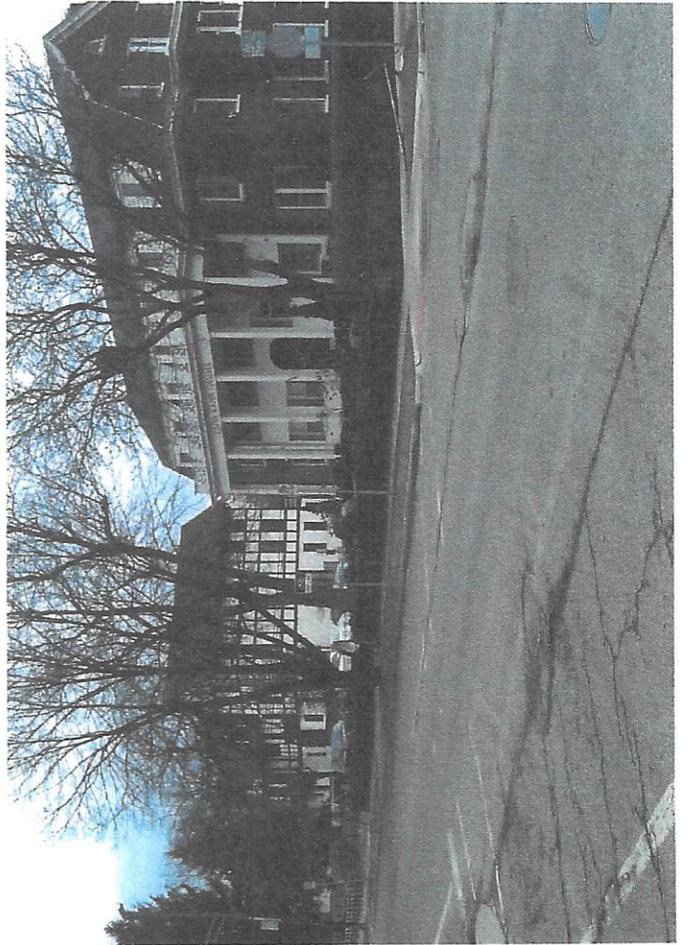
*View looking West
from 815*



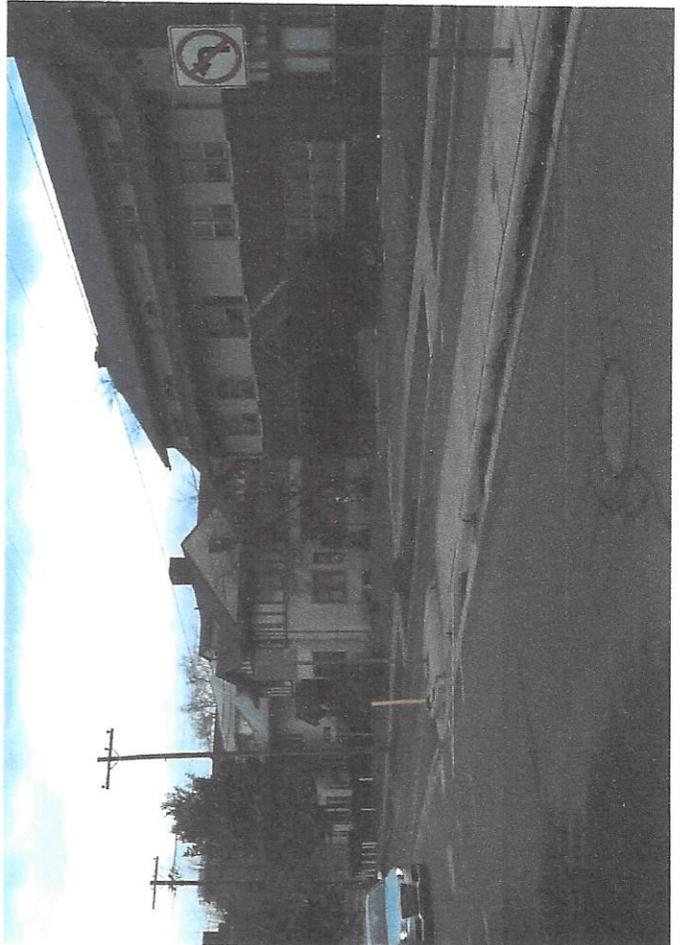
View Looking South
from 815



South side of Hill Street
(immediately north of 816 & 815)



North side of Hill Street
(on north side of Hill, north of
816 & 815)



Olive B. Hall

9493

ANN ARBOR WASHTENAW CO. MICHIGAN.

Notarial
Seal

Know all Men by these Presents that I Olive B. Hall of the City of Ann Arbor County of Washtenaw State of Michigan as Proprietor have caused the land embraced in the annexed Plat to be surveyed laid out and plotted to be known as Olive B. Hall Subdivision, Ann Arbor Washtenaw Co Michigan and that the Street and Alley shown on said Plat are hereby dedicated to the use of the Public Witness My Hand and Seal this 1st day of May 9th Eighteen hundred and Ninety one

William H. Harrison
Eugene C. Hall

Olive B. Hall (L.S.)

State of Michigan } ss
County of Washtenaw }
On this 1st day of May 1891 before me a Notary Public in and for said County, personally appeared the above named Olive B. Hall and to me personally known and known by me to be the same person who executed the above dedication and who acknowledged the same to be her free act and deed

William H. Harrison Notary Public
Washtenaw County, Michigan

State of Michigan } ss
County of Washtenaw }
I, Michael Perry Register of Deeds, and J. B. Davis Surveyor, hereby certify that this copy has been carefully compared with the original Plat of Olive B. Hall Subdivision, Ann Arbor, Washtenaw, Michigan and that it is an exact copy thereof and of the whole of such original map or Plat

Michael Perry Register of Deeds
J. B. Davis, Surveyor.

Description of Land Platted

Beginning at the North Quarter Part of Section Thirty three (33) Township Two (2) South of Range Six (6) East, Meridian of Michigan Hence East on the North line of said Section, 3100 Hundred and Twenty eight and Eight Hundredths (3100.28) feet (to a mark); Thence South parallel to the north and south quarter lines of said section South Hundred and Forty one and Sixty eight hundredths (1241.68) feet to a point on range of the South Township of the former grounds of the Washtenaw Street Railway Society (to 100 on map); Thence West on the line of said South boundary line Hundred and Four (104) feet to the South West corner of said grounds (to 100 on map) on the center of White Street, thence West on the center line of White Street, thence North and South on (1241.68) feet to the North line of said section (to 100 on map); Hence East on the North line of said section Six Hundred and Sixty eight (668) feet to the place of beginning subject to the Street and all streets as may hereafter be laid out on the same or any map; except the pieces hereof are sold and shown on said map.

I hereby certify that this Plat is a correct copy of the Plat now on record in the Register of Deeds office, being made under the supervision of the Register of Deeds, and that the same has been compared and found correct and offering thereat a carefully compared copy of the Plat, and that the same is a correct copy of the Plat as filed in the office of the Register of Deeds, and that the same is a correct copy of the Plat as filed in the office of the Register of Deeds, and that the same is a correct copy of the Plat as filed in the office of the Register of Deeds.

Noted the 22nd day of March 1911
Albert B. Howard
Clark and Ben. Wright



Washtenaw County Register's Office ss. and filed this 14th day of May 1891 at 3 o'clock P.M. in Volume 1 of Plat books

Michael Perry Register

I hereby certify that correct, and that iron-quick stone and iron are placed in the ground at all angles in the plat and at the intersection of street and alley, as shown on the Plat

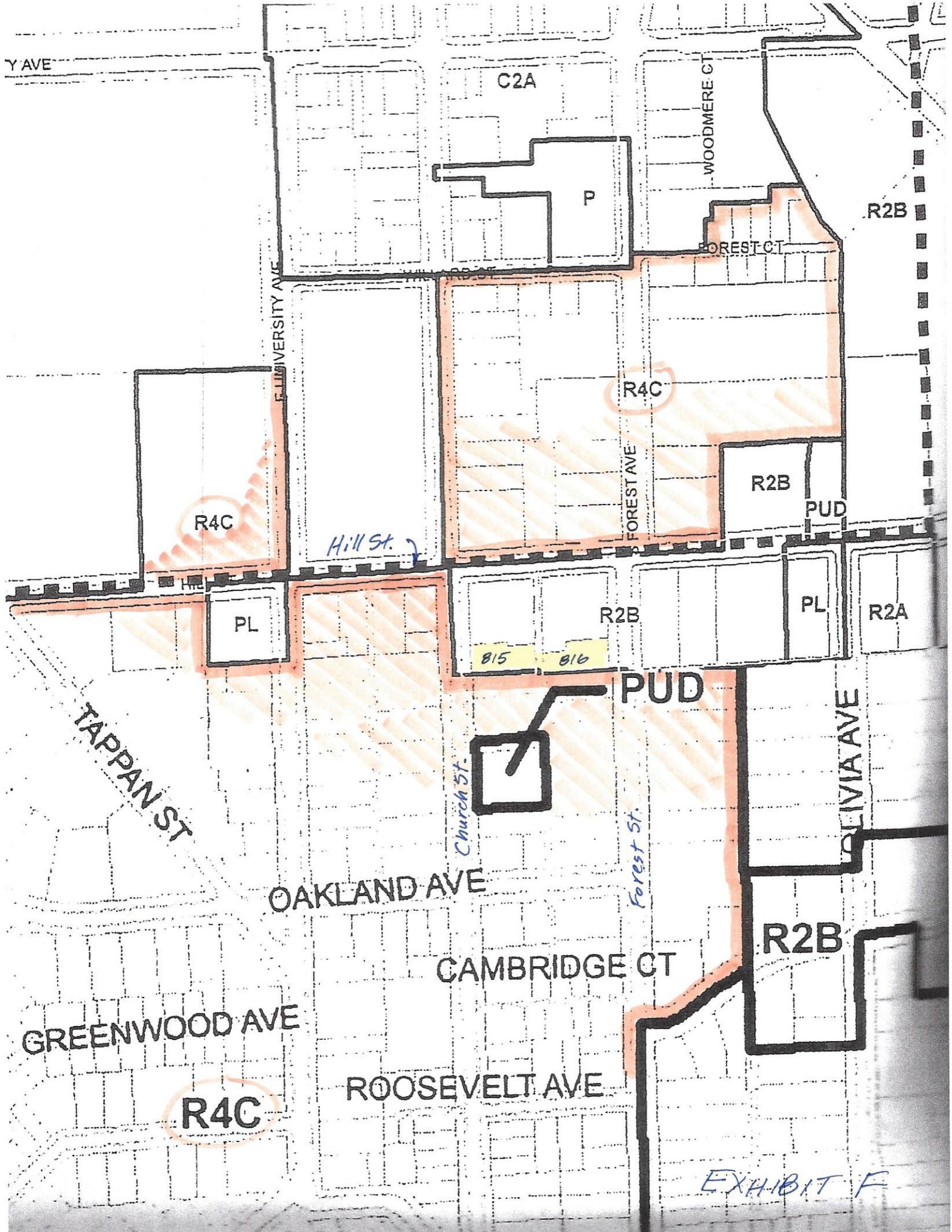
J. B. Davis

The above Plat is a correct copy of the original Plat of Olive B. Hall Subdivision, Ann Arbor, Michigan and that it is an exact copy thereof and of the whole of such original map or Plat

Michael Perry Register of Deeds
J. B. Davis, Surveyor.

Examined and Approved
May 18 1891
H. P. Pratt
Deputy Auditor General

Exhibit E



Y AVE

C2A

WOODMERE CT

R2B

FOREST CT

UNIVERSITY AVE

P

FOREST AVE

R4C

R2B

PUD

R4C

Hill St.

PL

R2B

PL

R2A

815

816

PUD

TAPPAN ST

Church St.

Forest St.

OLIVIA AVE

OAKLAND AVE

R2B

CAMBRIDGE CT

GREENWOOD AVE

ROOSEVELT AVE

R4C

EXHIBIT F

BUILDING PLACE

RODNEY C. NANNEY, AICP

Rezoning Report

816 S. Forest Ave. (parcel #09-09-33-202-009) and
815 Church St. (parcel #09-09-33-202-012); City of Ann Arbor

Report Date: May 21, 2015

1. Purpose

At the request of the owner of 816 S. Forest Ave., we have prepared the following report evaluating land use, zoning, and other factors associated with the proposed rezoning of the above listed lots in the City of Ann Arbor from the R-2B (Two-Family Dwelling & Student Housing District) to the R-4C (Multiple Family Dwelling District).

2. Consultant Information

Rodney C. Nanney holds certification #17963 from the American Institute of Certified Planners (AICP), and has served Michigan cities, villages, and townships as a community planner and land use planning consultant for more than fifteen years.

3. Zoning and Master Plan Designations

The following is a summary of zoning and Master Plan designations for the subject lots and block:

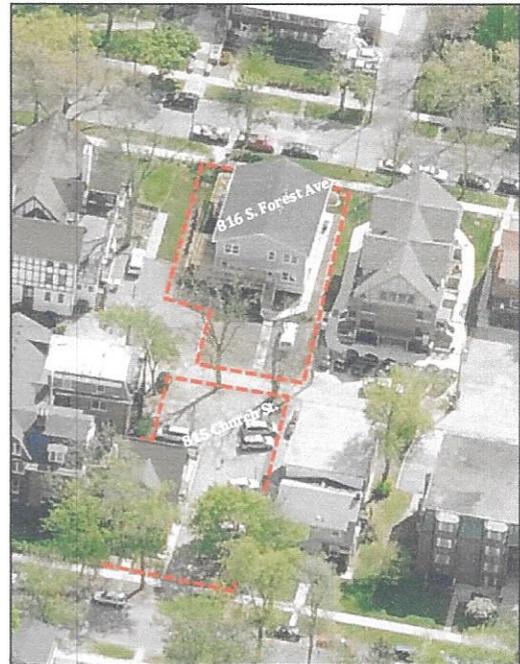


Table 1: Subject Lots	816 S. Forest Ave.	815 Church St.
Existing Zoning District	R-2B (Two-Family Dwelling & Student Housing District)	R-2B (Two-Family Dwelling & Student Housing District)
Master Plan Designation	Central, Multiple Family	Central, Multiple Family

Table 2: Surrounding Zoning and Master Plan Designations		
<p>WEST</p> <p><u>Zoning:</u> R-4C (Multiple-Family Dwelling District)</p> <p><u>Master Plan:</u> Central, Multiple Family</p>	<p>NORTH</p> <p><u>Zoning:</u> R-2B & R-4C</p> <p><u>Master Plan:</u> Central, Multiple Family</p>	<p>EAST</p> <p><u>Zoning:</u> R-2B, R-4C & PL</p> <p><u>Master Plan:</u> Central, Multiple Family; and Central, Single and Two Family Housing/Group Housing</p>
	<p>Subject Lots</p> <p>SOUTH</p> <p><u>Zoning:</u> R-4C & PUD</p> <p><u>Master Plan:</u> Central, Multiple Family</p>	

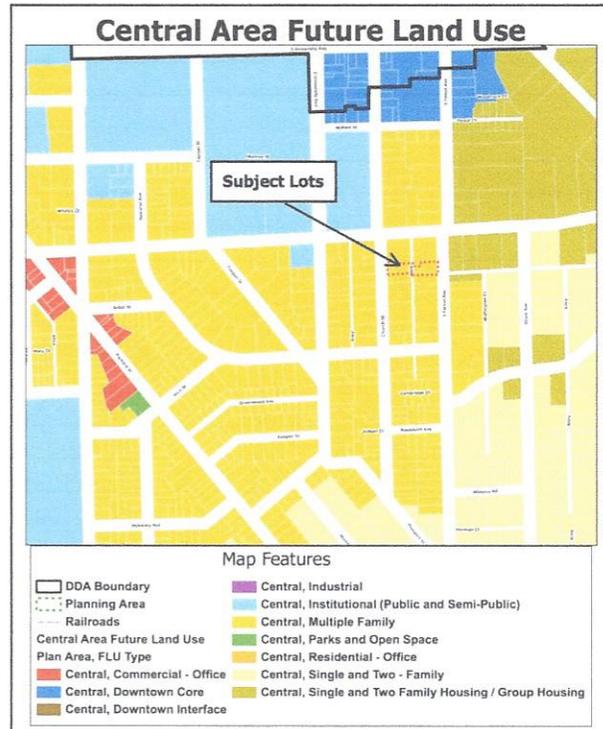
4. **Evaluation of the Master Plan Designation and Development Pattern**

816 S. Forest Ave. and 815 Church St. are located in the Master Plan's defined "Central Area," near the University of Michigan's East Quad and Ross School of Business buildings. The subject lots and surrounding land on the block bound by Hill St., S. Forest Ave., Oakland Ave., and Church St. are uniformly planned for "Central, Multiple Family" land uses. This block is part of a much larger contiguous neighborhood wrapping around the south side of the university's Central Campus that is also predominantly designated for "Central, Multiple Family" land uses.

The subject block and surrounding area appear to have originally developed as a generally single-family neighborhood, as reflected by the existing bungalow-style building on the lot at 815 Church St. However, as noted in the Master Plan, the area surrounding the subject lots was zoned decades ago into a high density, multiple-family classification under "the prevailing planning philosophy...that the private sector would assemble, clear and redevelop vast areas..." Today, a mix of residential building types, including apartment blocks and older residential buildings, many of which have been converted to student housing, occupy the subject block and surrounding area.

The following Master Plan-related findings are applicable to the proposed rezoning:

- **The City's plan for the Central Area, including this area south of the university's Central Campus, is comprehensive in character, flexible in application, and well suited to the specific conditions and intended character of the neighborhood in which the subject lots are located.**
- **The overall character of residential use on the subject block is consistent with the Master Plan's "Central Area" plan.**
- **The existing R-2B zoning classification of the subject lots is not consistent with the Master Plan's "Central, Multiple Family" land use designation for the following reasons:**
 - **It is not consistent with the Master Plan's objective (page 35) to "locate higher residential densities...in proximity to commercial, employment and activity centers;" and**
 - **Multiple-family dwellings are prohibited in the R-2B District.**



City of Ann Arbor Master Plan - Central Area Detail

5. Transportation and Access

The subject lots are located within a short walk or bike ride of the university and Central Business District. In addition, the university's bus system and several of the Ann Arbor Area Transportation Authority's fixed bus routes are within walking distance. The AAATA buses and public sidewalks are barrier-free accessible. For trips to locations not accessible by non-motorized transportation or public transit, access is also available to a variety of rent-by-the-hour ZipCar vehicles via a subscription service subsidized by the University of Michigan.

As noted in the Master Plan, one of the most common transportation-related challenges in this neighborhood are access to parking and the "congestion on the streets where residents compete with student commuters, University faculty and staff for the limited supply of on-street spaces." Consistent with the existing development pattern on the subject block, the rear yard areas of the subject lots have both been converted to off-street parking, with shared access via the common alley. 815 Church St. has additional off-street parking in the side yard.

The following transportation-related findings apply to the subject lots:

- **Based on the availability of multiple transportation options, existing parking constraints in the area should not be a limiting factor to the proposed rezoning.**

6. Evaluation of Existing Zoning

The predominant zoning in this area, including blocks to the north, south and west of the subject block, is the R-4C (Multiple Family Dwelling) District. Only the northernmost four lots on the subject block are zoned R-2B, which is intended to allow single-family and two-family dwellings, along with "the operation of fraternities, sororities and student cooperatives" at locations "in the vicinity" of the university campus.

Two of these four lots are oriented towards Hill Street, and are occupied by two existing sororities that face a similar facility on the opposite side of the street. This Hill Street frontage on the subject block is different in character from the land use and development pattern found on the rest of the subject block, which, with the exception of the subject lots, is zoned R-4C.

The following table summarizes the results of an evaluation of the subject lots' suitability for potential principal residential land uses allowed in the R-2B District:

Permitted Residential Uses in the R-2B District	Suitability of the Subject Lots
Boarding house exceeding 5,000 square-feet in floor area	The existing buildings on the subject lots do not meet the minimum building floor area required for a boarding house in the R-2B District.
Fraternity, sorority or student cooperative	The subject lots do not meet the minimum lot size or building requirements for this land use. If vacant, the subject lots could be combined with the existing sorority lots, but could not be independently developed for use as a fraternity, sorority or student cooperative.

Permitted Residential Uses in the R-2B District	Suitability of the Subject Lots
Single-family dwelling	The adjacent sororities and student apartments create the potential for serious land use, noise and other conflicts that make the subject lots less suitable for use as an owner-occupied single-family dwelling.
Two-family dwelling	Two-family residential rental housing can be compatible with the subject lots' size and configuration, and would be a suitable land use on equivalent lots located further from the university. The Master Plan envisions higher density housing close to Central Campus, making lower density development of this type a less viable option over the long term.

With regards to the various principal, non-residential uses allowed in the R-2B District (such as schools, child care centers and offices of non-profit institutions), the subject lots either do not meet the minimum lot or building requirements that apply to the specific land use, or existing conditions on these lots would make such uses impractical.

The following findings apply to the existing zoning of the subject lots:

- **The subject lots are similar in size to other lots on the subject block, with the exception of the two existing sorority lots that front on Hill St., and conform to the minimum lot area requirements of the R-2B District.**
- **Multiple-family housing, a predominant land use in this neighborhood, is not permitted in the R-2B District.**
- **The R-2B zoning classification is incompatible with the Master Plan's multiple family residential designation for the subject lots and block.**
- **The R-2B zoning classification may be an appropriate zoning classification for the two sororities facing Hill Street, but it is not consistent with the predominant land use and development pattern on the rest of the subject block.**
- **The predominant character of the subject block as a student housing area make the subject lots less suitable for the lower density single- and two-family residential land uses envisioned under existing zoning.**
- **The existing zoning is impeding reasonable use of the existing building at 816 S. Forest Ave. in a manner that would be consistent with similarly sized lots in the neighborhood.**

7. Evaluation of the Proposed Rezoning

The R-4C District is a multiple-family residential zoning district that is "intended to be located in the Central Area of the city, in close proximity to the...University of Michigan Campus." All principal residential land uses allowed in the R-2B District are also allowed in the R-4C District. The following table summarizes the results of an evaluation of the subject lots' suitability for the three additional types of principal residential land uses allowed only in the R-4C District:

Additional Residential Uses in the R-4C District	Suitability of the Subject Lots
Multiple-family dwellings	Provided that the minimum lot size requirement can be addressed (see 7.02 below), the location of the subject lots in close proximity to the university makes multiple-family housing a more suitable option from a long-term viability perspective when compared to the principal residential land uses allowed in the R-2B District.
Rooming and boarding house	Rooming and boarding houses are allowed in the R-4C District without the minimum 5,000 square-foot floor area required in the R-2B District. A boarding or rooming house would be a suitable land use on the subject lots.
Emergency shelter	The lack of convenient access to social services limits the suitability of the subject lots for a homeless shelter. The existing buildings on the subject lots may be suitable for a domestic abuse shelter or similar transitional housing needs.

The following is a summary of additional factors that we would typically recommend be considered as part of the review of any proposed rezoning:

7.01 Is the proposed rezoning to the R-4C District consistent with the Master Plan?

The proposed rezoning to the R-4C District is consistent with the goals and policy recommendations for the Central Area as outlined in the Master Plan. The proposed R-4C zoning district is more compatible with the Master Plan's future land use designation than the existing zoning classification of the subject parcels.

7.02 Will the proposed rezoning result in the creation of any legal nonconforming uses?

The proposed rezoning would not create any legal nonconforming uses, but would maintain an existing legal nonconformity with respect to the minimum gross lot size requirement that applies in both the R-2B and R-4C zoning districts, as follows:

Location	Lot Size (square-feet)	Deviation from the Standard (square-feet)
R-2B District Standard	8,500	0
R-4C District Standard	8,500	0
816 S. Forest Ave.	7,820	(680)
815 Church St.	7,983	(517)

Based upon a review of the subject block and surrounding blocks, this appears to be a common condition for existing lots in the R-4C District south of the university. Each subject lot does have sufficient land area to permit at least three (3) dwelling units, based on the "minimum lot area per dwelling unit" requirement in the zoning district.

7.03 Will the proposed rezoning adversely affect the capacity of the city or other government agencies to adequately provide or maintain public services or facilities, such as roads, utilities and emergency response?

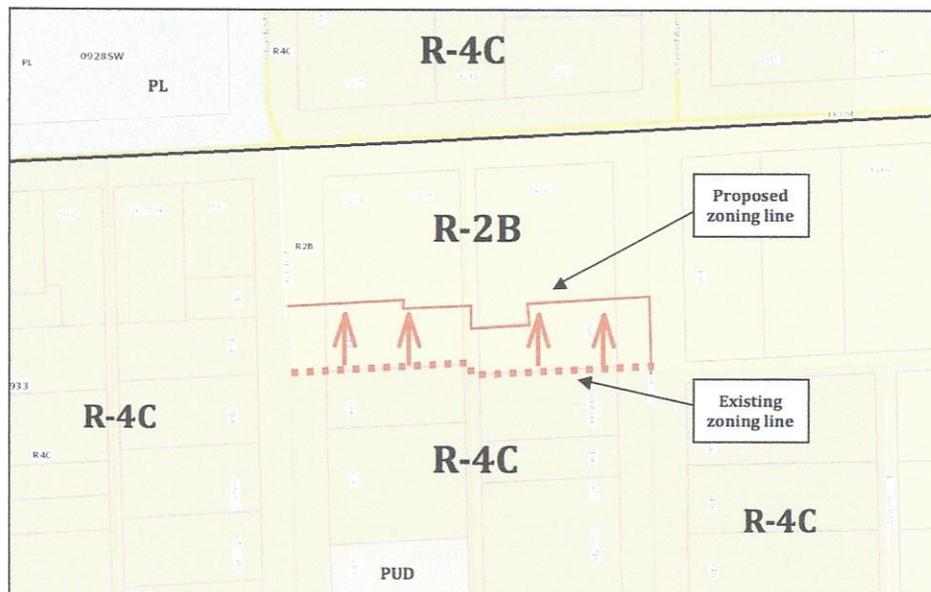
The proposed rezoning would allow the owner of 816 S. Forest Ave. to lease several additional rooms for housing purposes, but the increase in overall residential density on the subject block would be negligible and should not affect the capacity of police, fire, and other city agencies to serve the neighborhood. No impacts on utility capacity or the ability of other government agencies to maintain public services are anticipated if the proposed rezoning is approved.

7.04 Would the proposed changes constitute "spot zoning?"

Spot zoning refers to the rezoning of land to a district fundamentally out of balance with the predominant zoning and pattern of development in the surrounding area. The term 'spot zoning' does not appear in the Michigan Zoning Enabling Act (Public Act 110 of 2006, as amended), but rather is a legal concept that can vary considerably in meaning and interpretation depending on the court and the specifics of the case.

A rezoning that appears to be spot zoning may in fact be reasonable and appropriate where the proposed district conforms with the community's master plan, or where a documented need exists for the uses permitted in the district that has not otherwise been addressed. Reasonable grounds may also be found for a proposed rezoning based on topography, traffic, proximity to major thoroughfares or intersections, utility access, the general development pattern or other factors.

In this case, the proposed rezoning of the subject lots to the R-4C District is not spot zoning, because it is consistent with the Master Plan and the predominant zoning pattern on the block. It simply moves the boundary line one parcel to the north.



Zoning Pattern and Proposed Boundary Change

7.05 Will the proposed rezoning be compatible with the surrounding area?

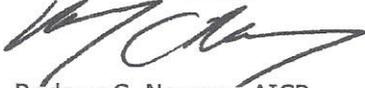
The proposed rezoning is compatible with the pattern of zoning in the surrounding area, and would facilitate reasonable use of the subject lots consistent with existing uses on other lots of similar size and configuration in the area.

8. Recommendation

The proposed rezoning of 816 S. Forest Ave. and 815 Church St. from the R-2B District to the R-4C District is compatible with the surrounding neighborhood and plans for the city's Central Area, and is consistent with sound planning and zoning principles.

Respectfully submitted,

BUILDING PLACE



Rodney C. Nanney, AICP
Planning Consultant



To: Matt Kowalski
From: Scott Munzel *SM*
Re: Report of Citizens' Participation Meeting-Potential re-zoning application- 816 Forest and 815 Church Streets (the Properties)
Date: July 10, 2015

We held the Citizens' Participation Meeting regarding the proposed re-zoning of the Properties from R2B to R4C last night, July 9, 2015 from 7:00 PM until about 8:45 PM, at the Ann Arbor District Library at 343 S. Fifth Avenue.

The Notice for the Meeting was sent by Dollar Bill Copying via First Class Postage Postcards on June 25, 2015. After Dollar Bill controlled for duplicate addresses supplied by the City, the Notice was sent to 1,380 addresses. The Notice also would have been posted/emailed by the City to those on its relevant mailing lists.

Ten people attended the meeting. Four of them were the owners of the Properties and me, resulting in six citizens unaffiliated with the Properties. A copy of the Sign In Sheet is attached. The Resident Directors of the two sororities immediately north of the Properties attended, as well as four other citizens. Given that the re-zoning seeks a map amendment, the only material distributed at the meeting was Page 0928 SW from the Zoning Map showing the Properties marked in yellow and the surrounding area. A copy of Page 0928 SW is attached.

I gave a short presentation regarding the zoning of the area, general layout of the area, description of the two Properties, how the R2B zoning appears to be designed for the large fraternities and sororities along Hill and Washtenaw, that these two Properties were oriented to Forest and Church, that they are virtually surrounded by R4C zoning, and the reasons for seeking the re-zoning, which would allow 816 Forest to have up to 6 occupants per unit, and allow more flexibility in the future for the owner of 815 Church.

There was a lengthy discussion regarding removal of the swimming pool, history of the structures, student behavior issues, particularly as it related to the Kappa Kappa Gamma and Alpha Chi Omega sororities and control of student parties.

Peter Nagourney questioned whether the intent was to make more money, which increasing the occupancy of 816 Forest would in fact do. Increasing density in this location by 4 people could help the edge of Burns Park remain (in a very small way) more owner-occupied as opposed to student rental. Dina Cocco, owner of 815 Church commented that while she intends to continue her dental practice, and then hopes to sell to another dentist, her type of family practice is less popular, and that she would like to have options for her Property in the future.

Concerns were expressed that the two Properties could be combined, resulting in a much larger future building. The two are separated by a public alley, which would prevent any such combination, without vacating the alley, a result which all agreed would be very unlikely.

The conversation returned to student behavior issues, with Se Kim, owner of 816 Forest, explaining his involvement with his tenants in his attempts to maintain the property, including how he contacts the students' parents as the most effective method. He explained he has his own maintenance crew going in to fix things (almost weekly) and he that makes frequent visits to the property to try to maintain it and attempt to make sure the tenants are behaving appropriately.

There was discussion of the pricing of rental properties, and whether there were 6 occupants residing in the units notwithstanding that maximum occupancy is 4/unit. Se confirmed there are only 4 tenants on the lease, and he believes there are only 4 tenants but he cannot always tell if someone he observes is just there to visit or is residing there.

We discussed how in 816 Forest, there are some rooms that have no doors and are not used as bedrooms, and contain storage and living room furniture, but that with the addition of doors, these would be the additional bedrooms to handle the 2 additional occupants per unit. This is the reason that there would be no external change required to accommodate the additional 4 occupants. There was a discussion of how, in the past, after a fire destroyed the prior structure, the builder may have planned 6 bedroom units before learning that the maximum was 4 units, but rather than pay to revise the plans, just built what was already designed. Rather seek a re-zoning in the past, he attempted a faster, cheaper variance, which was denied.

We discussed the procedure for the proposed re-zoning going forward. Conversation again turned to efforts to improve and maintain street appearance in student neighborhoods, particularly the Linn/Gerstein efforts on Forest Court and how they have some success. There was a significant amount of interaction between Se and the Resident Directors of the two sororities on how to possibly manage student behavior and Se's hands-on approach, as opposed to the prior out-of-state owners, who appeared to not have much interest in managing or maintaining the property.

There was some discussion of the study of the R4C districts. It is unclear when that study might be completed or whether any of its potential recommendations would have an impact on these two Properties.

The meeting generally concluded around 8:35 or so, although Se had additional conversations with the Resident Directors for another 10 minutes or so regarding future efforts to cooperate to improve management of the immediate area.

ccs: All Attendees at the Meeting (via email)

Enclosures

SIGN IN SHEET 7/9/15 7 PM

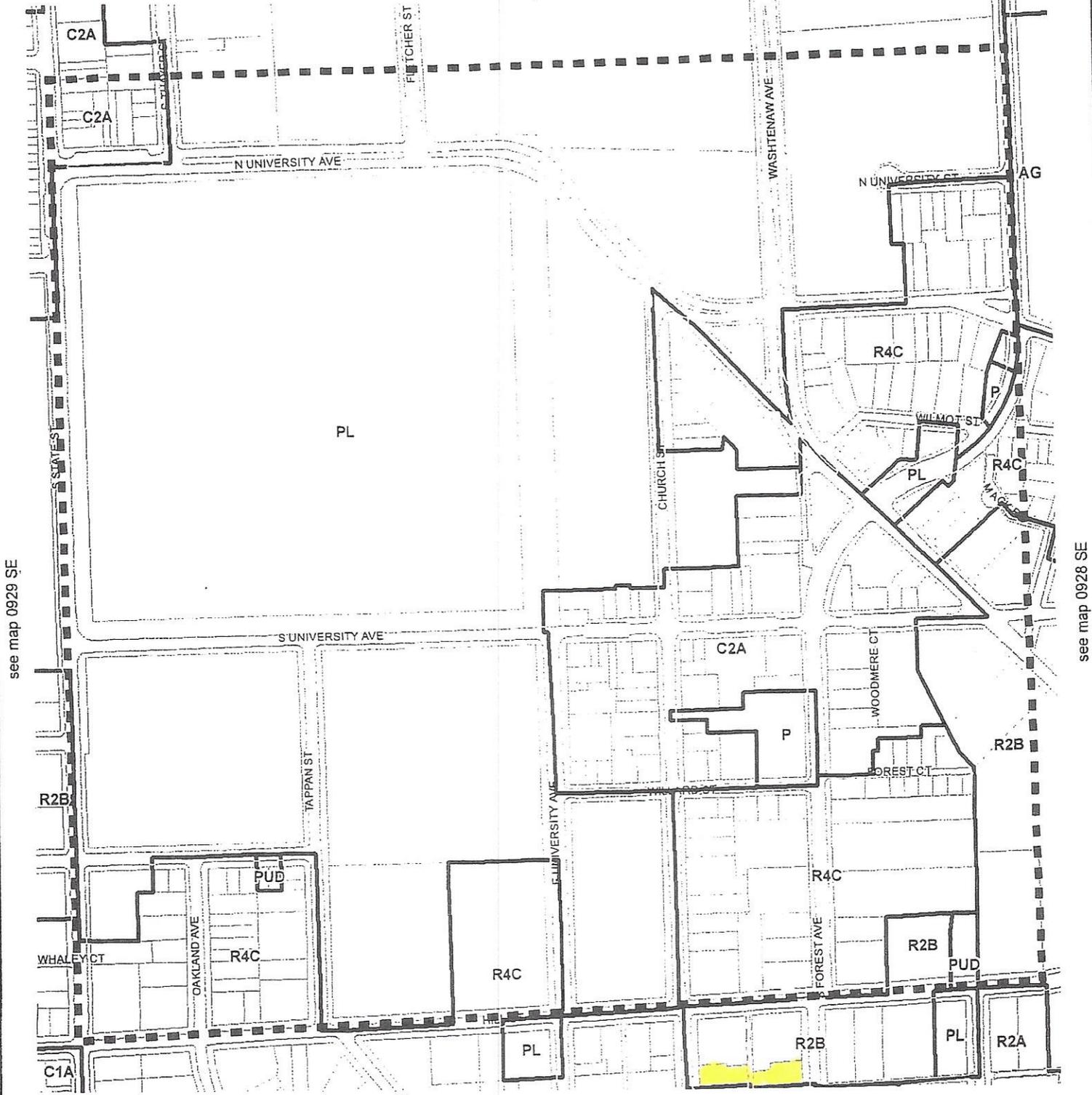
816 Forest / 815 Church

NAME ADDRESS E MAIL

PETER NAZOURNEY	914 LINCOLN	pjn@umich.edu
Betsy Price	905 Olivia	cottonbets@gmail.com
Eleanor Linn	1321 Forest Ct	elinn@umich.edu
Marc Goustein	1321 Forest Ct	mgersfe87@yahoo.com
Cathy Kyle	1204 Hill St	Ann Arbor kylednr@aol.com
Dina Folwo	600 815 Church	
Lynn White	1212 Hill	Lyn.white@umich.edu
Scott Munzel	603 W. Huron	sem@munzella.com
Se Kim		
Jin Kim		

Ann Arbor City Zoning Map

see map 0928 NW



see map 0929 SE

see map 0928 SE

see map 0933



-  Township Zoning
-  Section Boundary

Prepared By: City of Ann Arbor, Community Services, GIS; Assessor's Office maintains parcel data.

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QUARTER SECTION 0928 SW

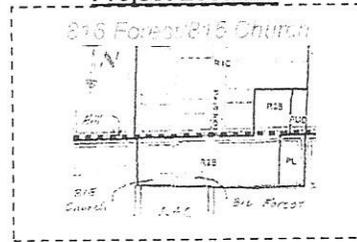
Map Printed: December 8, 2006

NOTICE OF CITIZEN PARTICIPATION MEETING: 816 Forest/815 Church re-zone

Citizen Participation Meeting

Postcards are being sent to all property owners within 1,000 ft of the project site to give notice that a development petition will be submitted to the City of Ann Arbor on 07/27/15. A citizen participation meeting will be held to give you an opportunity to review plans, ask questions, and provide comments that will be considered by the developer to finalize plans and then incorporated into a report for the City Planning Commission.

Project Location



Project Description

Owners of 816 Forest and 815 Church seek to move the R4C zoning line from the south side of their properties to the north side. No exterior changes will be made to the existing structures. R2B is appropriate for the fraternities/sororities on Hill Street, not for these two parcels.

Meeting Logistics

Date: Thursday, July 9, 2015
Time: 7:00 PM

Place: Multi-Purpose Room, Lower Level,
Ann Arbor Public Library, 343 S. Fifth
Avenue

Questions or Comments

Questions or comments may be directed Scott Munzel, for petitioners at sem@munzellaw.com business hours at 734 994 6610

Persons with disabilities are encouraged to participate. Accommodations may be arranged by contacting Scott Munzel. Requests need to be received at least 24 hours in advance of the meeting.

Proposed Rezone 816 Forest/815 Church

In accordance with the City of Ann Arbor's Citizen Participation Ordinance, you are being notified that a proposal for rezoning will be submitted to the City of Ann Arbor's Planning Department. Details about a citizen participation meeting designed for you to learn about this project are described on the opposite side of this card.

Visit www.a2gov.org/participation for more information about citizen participation in Ann Arbor.

1-372

Scott E. Munzel, P.C.
603 W. Huron Street
Ann Arbor, MI 48103

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IA

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of November 4, 2015

**SUBJECT: 816 South Forest Avenue and 815 Church Street Rezoning
File No. Z15-007**

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the 816 South Forest Avenue and 815 Church Street Rezoning from R2B (Two-Family Dwelling and Student Housing District) to R4C (Multiple-Family Dwelling District).

STAFF RECOMMENDATION

Staff recommends that this petition be **denied** because there have been no changed or changing conditions in the particular area or in the municipality in general and there has been no error identified to support an amendment to the Zoning Map.

STAFF REPORT

This petition was postponed by the Planning Commission at its September 29, 2015 meeting to a future agenda as requested by the petitioner's agent. A public hearing was held and closed, and the Planning Commission discussed the requested rezoning from R2B (Two-Family Dwelling and Student Housing District) to R4C (Multiple-Family Dwelling District).

At the September 29, 2015 meeting, the petitioner distributed a supplemental statement in response to the staff report which is attached to this report for the benefit of the two commissioners absent that meeting.

The Commission asked that staff provide more information regarding a similar rezoning petition, 1310 Hill Street. The 1301 Hill Street Rezoning was a petition to rezone a 15,485-square foot parcel containing a 2,500-square foot, 5-bedroom house. The petitioner wanted to increase the occupancy of the dwelling from 4 to 6 unrelated persons. Following a public hearing where 19 people address the Commission, the Planning Commission recommended denial. All eight of the present Commissioners expressed objections to the rezoning. The petitioner was withdrawn and never considered by the City Council. The staff report and July 20, 2004 Planning Commission meeting minutes are attached for reference.

Prepared by Alexis DiLeo
Reviewed by Ben Carlisle
9/23/2015

Attachments: September 29, 2015 Planning Staff Report
Petitioner's Supplemental Rezoning Report (9/28/2015)
1310 Hill Street Rezoning Staff Report (7/20/2004)
July 20, 2004 Planning Commission Meeting Minutes

c: Petitioner's Agent: Scott Munzel
603 W. Huron Street
Ann Arbor, MI 48103

Owners: S&H 816 LLC
4320 Hillside Drive
Ann Arbor, MI 48105

Mollmax, LLC
602 Soule Street
Ann Arbor, MI 48103

Systems Planning
File No. Z15-007

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of September 29, 2015

**SUBJECT: 816 South Forest Avenue and 815 Church Street Rezoning
File No. Z15-007**

PROPOSED CITY PLANNING COMMISSION MOTION

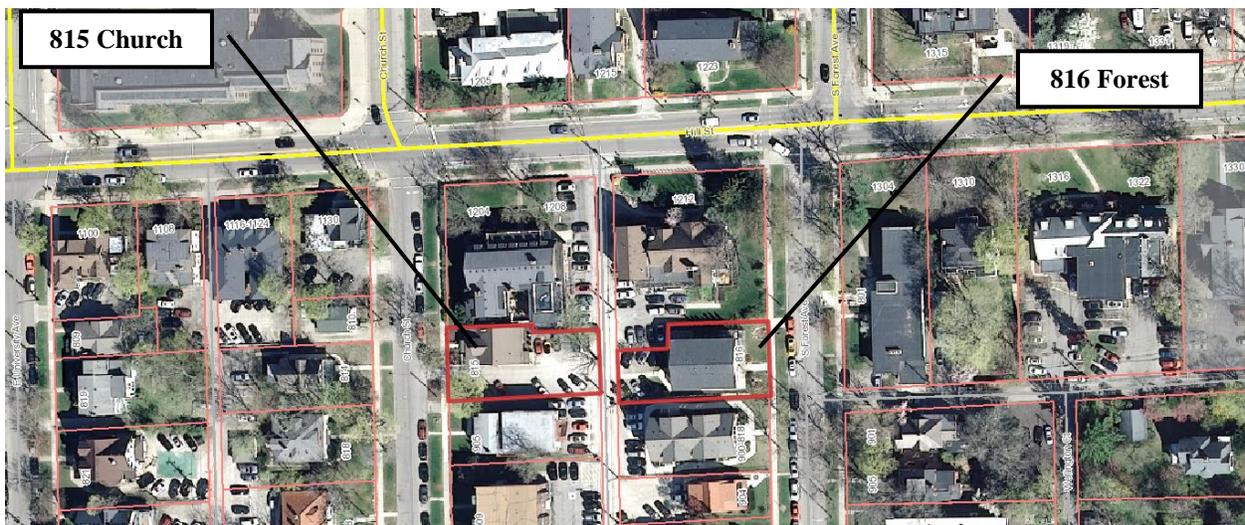
The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the 816 South Forest Avenue and 815 Church Street Rezoning from R2B (Two-Family Dwelling and Student Housing District) to R4C (Multiple-Family Dwelling District).

STAFF RECOMMENDATION

Staff recommends that this petition be **denied** because there have been no changed or changing conditions in the particular area or in the municipality in general, and there has been no error identified to support an amendment to the Zoning Map.

LOCATION

These sites is located south of Hill Street between South State Street and Washtenaw Avenue (Central Area; Ward 3).



DESCRIPTION OF PROJECT

The petitioners request their properties at 816 South Forest Avenue and 815 Church Street be rezoned from R2B (Two-Family Dwelling and Student Housing District) to R4C (Multiple-Family Dwelling District) in order to increase the density and residential occupancy potential of each. There has not been any submitted development plans for these properties in association with the requested rezoning.

816 South Forest Avenue – This approximately 7,800-square foot nonconforming lot is the first lot on the west side of Forest south of Hill Street after the corner lot. On December 21, 2005, the Zoning Board of Appeals granted a variance of 708 square feet from the required 8,500-square foot minimum lot area to allow a two-family dwelling to be constructed. A two-family dwelling was built in 2006 with four bedrooms and two studies in each unit. The maximum residential occupancy of each unit is 4 unrelated persons. (Without the variance, only a single-family dwelling would be permitted.) An alley runs along the rear of the lot, providing the only vehicular access to the site.

815 Church Street – This approximately 7,800-square foot nonconforming lot is the first lot on the east side of Church south of Hill Street after the corner lot. It contains a two-story building built in 1900 that now includes a dental office, a nonconforming use, on the first floor and a two-bedroom apartment on the second. The maximum residential occupancy of the apartment is 4 unrelated persons. An alley runs along the rear of the lot. The site includes a driveway to Church Street which also connects to a rear alley.

SURROUNDING LAND USES AND ZONING

	LAND USE	ZONING
NORTH	Sorority	R2B
EAST	Two-family dwelling	R2B
SOUTH	Multiple-family dwelling	R4C
WEST	Multiple-family dwelling	R4C

DISTRICT COMPARISON CHART

	R2B Two-Family Dwelling and Student Housing District	R4C Multiple-Family Dwelling District
Intent	<i>Intended to permit 1- and 2-family dwellings as well as to permit in the vicinity of The University of Michigan Campus the operation of fraternities, sororities and student cooperatives affiliated with the university as well as privately-owned fraternities, sororities and student cooperatives. It is the further intent of this zoning district to preserve the unique character and quality of the physical environment in this area of the city. The area is characterized by the presence of many large and architectural distinctive houses set on relatively large lots. Many sites housing such structures are characterized by large front yard setback, mature and harmonious tree growth, and a uniformity in architectural characteristics such as scale and use of materials. Any alteration to existing structures and/or construction of new facilities should harmoniously reflect the overlying character of the surrounding environs.</i>	<i>The R4C multiple-family dwelling district is intended to be located in the central area of the city, in close proximity to the central business district and The University of Michigan Campus.</i>
Principal Uses	Single family dwellings Two-family dwellings	Single family dwellings Two-family dwellings Multiple-family dwellings Rooming and Boarding Houses
Special Exception Uses	Fraternities, Sororities and Student Cooperatives Club Headquarters Boarding Houses	Fraternities, Sororities and Student Cooperatives Hospitals
Minimum Lot Size	8,500 sq ft	8,500 sq ft
Min. Lot Area Per Dwelling Unit	4,250 sq ft per dwelling unit 350 sq ft per occupant (fraternity/sorority/cooperative)	2,175 sq ft per dwelling unit 350 sq ft per occupant (fraternity/sorority/cooperative)
Residential Occupancy	Up to 4 unrelated persons	Up to 6 unrelated persons

	R2B Two-Family Dwelling and Student Housing District	R4C Multiple-Family Dwelling District
Open Space	None	40% min. including 300 sq ft active open space per dwelling unit
Setbacks	Front – Established or 25 ft min Side – 8 ft min Rear – 30 ft min	Front – Established or 25 ft min Side – 12 ft min plus additional for excessive building length Rear – 30 ft min plus additional for excessive building width
Height	30 ft max.	30 ft max.

PLANNING BACKGROUND

Recommendation – The Master Plan: Land Use Element future land use plan recommends multiple-family uses for these sites. Chapter 7 of the Land Use Element focuses on the Central Area. Prior to the current zoning ordinance, much of the Central Area was zoned for multiple-family dwellings. With the adoption of our current zoning ordinance in 1963, large portions of the Central Area continued to be zoned for multiple-family residential use through the R4C zoning classification. As noted in the Land Use Element, “the prevailing planning philosophy was that the private sector would assemble, clear and redevelop vast areas, and allowing the higher densities would encourage this.” However, this did not happen (at least to the extent envisioned by planners in the early 1960s).

There are two goals identified in the Land Use Element for the Central Area:

Goal A – To promote sound and attractive residential neighborhoods which meet the housing needs of the current and future population, which are adequately served by urban services, infrastructure and facilities and which conserve environmental quality. (Page 62)

Goal B – To encourage sensitive, attractive, and innovative development and renovation in downtown Ann Arbor and in adjacent neighborhoods. (Page 66)

Objectives and Action Statements, notable and particularly relevant to the rezoning petition, include:

- Objective 1: To protect, preserve and enhance the character, scale and integrity of existing housing in established residential areas, recognizing the distinctive qualities of each neighborhood.
- Objective 5: To develop density thresholds for each neighborhood that are appropriate in relation to the character, available services and infrastructure of the neighborhood, and in accordance with the norms of that neighborhood, resulting in improved quality of life for all residents.

- Objective 6: To protect and maintain the diversity of people and housing by promoting a stable balance among the various interests.
 - Action Statement b) Educate real estate agents about zoning limitations to reduce unrealistic expectations about income-producing property.
- Objective 13: To ensure that new infill development is consistent with the scale and character of existing neighborhoods, both commercial and residential.
- Objective 16: To encourage amicable coexistence within neighborhoods between students and other residents of the community, while maintaining the diversity of all residents and their different lifestyles.

Overall, the Land Use Element speaks to rezoning areas for lower density to reflect the established development pattern rather than rezoning to higher densities. Exceptions are certainly allowed but the prevailing sentiment is to reduce pressure on established neighborhoods and concentrate development, redevelopment and increased densities in the downtown.

The Land Use Element does recommend two specific zoning changes in the vicinity of, but not including, the subject sites. The first is Central Area Site 16 at the northwest quadrant of the Washtenaw Avenue and Hill Street intersection. The second, Central Area Site 17, is a large area on the east side of Packard Street from South Fifth Avenue (essentially the Germantown neighborhood) to Greenwood Avenue (roughly the East North Burns Park neighborhood). Both are “student neighborhoods to be reviewed for new zoning ordinance definitions and standards that support group housing opportunities.”

Planning Initiatives – Since 1963, the community has struggled with the appropriate density for the neighborhoods adjacent to downtown and campus. Higher residential densities are generally desired but so are preserving the existing stock of single family structures and streetscape character. The R4C/R2A Zoning District Study, begun in 2009, is the latest in a long list of efforts to achieve that delicate balance.

The April 16, 2013 Planning Commission Proposal for the R4C and R2A districts recommends reducing the minimum lot size 4,350 square feet in the R4C district and 6,000 square feet in the R2A district. It also recommends regulating lot combinations through the special exception use tool or similar case-by-case method to maintain the character and scale of the block.

ZONING PETITION AND ANALYSIS

In accordance with Chapter 55 Zoning Ordinance, Section 5:107(1), the Zoning Ordinance and Zoning Map shall not be amended except “because of changed or changing conditions in a particular area or in the municipality generally, to rezone an area, extend the boundary of an existing Zoning District or to change the regulations and restrictions thereof.”

The petitioner’s *Application For Changes In Or Additions To The Zoning Chapter*, a form provided by the Planning Department to assist petitioners in providing the necessary information to justify their petition is attached. The questions posed in the application are not standards for approval, rather guides to providing sufficient evidence of changed or changing conditions.

Staff Analysis – The petitioner has provided a well written, throughout and comprehensive application for staff and the Planning Commission to consider. Their justification is more

compelling than most petitions for rezoning and includes a report from an independent planner. However, staff concludes that there has not been a change in conditions nor an error that supports the petition.

The petitioner states that a student cooperative was located at 816 Forest for most of the time since 1963 and was the most likely reason why it is zoned R2B rather than R4C. The coop burned down and a duplex was constructed in 2006, but only after receiving a rare lot size variance. Planning staff explicitly explained to the property owner/developer at the time that the maximum occupancy permitted in the R2B zoning district was 4 unrelated persons, but they nevertheless choose to construct the dwelling units with two study rooms in addition to the four bedrooms.

Further, by their own account, no changes would occur at 815 Church Street as a result of this rezoning. It is a nonconforming lot and its one dwelling unit is a two-bedroom apartment certified for 4 occupants. The Application states that “the rezoning of 815 Church allows more flexibility in the future, should the practice of dentistry at this location become less economically feasible.” The only obvious reasons for rezoning 815 Church is to make the Zoning Map look nicer by moving the boundary between R2B and R4C uniformly north on this block.

As there has not been any submitted development plans for these properties in association with the requested rezoning, it appears that the rezoning is intended to increase permitted occupancy at 816 Forest. While increasing appropriate density near campus and downtown areas is in keeping with the Land Use Element, increase occupancy to simply increase occupancy is contrary to many stated city goals and policies.

Furthermore, when considering a rezoning it is important to consider the future development potential of the property. A rezoning of the properties may lead to a future teardown and redevelopment that would be contrary and inconsistent with the adjacent properties.

CITIZEN PARTICIPATION

The petitioner held a meeting for neighboring citizens on July 9, 2015 (report attached). Invitations were sent to over 1,300 addresses of property owners and residents. Ten people attended the meeting.

AREA PLAN WAIVER

As no new development is proposed, the petitioner requested a waiver from the requirement to submit an area plan in conjunction with a rezoning application which was granted by the planning manager.

COMMENTS PENDING, DISMISSED OR UNRESOLVED

Planning –Staff agrees the request is small and would further some of the broad concepts in the Land Use Element, but because the sites would remain nonconforming lots, the rezoning is contrary to many stated policies in the Land Use Element, namely lot combinations resulting in out of scale development. Staff carefully debated the pros and cons and all other aspects of this petition and finds that until a redevelopment of either site or the proposed R4C/R2A

ordinance revisions are adopted, there are no changed or changing conditions to support the rezoning request.

Prepared by Alexis DiLeo

Reviewed by Ben Carlisle

9/23/2015

Attachments: Zoning Map
Aerial Photo
Application for Changes In Or Additions to The Zoning Chapter
Petitioner's Citizen Participation Report

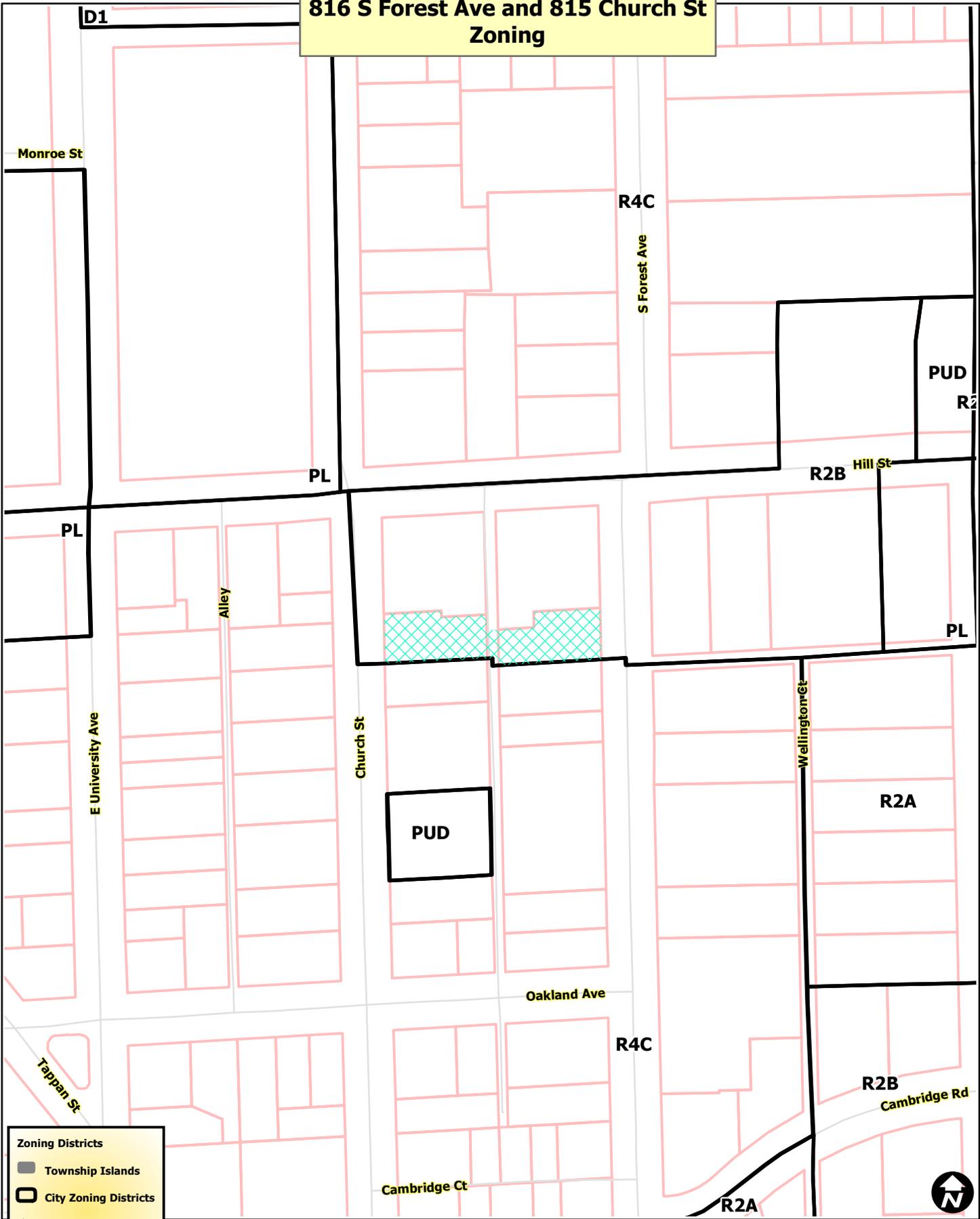
c: Petitioner's Agent: Scott Munzel
603 W. Huron Street
Ann Arbor, MI 48103

Owners: S&H 816 LLC
4320 Hillside Drive
Ann Arbor, MI 48105

Mollmax, LLC
602 Soule Street
Ann Arbor, MI 48103

Systems Planning
File No. Z15-007

816 S Forest Ave and 815 Church St Zoning



Zoning Districts

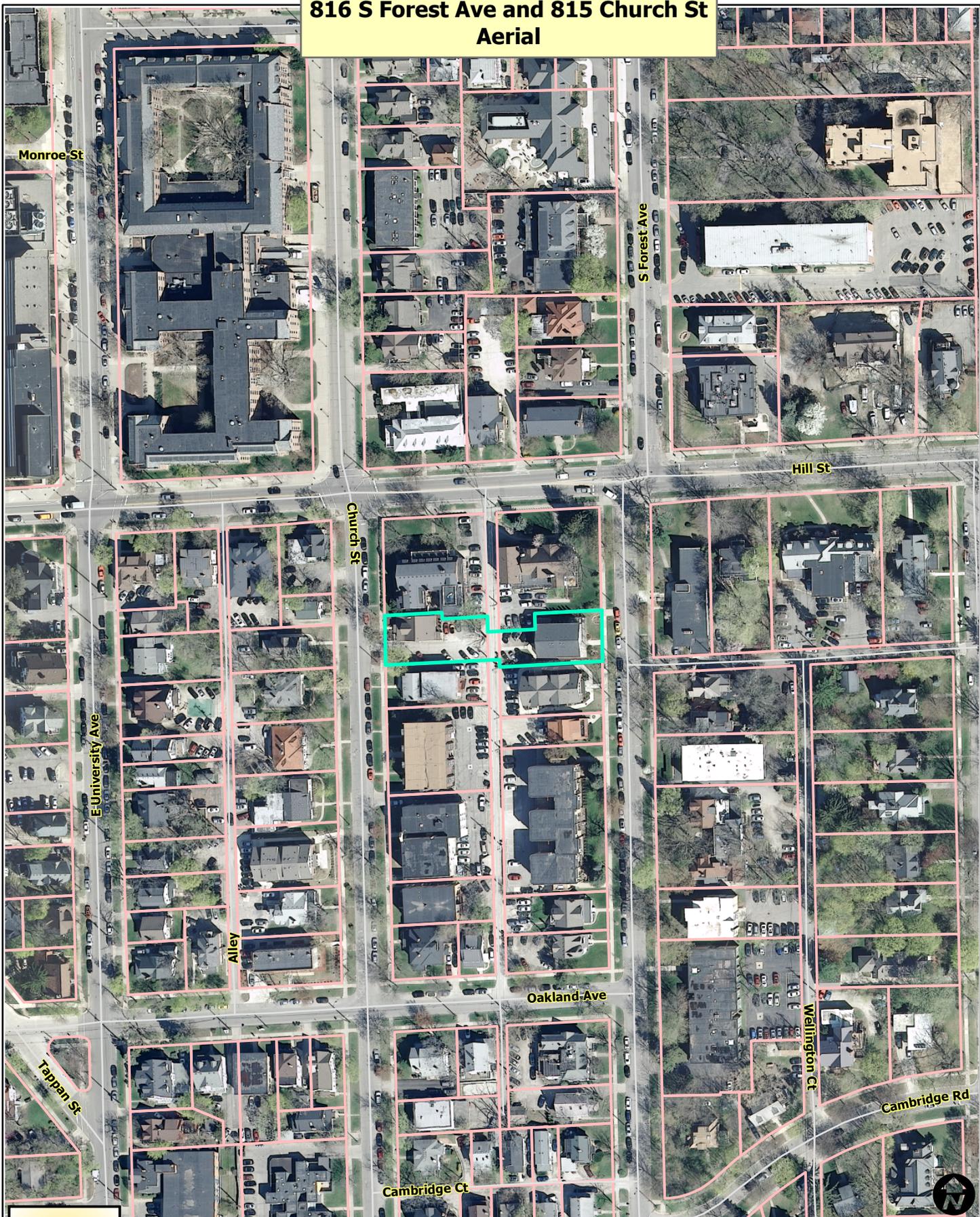
- Township Islands
- City Zoning Districts
- Railroads
- Parcels
- Huron River



Map date 6/11/2015
 Any aerial imagery is circa 2012
 unless otherwise noted
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816 S Forest Ave and 815 Church St Aerial

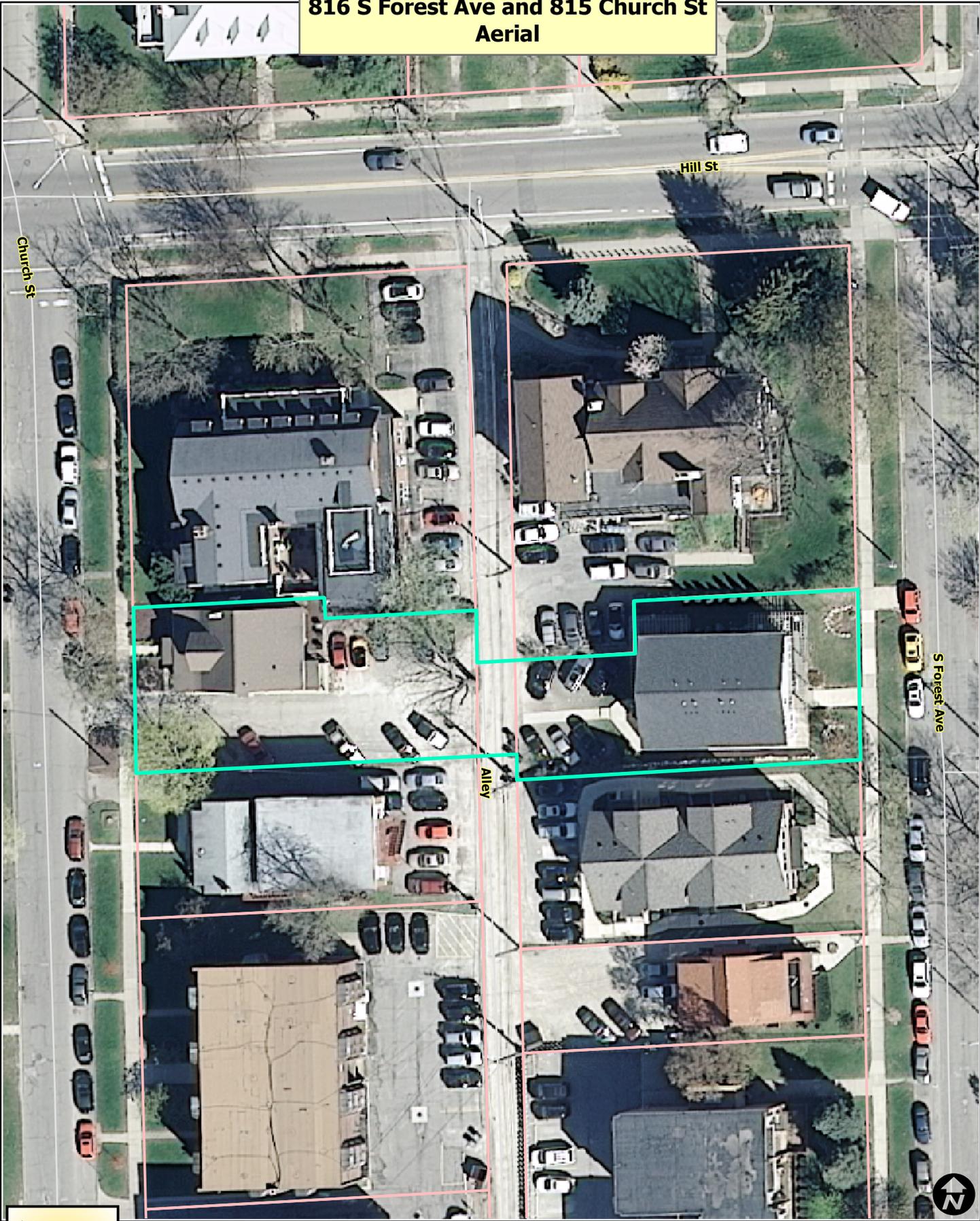


- Railroads
- Parcels
- Huron River



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816 S Forest Ave and 815 Church St
Aerial



- ~ Railroads
- Parcels
- Huron River



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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

APPLICATION FOR CHANGES IN OR ADDITIONS TO THE ZONING CHAPTER
 See 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 Attachment to Application

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.)*

See Attachment to Application

Also interested in the petition are:

(List others with legal or equitable interest)

NA

The applicant requests that the Official City Zoning Map be amended to reclassify this property from _____ to _____ to permit the following use(s): _____

See Attachment to Application

(state intended use)

Justification:

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

See Attachment to Application

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

See Attachment to Application

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

See Attachment to Application

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

See Attachment to Application

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:

See Attachment to Application

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

See Attachment to Application.

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.

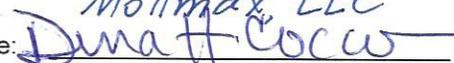
Dated: July 24, 2015

S & H 816, LLC

Signature: By:  Se Kim

Its: Authorized Member
4320 Hillside Drive, Ann Arbor, MI
(Print name and address of petitioner) 48105

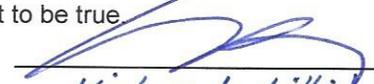
Mollmax, LLC

Signature:  Dina Cocco

By: Dina Cocco
Its: Authorized Member
602 Soule Street, Ann Arbor, MI
(Print name and address of petitioner) 48103

STATE OF MICHIGAN
COUNTY OF WASHTENAW

On this 24th day of July, 2015, 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:  Victor L. Lillich
(Print name of Notary Public)

My Commission Expires: 3-17-21

**Attachment to Application for Change in Zoning Chapter
816 Forest/815 Church
July 24, 2015**

I. Legal Description of Properties subject to Rezoning request

- A. 816 Forest: Lot 22, Block 3, Hill's Addition to the City of Ann Arbor, as recorded in Liber 60 of Deeds, Pages 134- 136, Washtenaw County Records, excepting the rectangular piece in the Northwest corner of the Lot measuring 20 feet in width on the alley at the West end of the Lot and 46 feet in length along the North line of the Lot.
- B. 815 Church: The North 56 feet of Lot 3 and the South 8 feet of Lot 1 and of the Westerly 16 feet of Lot 5 2, Block 3, Hill's Addition to the City of Ann Arbor, as recorded in Liber 60 of Deeds, Pages 134- 136, Washtenaw County Records.

II. Petitioners Requesting Rezoning

- A. 816 Forest: Petitioner is the sole owner of the property
S&H 816 LLC
4320 Hillside Drive
Ann Arbor, MI 48105
248 225 9520
- B. 815 Church: Petitioner is the sole owner of the property
Mollmax, LLC
602 Soule Street
Ann Arbor, MI 48103
734 320 4032

III. Rezoning Request

The Petitioners request that the Official City Zoning Map be amended to reclassify these two properties from **R2B** to **R4C** to permit the following uses:

816 Forest- it currently contains two residential units, each containing four bedrooms. Petitioner plans no exterior changes to the property, and it would remain with two residential units. The number of bedrooms, however, would increase from four to six in each unit.

815 Church- it currently contains a legal non-conforming dentist office on the first floor and one residential unit, containing three bedrooms, on the second floor. Petitioner plans no changes at all to the property, and its uses would remain as they currently exist.

IV. Existing Conditions- The Properties and Surrounding Area

A. **816 Forest (“816”).** This property is located in one of the first plats in the City, Hill’s Addition to the City of Ann Arbor (1866), attached as Exhibit A. The lot containing 816 is Lot 22, which has platted dimensions of 66 feet by 132 feet, creating a lot containing 8,712 square feet. In the 1930’s, 816 was owned by Edwin and Lillian Goddard. They also owned and resided at 1212 Hill Street, immediately to the north of 816. (By the way, Edwin was a professor at the Law School.)

In 1933, Goddards conveyed 816 to Virginia Aubrey and Helen Pratt; however, for unknown reasons, Goddards retained a rectangle in the northwest corner of Lot 22 measuring 20 feet by 46 feet. That rectangle thus continued to be owned by Goddards, and essentially was then attached to 1212 Hill Street. Eliminating this rectangle resulted in a loss of 920 square feet from 816, leaving it with 7,792 square feet. Ever since 1933, 816 has been conveyed without that rectangle, and 1212 Hill Street has been conveyed with it attached to 1212 Hill.

Historically, the building on 816 has always faced Forest Street, and has always related to the streetscape on Forest, not Hill Street. Attached as Exhibit B are several photographs of 816 and its environs. 816 is zoned R2B, as is 1212 Hill Street (immediately north of 816); however, R4C zoning is immediately to the south.

B. **815 Church (“815”).** This property is also located in Hill’s Addition to the City of Ann Arbor. The lot containing 815 is Lot 3, which has platted dimensions of 66 feet by 132 feet, creating a lot containing 8,712 square feet. In 1927, Ella Sugden conveyed 815, via a complicated legal description, to Nellie Cumin and Mark Sugden. There is no particular rationale for this that we have been able to discover. The legal description is basically the north 56 feet of Lot 3, plus the south 8 feet of Lot 1, plus the south 8 feet of the west 16 feet of Lot 2. This conveyance resulted in 815 containing 7,926 square feet. Ever since 1927, 815 has been conveyed via this legal description.

The building on 815 has always faced Church Street, and relates to the streetscape on Church, not Hill Street. Attached as Exhibit C are several photographs of 815 and its environs. 815 is zoned R2B, as is 1204 Hill Street (immediately north of 815). To the immediate south of 815, however, the zoning is R4C.

C. **Hill Street Frontage.** North of 816 and 815 are two large sorority houses, both of which front on Hill Street. Across Hill are more large apartment buildings as well as one sorority house, all of which front on Hill Street. The south side of Hill is zoned R2B; however the north side of Hill is zoned R4C. Attached as Exhibit D are several photographs of the north and south sides of Hill.

D. **East of 816 Forest.** To the east of 816 is land that was platted in 1891 as Olivia B. Hall’s Subdivision, attached as Exhibit E. The lots fronting on Hill have a depth of 200 feet, at which point, they are bounded by an alley. While the property north

of the alley and fronting on Hill is zoned R2B, the land south of the alley fronting on Forest is zoned R4C.

E. **West of 815 Church.** To the west of 815, starting at Hill Street and continuing south along Church, the land is all zoned R4C.

F. **Zoning of the Area.** It appears that the R2B zoning was instituted in this area before 1963 (as far back as the City planning library contains documents which I could discover). The R2B zoning to the east of 816 follows Hill Street, with the alley serving as the delineation between R2B and R4C to the south. (See Zoning Map attached as Exhibit F). For some unknown reason, the R2B designation then continues west in about the same line as the alley, thus including 816 and 815 in R2B, notwithstanding that their orientation is **not** Hill Street, but rather Forest and Church Streets respectively. The property to the immediate south of both 816 and 815 is zoned R4C (as is much of this entire area). 816 used to be occupied by the Stevens Housing Cooperative, which had an occupancy level of about 20 students (according to old City assessing records). While it was a cooperative, it faced and related to Forest Street. Nor did it have any significant vegetation or trees, or a large front setback, as do many of the sororities in the area.

V. **Rationale for Re-zoning to R4C**

While R2B allows two-family dwellings near the U of M campus, its true intent, pursuant to the language of the Zoning Ordinance, Section 5:10.4(1), is to preserve the unique character and quality of this physical environment, characterized by large front yard setbacks, mature and harmonious trees, and a uniformity in architectural characteristics such as scale and use of materials. As such, its main purpose is to reflect the many large and attractive fraternities and sororities that were constructed in the Hill and Washtenaw Avenue area.

The R4C zoning designation also allows multiple-family dwellings and, pursuant to Section 5:10.8(b), is intended to be located in the central area of the City, in close proximity to the U of M campus (and the central business district).

While the language of the R2B district is appropriate and depicts the Hill Street environment, it does not accurately reflect the structures and setting of 816 and 815. These two structures do not relate at all to the Hill Street environment, but relate to the environment to the south of each, on Forest and Church Streets, which are all zoned R4C. Nor do 816 or 815 have mature trees, or any significant architectural features. It appears that the R2B zoning designation (appropriately) followed the alley to the east, and at that point, rather than notching north to include just the parcels fronting Hill Street, it continued straight west and included 816 and 815, notwithstanding that they bear none of the R2B characteristics noted in the Ordinance. As such, it appears that both 816 and 815 were zoned R2B in error, as opposed to zoning them R4C, which more accurately reflects their structures and physical characteristics. This provides a basis for seeking a re-zoning under the Ordinance from R2B to R4C.

There has also been a change in conditions since before 1963, when 816 and 815 were zoned R2B. It is possible that at that time, there was a student cooperative located at 816 Forest. To the extent R2B mentions cooperative housing, that is one possible explanation for why 816 was classified R2B, notwithstanding that the cooperative would have been much smaller than many of the student cooperative houses. In any event, that structure burned in the early 2000's. It was replaced with the current structure, which is not a student cooperative, but rather a duplex structure. As such, the current conditions have changed since this property was zoned R2B prior to 1963.

Another change in conditions since before 1963, is that the University has expanded dramatically the number of students who attend, yet it has only increased by a modest amount the number of University housing units in the Central Campus area. As such, there has been an increased pressure on the residential neighborhoods surrounding and close to Campus. Because of this, it would be appropriate to allow increased density in the area of 816 and 815, which is essentially across the street from Campus (East Quadrangle sits just to the northwest of these two properties).

Urban planning now recognizes that increased density within the urban core provides many advantages, including reducing pollution, increasing transit use, and creating a vibrant urban center and street activity. A recent County/City study urges the creation of more housing units affordable to those earning moderate incomes. Re-zoning these two properties from R2B to R4C would allow for a very modest increase in density, thus accommodating the change in conditions from the 1950's and meeting City goals. As such, this change in conditions provides another basis for a re-zoning under the Ordinance from R2B to R4C.

It is important to note 816 could accommodate an increase in 4 bedrooms without any exterior change to the structure. As such, the re-zoning would not result in any physical change apparent from the street. 816 also meets the parking requirements. There is no plan for 815 to change its current use as a dentist office on the first floor with an apartment on the second floor. The re-zoning, however, would potentially allow a more efficient building to be constructed in the future that would be consistent with City goals. Of course, even with a re-zoning to R4C, these two properties would still be less densely used than the two sororities immediately to their north. While both 816 and 815 would be below the minimum lot size required in R4C, they are already legal non-conforming parcels in that they are slightly below the minimum lot size for the R2B district; therefore, a re-zoning would not increase any non-conformities.

This proposed re-zoning is also supported by an independent urban planning consultant. Attached as Exhibit G is the report of Building Place, the urban planning consulting firm of Rodney Nanney, AICP. It notes that the proposed re-zoning "...is compatible with the surrounding neighborhood and plans for the city's Central Area, and is consistent with sound planning and zoning principles."

VI. Justification

1. The extent to which the re-zoning requested is necessary

The re-zoning is necessary to allow a more sensible use of 816 Forest, which can accommodate 4 additional bedrooms in its 2 residential units without any exterior changes. Re-zoning 816 to R4C would allow the zoning classification to more closely match the existing physical and built environment. The re-zoning of 815 Church allows more flexibility in the future, should the practice of dentistry at this location become less economically feasible.

2. This re-zoning will affect the public welfare and property rights of persons located in the vicinity in the following ways:

The proposed re-zoning will have little, if any, impact on property rights of persons located in the vicinity. No exterior changes are proposed, and the only change will be an additional 4 persons residing at 816 Church. Such a change will be imperceptible in this neighborhood, where the vast majority of structures are occupied by students, as well the existing sororities with many students.

The re-zoning, to a very small degree, will enhance the public welfare by allowing more students to live very close to the University Campus. Perhaps (all things being equal) it would reduce the pressure on the owner-occupied structures at the edge of Burns Park, allowing one structure to remain owner-occupied, as opposed to student rentals (or perhaps allow non-students to reside there). This re-zoning also allows for more density, albeit to a very small degree, in a very appropriate location in town.

3. This re-zoning will be advantageous to the City in the following ways:

This proposed re-zoning is of very modest size; only two parcels containing two structures. As such, the impact of the re-zoning is also modest. Nevertheless, it would allow more students to live very close to Campus, thus relieving in a small way, the pressure on the owner-occupied neighborhoods located south of Campus.

Re-zoning of both parcels would bring the zoning classification in to better conformity with the existing conditions. Neither 816 or 815 relate to Hill Street, where many sororities and fraternities are located, and for which R2B zoning makes sense. Nor do 816 or 815 have significant vegetation or architectural features, as noted in the language for the R2B classification. In reality, both 816 and 815 relate to their respective streets and to the RC4 districts that immediately abut them to the south, and the surrounding area. As such, the re-zoning would match the built environment more closely with the zoning classification of the two properties.

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

Given the location of these two properties just south of Campus, they are ideal locations for student housing. As such, allowing 4 more students to occupy 816 would meet the convenience of those new students. No change is planned for 815; as such, it continues to meet the convenience of the dental patients and students who live upstairs. Furthermore, at the Citizen's Participation Meeting, the owner of 816 met the house directors of the two sororities immediately to the north, and had very productive discussions about having the tenants in 816 be members of the sororities. As such, that would provide an extra convenience to those students, who would also be very close to their sororities.

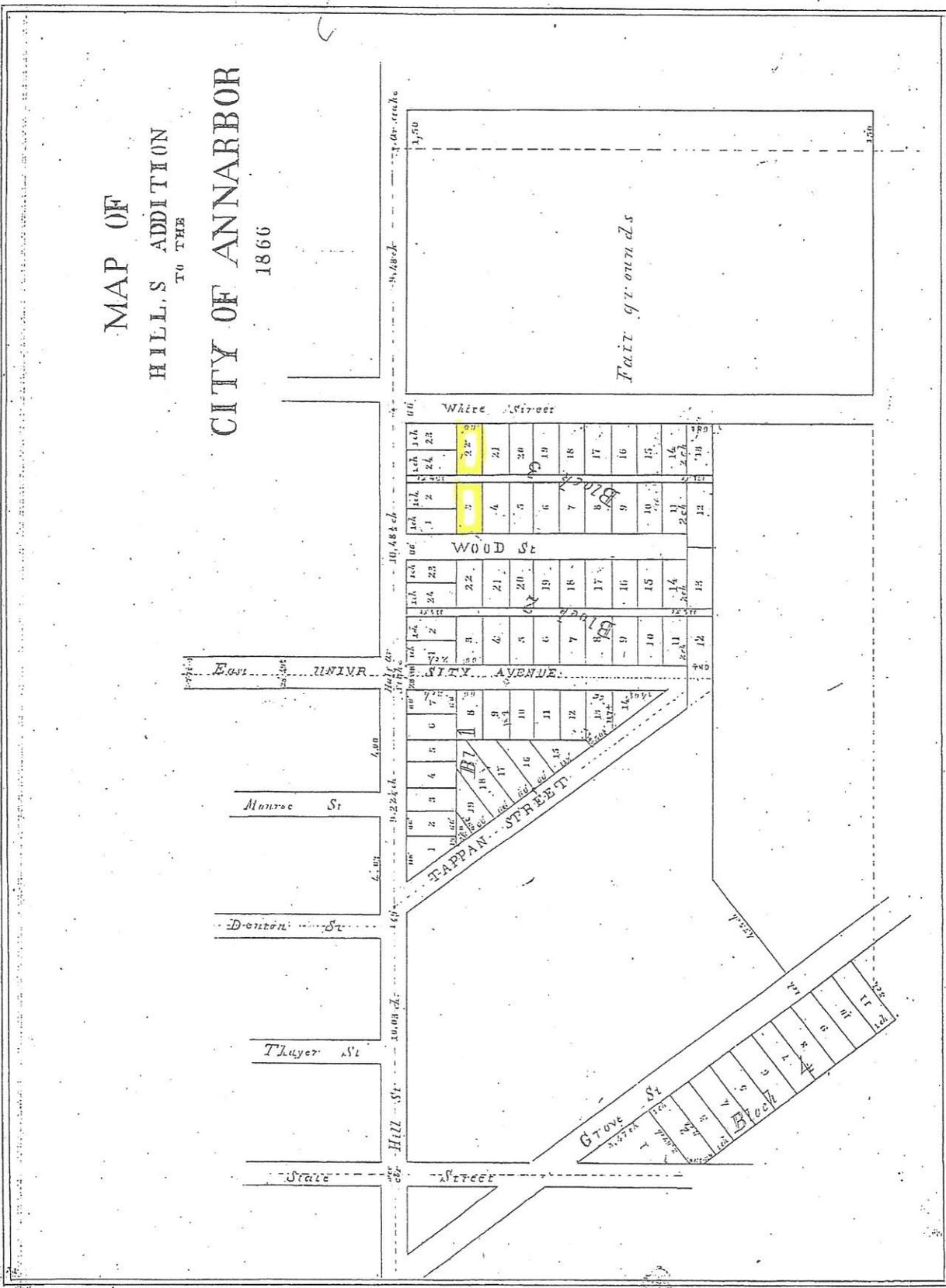
5. Any changed or changing conditions in any particular area, or in the City generally which have a bearing on the proposed re-zoning.

It may be that one reason for the R2B classification on Forest was the presence of the Stevens Housing Cooperative. That structure burned in the early 2000's. As such, if that was a possible reason for the R2B zoning, that condition has changed, and 816 now contains a duplex with none of the characteristics mentioned in the Zoning Ordinance that are abundant in the R2B district; R4C is now the more appropriate classification. Furthermore, the University has grown significantly since the 1960's, when the R2B zoning classification was selected. The R2B restriction to four unrelated persons per unit serves no useful purpose at this time. As such, the R4C makes more sense, particularly given the prevalence of that zoning designation in the surrounding area.

6. Other circumstances and factors which will further justify the requested re-zoning.

While not precisely related to the re-zoning request, the owners of 816 live in Ann Arbor, and are "hands on" property managers, in contrast to the previous owners, who were out of town landlords. They have now met their immediate neighbors, with very productive conversations, which should help in management of the area, particularly as it relates to student behavior.

MAP OF
HILL'S ADDITION
TO THE
CITY OF ANNARBOR
1866



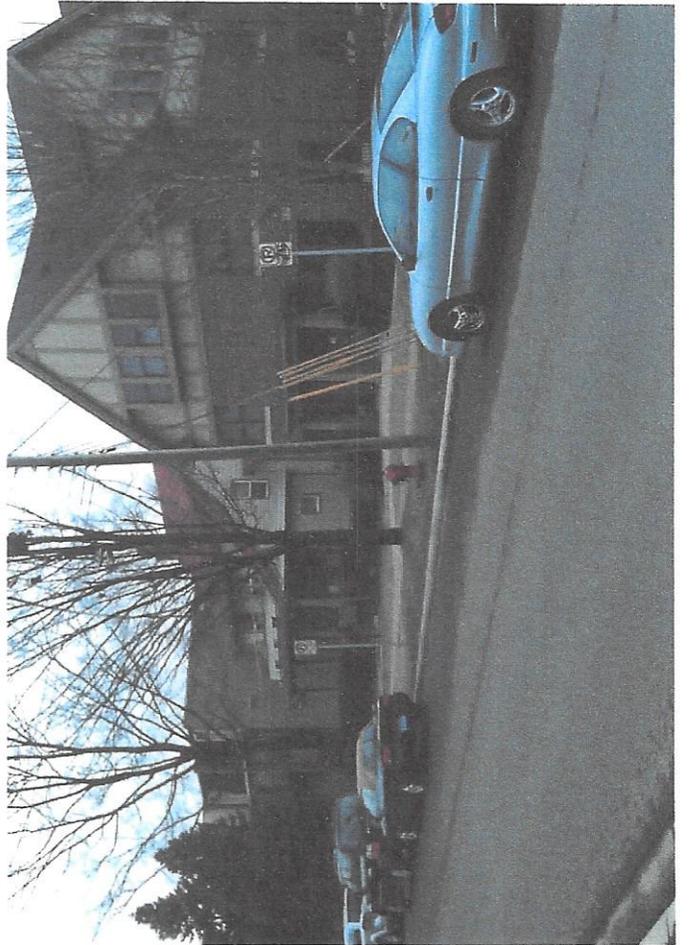


816 Forest Looking West

*View looking East
from 816*



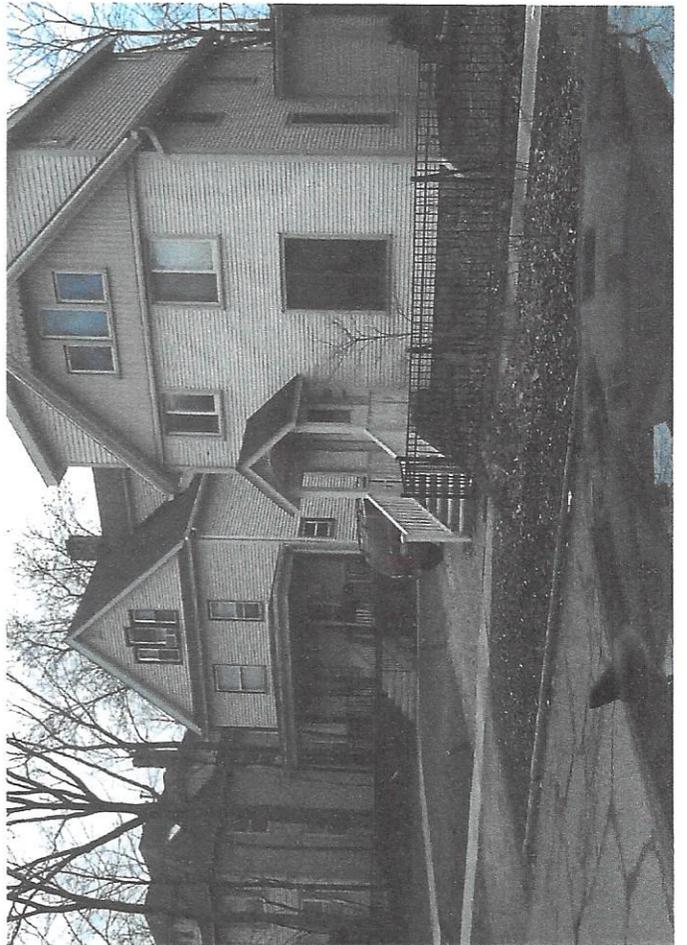
*View looking South
from B16*



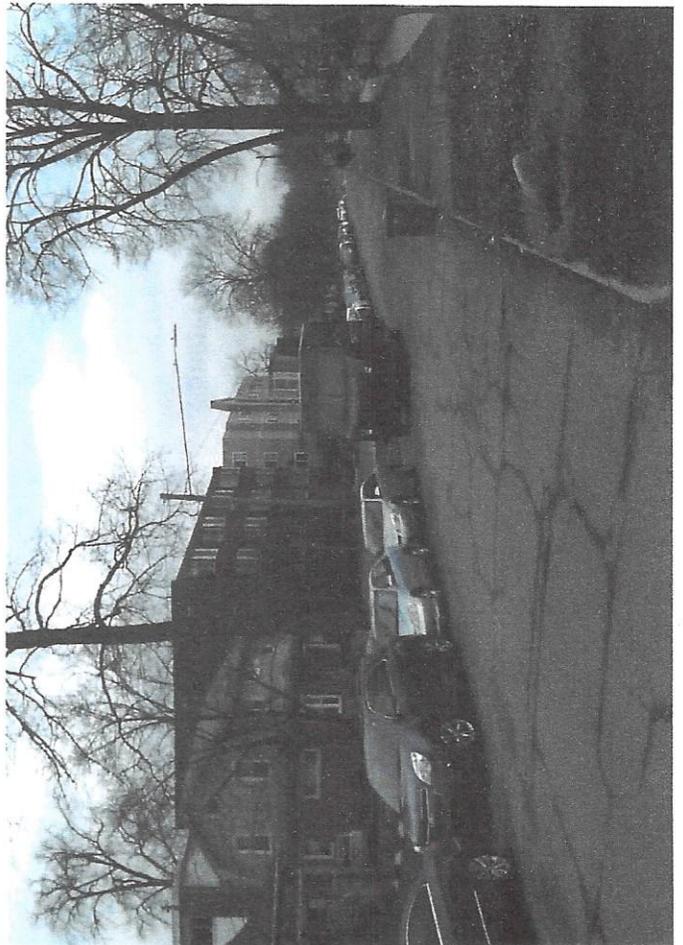


815 Church Looking East

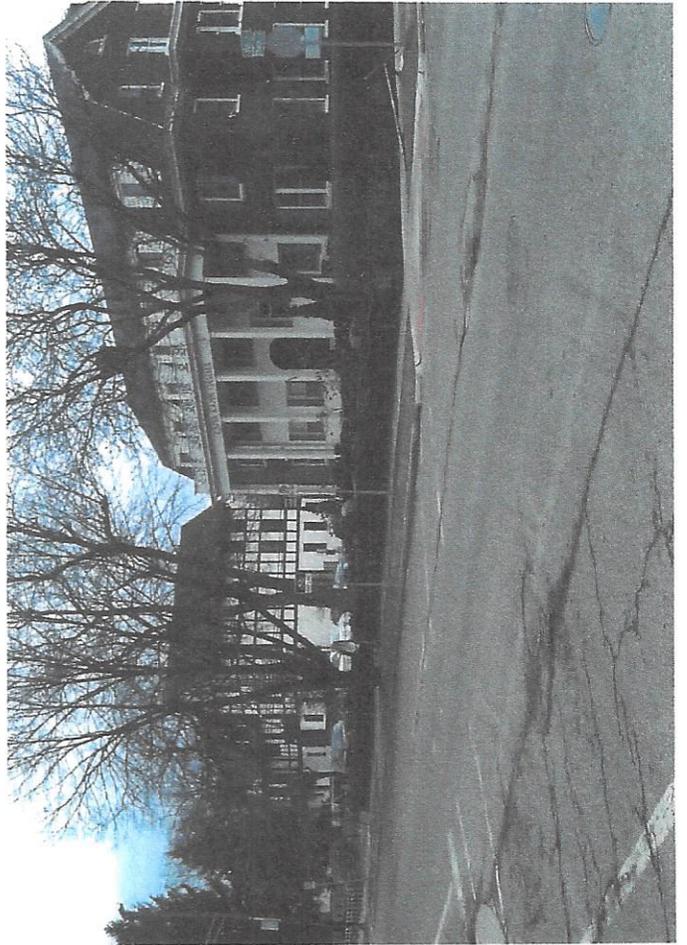
*View looking West
from 815*



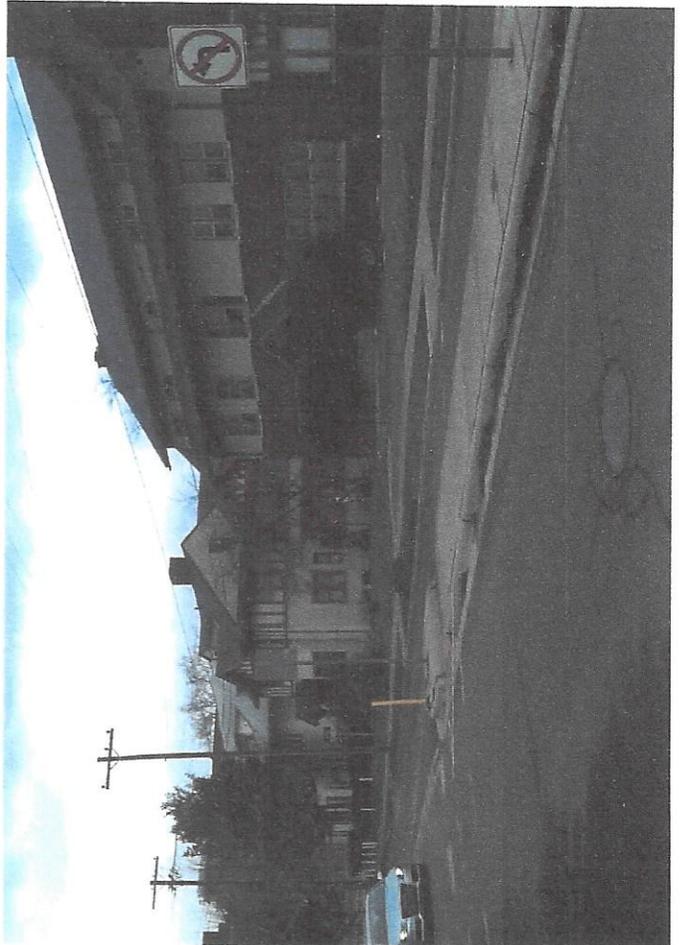
View Looking South
from 815

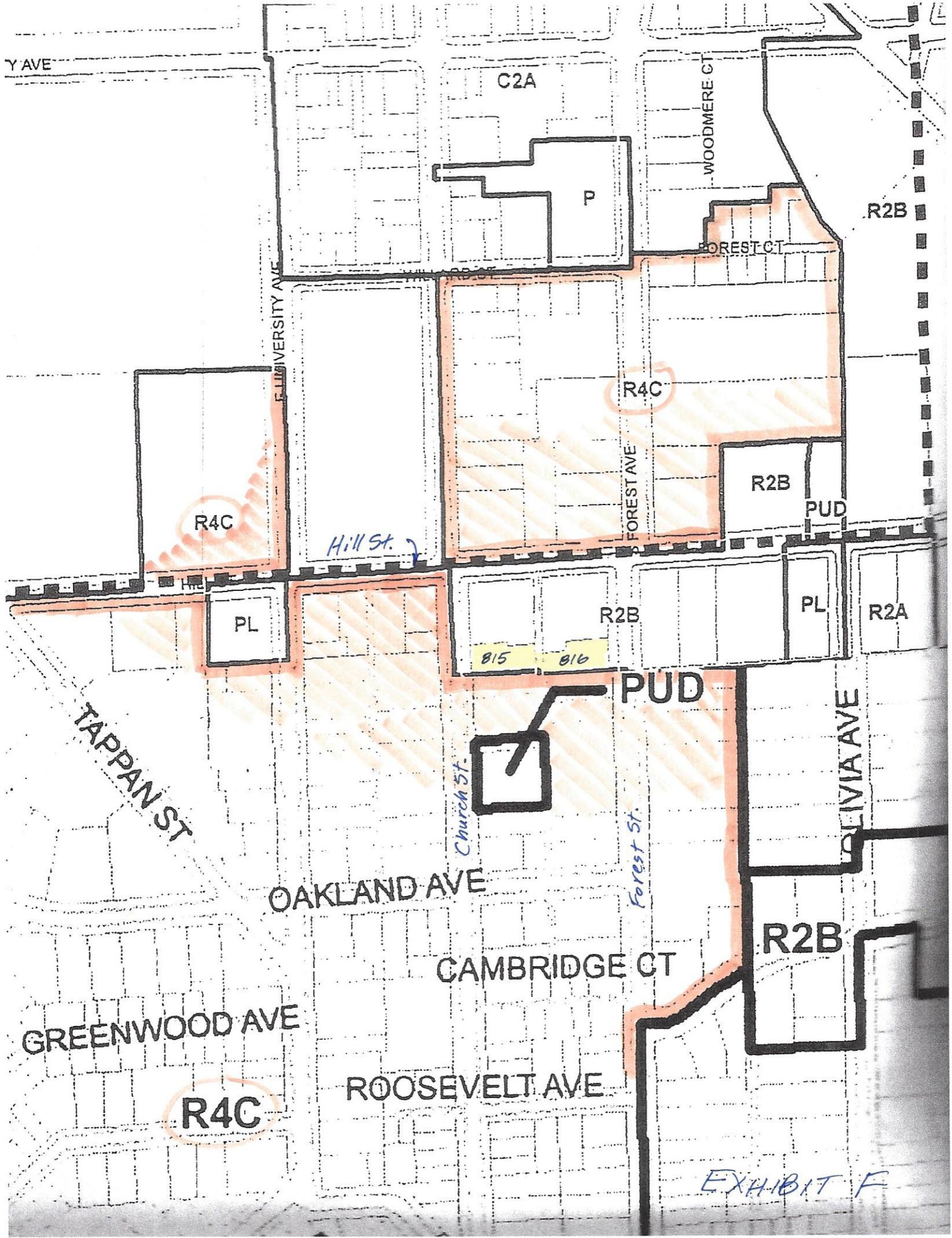


South side of Hill Street
(immediately north of 816 & 815)



North side of Hill Street
(on north side of Hill, north of
816 & 815)





Y AVE

C2A

WOODMERE CT

R2B

FOREST CT

UNIVERSITY AVE

P

FOREST AVE

R4C

R2B

PUD

R4C

Hill St.

PL

R2B

PL

R2A

815

816

PUD

TAPPAN ST

Church St.

Forest St.

OLIVIA AVE

OAKLAND AVE

R2B

CAMBRIDGE CT

GREENWOOD AVE

ROOSEVELT AVE

R4C

EXHIBIT F

BUILDING PLACE

RODNEY C. NANNEY, AICP

Rezoning Report

816 S. Forest Ave. (parcel #09-09-33-202-009) and
815 Church St. (parcel #09-09-33-202-012); City of Ann Arbor

Report Date: May 21, 2015

1. Purpose

At the request of the owner of 816 S. Forest Ave., we have prepared the following report evaluating land use, zoning, and other factors associated with the proposed rezoning of the above listed lots in the City of Ann Arbor from the R-2B (Two-Family Dwelling & Student Housing District) to the R-4C (Multiple Family Dwelling District).

2. Consultant Information

Rodney C. Nanney holds certification #17963 from the American Institute of Certified Planners (AICP), and has served Michigan cities, villages, and townships as a community planner and land use planning consultant for more than fifteen years.

3. Zoning and Master Plan Designations

The following is a summary of zoning and Master Plan designations for the subject lots and block:

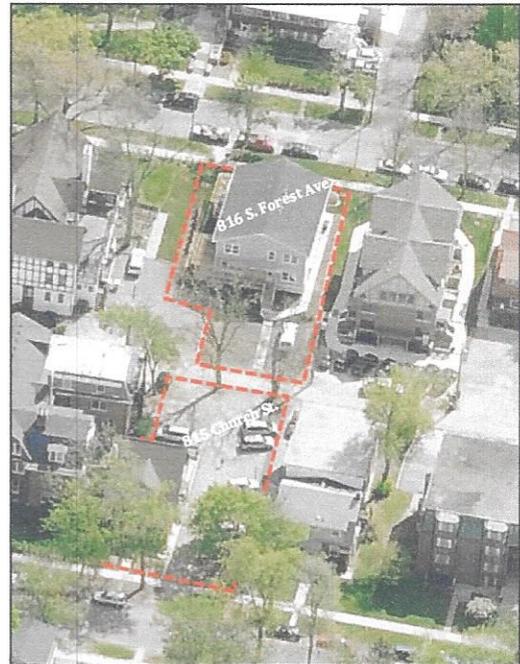


Table 1: Subject Lots	816 S. Forest Ave.	815 Church St.
Existing Zoning District	R-2B (Two-Family Dwelling & Student Housing District)	R-2B (Two-Family Dwelling & Student Housing District)
Master Plan Designation	Central, Multiple Family	Central, Multiple Family

Table 2: Surrounding Zoning and Master Plan Designations		
WEST	NORTH	EAST
	SOUTH	
<u>Zoning:</u> R-4C (Multiple-Family Dwelling District) <u>Master Plan:</u> Central, Multiple Family	<u>Zoning:</u> R-2B & R-4C <u>Master Plan:</u> Central, Multiple Family <hr/> <u>Zoning:</u> R-4C & PUD <u>Master Plan:</u> Central, Multiple Family	<u>Zoning:</u> R-2B, R-4C & PL <u>Master Plan:</u> Central, Multiple Family; and Central, Single and Two Family Housing/Group Housing

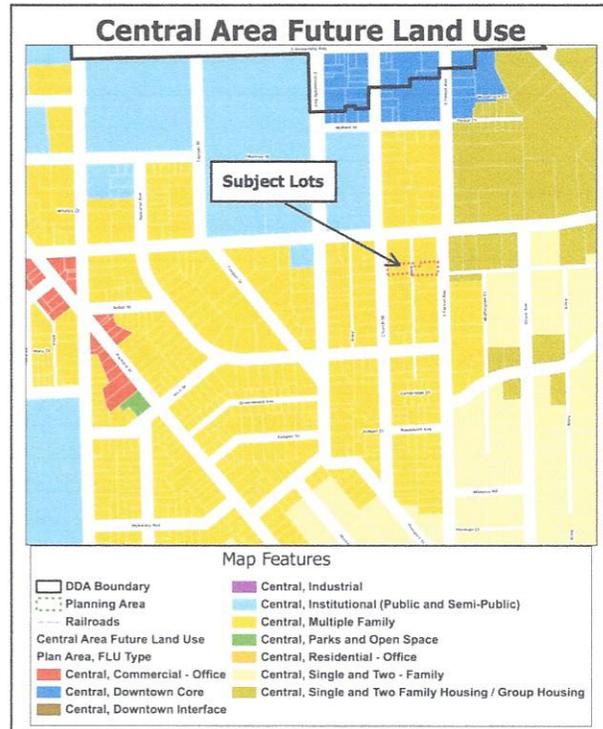
4. Evaluation of the Master Plan Designation and Development Pattern

816 S. Forest Ave. and 815 Church St. are located in the Master Plan's defined "Central Area," near the University of Michigan's East Quad and Ross School of Business buildings. The subject lots and surrounding land on the block bound by Hill St., S. Forest Ave., Oakland Ave., and Church St. are uniformly planned for "Central, Multiple Family" land uses. This block is part of a much larger contiguous neighborhood wrapping around the south side of the university's Central Campus that is also predominantly designated for "Central, Multiple Family" land uses.

The subject block and surrounding area appear to have originally developed as a generally single-family neighborhood, as reflected by the existing bungalow-style building on the lot at 815 Church St. However, as noted in the Master Plan, the area surrounding the subject lots was zoned decades ago into a high density, multiple-family classification under "the prevailing planning philosophy...that the private sector would assemble, clear and redevelop vast areas..." Today, a mix of residential building types, including apartment blocks and older residential buildings, many of which have been converted to student housing, occupy the subject block and surrounding area.

The following Master Plan-related findings are applicable to the proposed rezoning:

- **The City's plan for the Central Area, including this area south of the university's Central Campus, is comprehensive in character, flexible in application, and well suited to the specific conditions and intended character of the neighborhood in which the subject lots are located.**
- **The overall character of residential use on the subject block is consistent with the Master Plan's "Central Area" plan.**
- **The existing R-2B zoning classification of the subject lots is not consistent with the Master Plan's "Central, Multiple Family" land use designation for the following reasons:**
 - **It is not consistent with the Master Plan's objective (page 35) to "locate higher residential densities...in proximity to commercial, employment and activity centers;" and**
 - **Multiple-family dwellings are prohibited in the R-2B District.**



City of Ann Arbor Master Plan - Central Area Detail

5. Transportation and Access

The subject lots are located within a short walk or bike ride of the university and Central Business District. In addition, the university's bus system and several of the Ann Arbor Area Transportation Authority's fixed bus routes are within walking distance. The AAATA buses and public sidewalks are barrier-free accessible. For trips to locations not accessible by non-motorized transportation or public transit, access is also available to a variety of rent-by-the-hour ZipCar vehicles via a subscription service subsidized by the University of Michigan.

As noted in the Master Plan, one of the most common transportation-related challenges in this neighborhood are access to parking and the "congestion on the streets where residents compete with student commuters, University faculty and staff for the limited supply of on-street spaces." Consistent with the existing development pattern on the subject block, the rear yard areas of the subject lots have both been converted to off-street parking, with shared access via the common alley. 815 Church St. has additional off-street parking in the side yard.

The following transportation-related findings apply to the subject lots:

- **Based on the availability of multiple transportation options, existing parking constraints in the area should not be a limiting factor to the proposed rezoning.**

6. Evaluation of Existing Zoning

The predominant zoning in this area, including blocks to the north, south and west of the subject block, is the R-4C (Multiple Family Dwelling) District. Only the northernmost four lots on the subject block are zoned R-2B, which is intended to allow single-family and two-family dwellings, along with "the operation of fraternities, sororities and student cooperatives" at locations "in the vicinity" of the university campus.

Two of these four lots are oriented towards Hill Street, and are occupied by two existing sororities that face a similar facility on the opposite side of the street. This Hill Street frontage on the subject block is different in character from the land use and development pattern found on the rest of the subject block, which, with the exception of the subject lots, is zoned R-4C.

The following table summarizes the results of an evaluation of the subject lots' suitability for potential principal residential land uses allowed in the R-2B District:

Permitted Residential Uses in the R-2B District	Suitability of the Subject Lots
Boarding house exceeding 5,000 square-feet in floor area	The existing buildings on the subject lots do not meet the minimum building floor area required for a boarding house in the R-2B District.
Fraternity, sorority or student cooperative	The subject lots do not meet the minimum lot size or building requirements for this land use. If vacant, the subject lots could be combined with the existing sorority lots, but could not be independently developed for use as a fraternity, sorority or student cooperative.

Permitted Residential Uses in the R-2B District	Suitability of the Subject Lots
Single-family dwelling	The adjacent sororities and student apartments create the potential for serious land use, noise and other conflicts that make the subject lots less suitable for use as an owner-occupied single-family dwelling.
Two-family dwelling	Two-family residential rental housing can be compatible with the subject lots' size and configuration, and would be a suitable land use on equivalent lots located further from the university. The Master Plan envisions higher density housing close to Central Campus, making lower density development of this type a less viable option over the long term.

With regards to the various principal, non-residential uses allowed in the R-2B District (such as schools, child care centers and offices of non-profit institutions), the subject lots either do not meet the minimum lot or building requirements that apply to the specific land use, or existing conditions on these lots would make such uses impractical.

The following findings apply to the existing zoning of the subject lots:

- **The subject lots are similar in size to other lots on the subject block, with the exception of the two existing sorority lots that front on Hill St., and conform to the minimum lot area requirements of the R-2B District.**
- **Multiple-family housing, a predominant land use in this neighborhood, is not permitted in the R-2B District.**
- **The R-2B zoning classification is incompatible with the Master Plan's multiple family residential designation for the subject lots and block.**
- **The R-2B zoning classification may be an appropriate zoning classification for the two sororities facing Hill Street, but it is not consistent with the predominant land use and development pattern on the rest of the subject block.**
- **The predominant character of the subject block as a student housing area make the subject lots less suitable for the lower density single- and two-family residential land uses envisioned under existing zoning.**
- **The existing zoning is impeding reasonable use of the existing building at 816 S. Forest Ave. in a manner that would be consistent with similarly sized lots in the neighborhood.**

7. Evaluation of the Proposed Rezoning

The R-4C District is a multiple-family residential zoning district that is "intended to be located in the Central Area of the city, in close proximity to the...University of Michigan Campus." All principal residential land uses allowed in the R-2B District are also allowed in the R-4C District. The following table summarizes the results of an evaluation of the subject lots' suitability for the three additional types of principal residential land uses allowed only in the R-4C District:

Additional Residential Uses in the R-4C District	Suitability of the Subject Lots
Multiple-family dwellings	Provided that the minimum lot size requirement can be addressed (see 7.02 below), the location of the subject lots in close proximity to the university makes multiple-family housing a more suitable option from a long-term viability perspective when compared to the principal residential land uses allowed in the R-2B District.
Rooming and boarding house	Rooming and boarding houses are allowed in the R-4C District without the minimum 5,000 square-foot floor area required in the R-2B District. A boarding or rooming house would be a suitable land use on the subject lots.
Emergency shelter	The lack of convenient access to social services limits the suitability of the subject lots for a homeless shelter. The existing buildings on the subject lots may be suitable for a domestic abuse shelter or similar transitional housing needs.

The following is a summary of additional factors that we would typically recommend be considered as part of the review of any proposed rezoning:

7.01 Is the proposed rezoning to the R-4C District consistent with the Master Plan?

The proposed rezoning to the R-4C District is consistent with the goals and policy recommendations for the Central Area as outlined in the Master Plan. The proposed R-4C zoning district is more compatible with the Master Plan's future land use designation than the existing zoning classification of the subject parcels.

7.02 Will the proposed rezoning result in the creation of any legal nonconforming uses?

The proposed rezoning would not create any legal nonconforming uses, but would maintain an existing legal nonconformity with respect to the minimum gross lot size requirement that applies in both the R-2B and R-4C zoning districts, as follows:

Location	Lot Size (square-feet)	Deviation from the Standard (square-feet)
R-2B District Standard	8,500	0
R-4C District Standard	8,500	0
816 S. Forest Ave.	7,820	(680)
815 Church St.	7,983	(517)

Based upon a review of the subject block and surrounding blocks, this appears to be a common condition for existing lots in the R-4C District south of the university. Each subject lot does have sufficient land area to permit at least three (3) dwelling units, based on the "minimum lot area per dwelling unit" requirement in the zoning district.

7.03 Will the proposed rezoning adversely affect the capacity of the city or other government agencies to adequately provide or maintain public services or facilities, such as roads, utilities and emergency response?

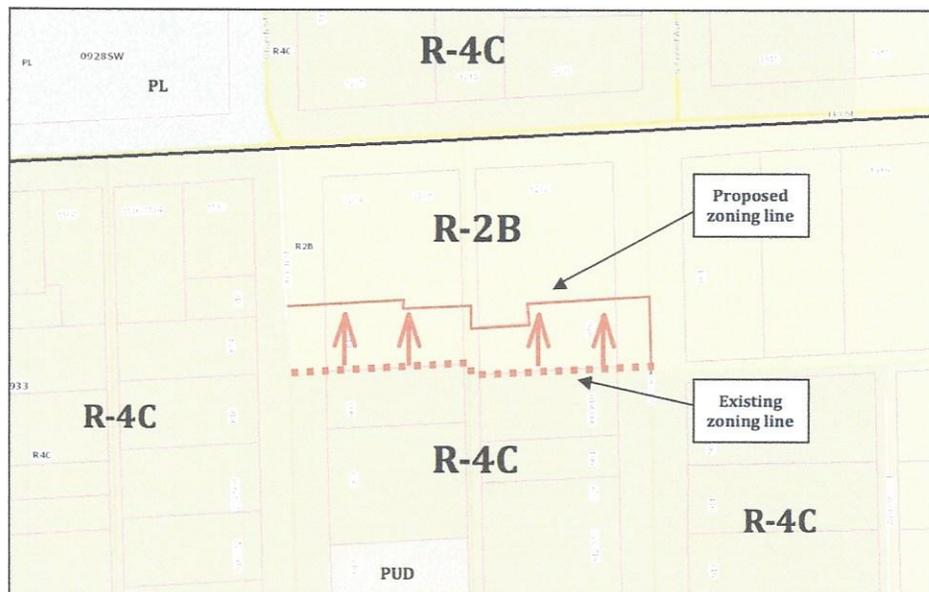
The proposed rezoning would allow the owner of 816 S. Forest Ave. to lease several additional rooms for housing purposes, but the increase in overall residential density on the subject block would be negligible and should not affect the capacity of police, fire, and other city agencies to serve the neighborhood. No impacts on utility capacity or the ability of other government agencies to maintain public services are anticipated if the proposed rezoning is approved.

7.04 Would the proposed changes constitute "spot zoning?"

Spot zoning refers to the rezoning of land to a district fundamentally out of balance with the predominant zoning and pattern of development in the surrounding area. The term 'spot zoning' does not appear in the Michigan Zoning Enabling Act (Public Act 110 of 2006, as amended), but rather is a legal concept that can vary considerably in meaning and interpretation depending on the court and the specifics of the case.

A rezoning that appears to be spot zoning may in fact be reasonable and appropriate where the proposed district conforms with the community's master plan, or where a documented need exists for the uses permitted in the district that has not otherwise been addressed. Reasonable grounds may also be found for a proposed rezoning based on topography, traffic, proximity to major thoroughfares or intersections, utility access, the general development pattern or other factors.

In this case, the proposed rezoning of the subject lots to the R-4C District is not spot zoning, because it is consistent with the Master Plan and the predominant zoning pattern on the block. It simply moves the boundary line one parcel to the north.



Zoning Pattern and Proposed Boundary Change

7.05 Will the proposed rezoning be compatible with the surrounding area?

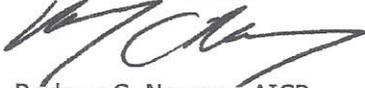
The proposed rezoning is compatible with the pattern of zoning in the surrounding area, and would facilitate reasonable use of the subject lots consistent with existing uses on other lots of similar size and configuration in the area.

8. Recommendation

The proposed rezoning of 816 S. Forest Ave. and 815 Church St. from the R-2B District to the R-4C District is compatible with the surrounding neighborhood and plans for the city's Central Area, and is consistent with sound planning and zoning principles.

Respectfully submitted,

BUILDING PLACE



Rodney C. Nanney, AICP
Planning Consultant



SCOTT E. MUNZEL, P.C.
ATTORNEY AT LAW

603 W. HURON STREET
ANN ARBOR, MI 48103
P: 734-994-6610 Fx: 734-769-9055
E: SEM@MUNZELLAW.COM

To: Matt Kowalski
From: Scott Munzel *SM*
Re: Report of Citizens' Participation Meeting-Potential re-zoning application- 816 Forest and 815 Church Streets (the Properties)
Date: July 10, 2015

We held the Citizens' Participation Meeting regarding the proposed re-zoning of the Properties from R2B to R4C last night, July 9, 2015 from 7:00 PM until about 8:45 PM, at the Ann Arbor District Library at 343 S. Fifth Avenue.

The Notice for the Meeting was sent by Dollar Bill Copying via First Class Postage Postcards on June 25, 2015. After Dollar Bill controlled for duplicate addresses supplied by the City, the Notice was sent to 1,380 addresses. The Notice also would have been posted/emailed by the City to those on its relevant mailing lists.

Ten people attended the meeting. Four of them were the owners of the Properties and me, resulting in six citizens unaffiliated with the Properties. A copy of the Sign In Sheet is attached. The Resident Directors of the two sororities immediately north of the Properties attended, as well as four other citizens. Given that the re-zoning seeks a map amendment, the only material distributed at the meeting was Page 0928 SW from the Zoning Map showing the Properties marked in yellow and the surrounding area. A copy of Page 0928 SW is attached.

I gave a short presentation regarding the zoning of the area, general layout of the area, description of the two Properties, how the R2B zoning appears to be designed for the large fraternities and sororities along Hill and Washtenaw, that these two Properties were oriented to Forest and Church, that they are virtually surrounded by R4C zoning, and the reasons for seeking the re-zoning, which would allow 816 Forest to have up to 6 occupants per unit, and allow more flexibility in the future for the owner of 815 Church.

There was a lengthy discussion regarding removal of the swimming pool, history of the structures, student behavior issues, particularly as it related to the Kappa Kappa Gamma and Alpha Chi Omega sororities and control of student parties.

Peter Nagourney questioned whether the intent was to make more money, which increasing the occupancy of 816 Forest would in fact do. Increasing density in this location by 4 people could help the edge of Burns Park remain (in a very small way) more owner-occupied as opposed to student rental. Dina Cocco, owner of 815 Church commented that while she intends to continue her dental practice, and then hopes to sell to another dentist, her type of family practice is less popular, and that she would like to have options for her Property in the future.

Concerns were expressed that the two Properties could be combined, resulting in a much larger future building. The two are separated by a public alley, which would prevent any such combination, without vacating the alley, a result which all agreed would be very unlikely.

The conversation returned to student behavior issues, with Se Kim, owner of 816 Forest, explaining his involvement with his tenants in his attempts to maintain the property, including how he contacts the students' parents as the most effective method. He explained he has his own maintenance crew going in to fix things (almost weekly) and he that makes frequent visits to the property to try to maintain it and attempt to make sure the tenants are behaving appropriately.

There was discussion of the pricing of rental properties, and whether there were 6 occupants residing in the units notwithstanding that maximum occupancy is 4/unit. Se confirmed there are only 4 tenants on the lease, and he believes there are only 4 tenants but he cannot always tell if someone he observes is just there to visit or is residing there.

We discussed how in 816 Forest, there are some rooms that have no doors and are not used as bedrooms, and contain storage and living room furniture, but that with the addition of doors, these would be the additional bedrooms to handle the 2 additional occupants per unit. This is the reason that there would be no external change required to accommodate the additional 4 occupants. There was a discussion of how, in the past, after a fire destroyed the prior structure, the builder may have planned 6 bedroom units before learning that the maximum was 4 units, but rather than pay to revise the plans, just built what was already designed. Rather seek a re-zoning in the past, he attempted a faster, cheaper variance, which was denied.

We discussed the procedure for the proposed re-zoning going forward. Conversation again turned to efforts to improve and maintain street appearance in student neighborhoods, particularly the Linn/Gerstein efforts on Forest Court and how they have some success. There was a significant amount of interaction between Se and the Resident Directors of the two sororities on how to possibly manage student behavior and Se's hands-on approach, as opposed to the prior out-of-state owners, who appeared to not have much interest in managing or maintaining the property.

There was some discussion of the study of the R4C districts. It is unclear when that study might be completed or whether any of its potential recommendations would have an impact on these two Properties.

The meeting generally concluded around 8:35 or so, although Se had additional conversations with the Resident Directors for another 10 minutes or so regarding future efforts to cooperate to improve management of the immediate area.

ccs: All Attendees at the Meeting (via email)

Enclosures

SIGN IN SHEET 7/9/15 7 PM

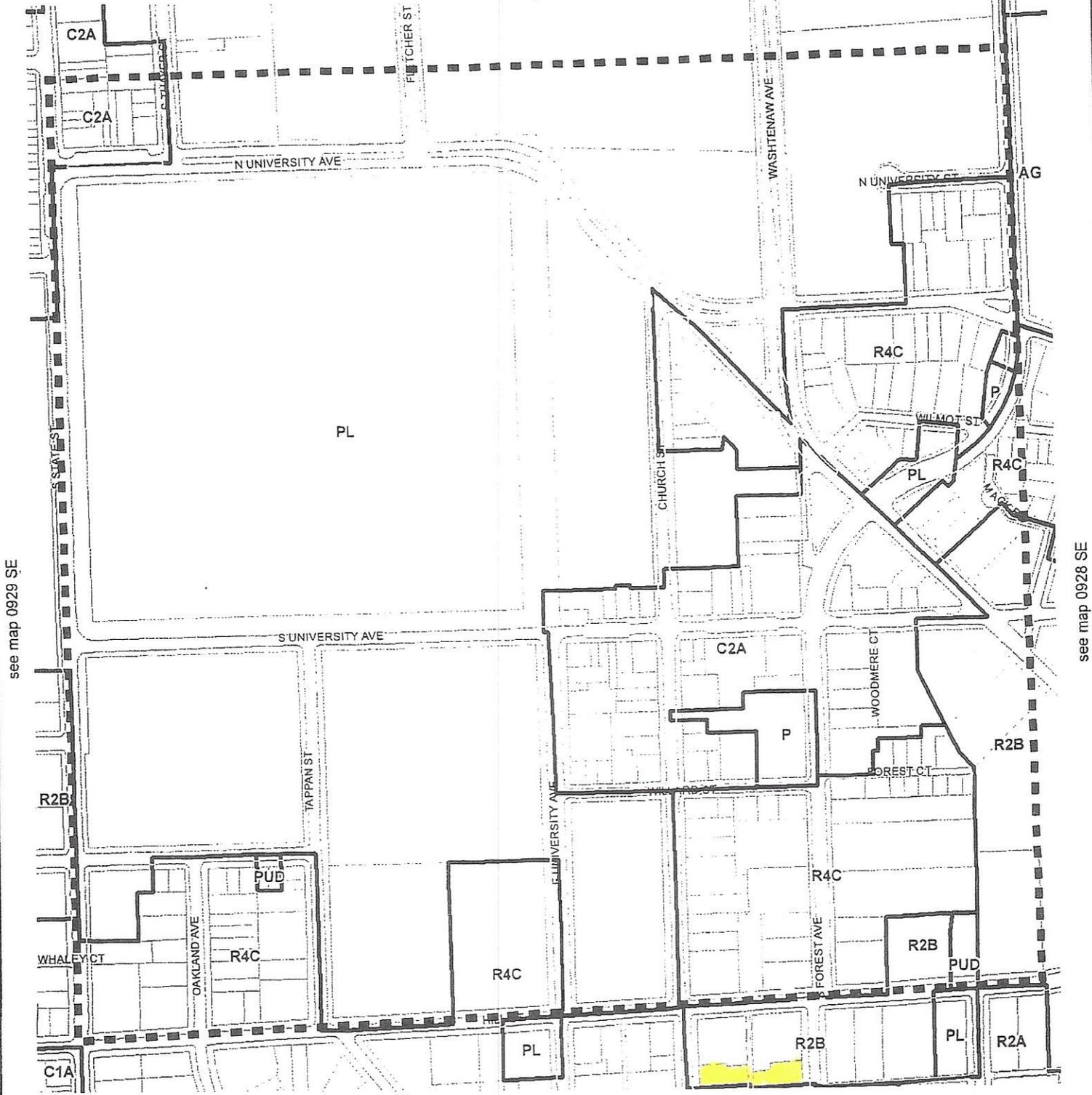
816 Forest / 815 Church

NAME ADDRESS E MAIL

PETER NAZOURNEY	914 LINCOLN	pjn@umich.edu
Betsy Price	905 Olwin	cottonbets@gmail.com
Eleanor Linn	1321 Forest Ct	elinna@umich.edu
Marc Goustein	1321 Forest Ct	mgersfe87@yahoo.com
Cathy Kyle	1204 Hill St	Ann Arbor kylednr@aol.com
Dina Folwo	600 815 Church	
Lynn White	1212 Hill	Lyn.white@umich.edu
Scott Munzel	603 W. Huron	sem@munzella.com
Se Kim		
Jin Kim		

Ann Arbor City Zoning Map

see map 0928 NW



see map 0929 SE

see map 0928 SE

see map 0933



-  Township Zoning
-  Section Boundary

Prepared By: City of Ann Arbor, Community Services, GIS; Assessor's Office maintains parcel data.

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QUARTER SECTION 0928 SW

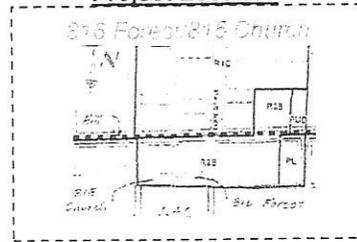
Map Printed: December 8, 2006

NOTICE OF CITIZEN PARTICIPATION MEETING: 816 Forest/815 Church re-zone

Citizen Participation Meeting

Postcards are being sent to all property owners within 1,000 ft of the project site to give notice that a development petition will be submitted to the City of Ann Arbor on 07/27/15. A citizen participation meeting will be held to give you an opportunity to review plans, ask questions, and provide comments that will be considered by the developer to finalize plans and then incorporated into a report for the City Planning Commission.

Project Location



Project Description

Owners of 816 Forest and 815 Church seek to move the R4C zoning line from the south side of their properties to the north side. No exterior changes will be made to the existing structures. R2B is appropriate for the fraternities/sororities on Hill Street, not for these two parcels.

Meeting Logistics

Date: Thursday, July 9, 2015
Time: 7:00 PM

Place: Multi-Purpose Room, Lower Level,
Ann Arbor Public Library, 343 S. Fifth
Avenue

Questions or Comments

Questions or comments may be directed Scott Munzel, for petitioners at sem@munzellaw.com business hours at 734 994 6610

Persons with disabilities are encouraged to participate. Accommodations may be arranged by contacting Scott Munzel. Requests need to be received at least 24 hours in advance of the meeting.

Proposed Rezone 816 Forest/815 Church

In accordance with the City of Ann Arbor's Citizen Participation Ordinance, you are being notified that a proposal for rezoning will be submitted to the City of Ann Arbor's Planning Department. Details about a citizen participation meeting designed for you to learn about this project are described on the opposite side of this card.

Visit www.a2gov.org/participation for more information about citizen participation in Ann Arbor.

1-372

Scott E. Munzel, P.C.
603 W. Huron Street
Ann Arbor, MI 48103

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IA

BUILDING PLACE

RODNEY C. NANNEY, AICP

Supplemental Rezoning Report

816 S. Forest Ave. (parcel #09-09-33-202-009) and
815 Church St. (parcel #09-09-33-202-012); City of Ann Arbor

Report Date: September 28, 2015

1. Response to the City Planner's Recommendation

At the request of the owner of 816 S. Forest Ave., we have reviewed staff Planner Alexis DeLeo's staff report and recommendation regarding the proposed rezoning of the above listed lots in the City of Ann Arbor from the R-2B (Two-Family Dwelling & Student Housing District) to the R-4C (Multiple Family Dwelling District).

2. Consultant Information

Rodney C. Nanney holds certification #17963 from the American Institute of Certified Planners (AICP), and has served Michigan cities, villages, and townships as a community planner and land use planning consultant for more than fifteen years.

3. Reasons for Amending the Official Zoning Map

The staff Planner's report states two (2) specific reasons for recommending denial, which are highlighted below in bold:

*"Staff recommends that this petition be denied because **there have been no changed or changing conditions in the particular area or in the municipality in general, and there has been no error identified to support an amendment to the Zoning Map.**" (page 1, emphasis added)*

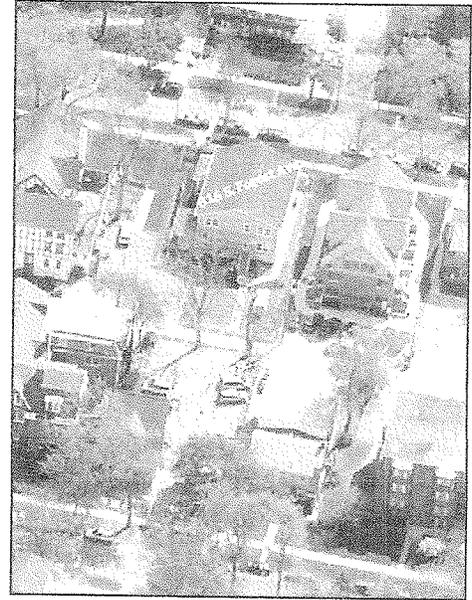
This recommendation of denial appears to be based solely on the wording of one sentence in Section 5:107(1) of the Zoning Ordinance, which reads as follows:

5:107. - Amendment procedure.

- (1) **Statement of intent.** For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the municipality, this chapter shall not be amended except to correct an error in the chapter, because of a change in municipal policy, or because of **changed or changing conditions in a particular area or in the municipality generally, to rezone an area, extend the boundary of an existing zoning district or to change the regulations and restrictions thereof.**

In the staff Planner's analysis, she acknowledges that, *"The petitioner has provided a well written, throughout and comprehensive application for staff and the Planning Commission to consider. Their justification is more compelling than most petitions for rezoning and includes a report from an independent planner."* (pp. 5-6, emphasis added) However, she then concludes that the wording of Section 5.107(1) must essentially compel a recommendation of denial, since, in her words, *"there has not been a change in conditions nor an error that supports the petition."*

This analysis is based on a significant misunderstanding of the clear meaning of Section 5.107(1).



4. What does Section 5.107(1) actually say and mean?

The staff Planner's recommendation of denial is based on an erroneous reading of Section 5.107(1). The foundation of her argument is an assumption that the rezoning must be denied because there have been: (1) no changed or changing conditions and (2) no error identified that would support an amendment to the Zoning Map.

The plain wording of Section 5.107(1) shows this to be an incorrect assumption. To illustrate the clear meaning of Section 5.107(1) of the Zoning Ordinance, we have diagrammed the long sentence in an outline format, and where necessary have added clarifying marks and comments within brackets:

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the municipality, this chapter [which includes both the text of the Zoning Ordinance and the Official Zoning Map] shall not be amended except[:]

[Reason 1:] to correct an error in the chapter,

[Reason 2:] because of a change in municipal policy, or

[Reason 3:] because of changed or changing conditions in a particular area or in the municipality generally,

[Reason 4:] to rezone an area,

[Reason 5:] [to] extend the boundary of an existing zoning district or

[Reason 6:] to change the regulations and restrictions thereof.

5. Recommendations

As demonstrated above, Section 5.107(1) of the Zoning Ordinance is not the restrictive provision envisioned by the staff Planner's analysis, but rather consists of a fairly broadly worded introduction to the "Amendment Procedures" section that includes a total of six (6) possible reasons for approval of a rezoning of land or other amendment to the city's Zoning Ordinance.

The proposed rezoning of 816 South Forest Avenue and 815 Church Street (rezoning file no. Z15-007) satisfies at least two of these reasons (#4 & #5). For this reason, we would recommend that the staff Planner's analysis and recommendations associated with the language of this section be disregarded by the Planning Commission.

Furthermore, as noted in our earlier report, the proposed rezoning of 816 S. Forest Ave. and 815 Church St. from the R-2B District to the R-4C District is compatible with the surrounding neighborhood and plans for the city's Central Area, and is consistent with sound planning and zoning principles.

Respectfully submitted,
BUILDING PLACE



Rodney C. Nanney, AICP
Planning Consultant

ANN ARBOR PLANNING DEPARTMENT STAFF REPORT

For Planning Commission Meeting of July 20, 2004

**SUBJECT: 1310 Hill Street Rezoning (South of Hill and East of Forest)
File No. 9332Y19.2**

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the 1310 Hill Street Rezoning from R2B (Two-Family Dwelling District) to R4C (Multiple-Family Dwelling District).

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby approves the waiver of the requirement for an area plan.

STAFF RECOMMENDATION

Staff recommends that rezoning be **approved** because the proposed use or other uses permitted under the proposed zoning would be compatible with the City's adopted plans and policies.

Staff recommends that the area plan waiver be **approved** because no new construction is proposed and a survey of the existing improvements on the site is provided.

LOCATION

This site is located on Hill Street, one parcel east of Forest Street (Central Area, Malletts Creek Watershed).

DESCRIPTION OF PETITION

The petitioner requests a rezoning of a 15,485-square foot parcel at 1310 Hill Street, from R2B (Two-Family Dwelling) to R4C (Multiple-Family Dwelling). The existing 2,548-square foot house consists of five bedrooms, two and a half baths, a living room, dining room and study. The house will continue to operate as a single unit, sharing all common areas. The petitioner would like to be able to accommodate 6 unrelated residents in the house. Currently, there is a maximum of 4 unrelated residents allowed under the R2A zoning (Chapter 55, Section 5:7).

The petitioner is requesting that the Planning Commission waive the area plan requirement because no new site improvements are proposed, and the applicants do not intend to alter the interior or exterior of the house.

According to Chapter 59 (Off-Street Parking), one and a half spaces are required per unit; the house currently has a two-car garage. No new parking spaces are required because the house is considered one housing unit.

COMPARISON CHART

		EXISTING	PROPOSED	REQUIRED
Zoning		R2B	R4C	R4C
Gross Lot Area		15,485 sq ft	15,485 sq ft	8,500 sq ft MIN
Setbacks	Front	64.50 ft	64.50 ft	25 ft MIN
	Side	17 ft – west 16 ft - east	17 ft – west 16 ft - east	12ft MIN
	Rear	69 ft	69 ft	30 ft

SURROUNDING LAND USES AND ZONING

	LAND USE	ZONING
NORTH	Vacant	R4C
EAST	Sorority House	R2B
SOUTH	Multiple-Family Residential	R4C
WEST	Church	R2B

HISTORY

This site represents Lot 2 of the Olivia B. Hall Subdivision, platted in 1891. The existing house and detached garage were both built in 1900.

PLANNING BACKGROUND

This site is located in the Central Area and within the Washtenaw-Hill Historic District. The Central Area Plan, adopted in 1992, recommends Single and Two Family/Group Housing use for this site. According to the Central Area Plan, the intent of the Single and Two Family/Group Housing category is to encourage the mixing of low density single and two-family neighborhoods with group housing such as fraternities, sororities and cooperatives. While this house will not be operated as a cooperative, it does share many of the same characteristics. The petitioner is representing that it will be owner occupied and all residents will share common elements including the kitchen, bathrooms and all living areas, excluding bedrooms.

DEPARTMENT COMMENTS DISMISSED OR NOTED

The following departments or divisions find the petition acceptable and have no outstanding comments: Building, Engineering, Parks and Recreation, Fire, Transportation, and Water Utilities.

In addition, the departments listed below offer the following notes:

Planning – Currently there are 4 unrelated residents (including one co-owner) of the house, which is the maximum permitted under the R2A zoning. The petitioner would like to be able to increase occupancy to a total of six unrelated residents, which is permitted under R4C zoning (Chapter 55, Section 5:7). Because of the total house size and number of bedrooms (5), staff concludes that an increase of 2 residents would not place an extra burden on the house or the surrounding landowners.

The parcel is bordered by R4C zoning on the north and south and R2B on the east and west. Staff notes that while located in an R2B district, the site is surrounded by uses that are more compatible within the R4C zoning classification. The adjacent R2B parcels are not used as single or two-family land uses, to the east is a sorority and to the west is a church. The R4C zoning district, as defined in Chapter 55, is intended to be located in the central area of the City, in close proximity to the central business district and The University of Michigan Campus. This petition does meet the intent of the R4C zoning designation and is compatible with all surrounding land uses.

Historic District - Members of the Commission feel that rezoning the property from R2B to R4C would adversely impact the nature of the historic property and the district. Rezoning an R2B property into R4C has the *potential* to yield drastic changes to the integrity of the historic fabric: the front setback would change to 25 feet, essentially making it possible to build in front of the current property. The 200-foot deep lot would be more attractive for future developers to suggest apartment-type dwellings or other multiple resident structures elsewhere on the site; immediate R2B neighbors may find it attractive to rezone if this property achieves that goal, thus changing the character of the Washtenaw-Hill Historic District.

Because the property is protected by its inclusion in the historic district, the Commission would have review and action authority over demolition of the existing building or the scale, mass, and look of any new structures on the site.

Zoning Coordinator – The existing house is configured as a single-family structure and is considered one unit, and is proposed to be continued as such. Therefore, no site plan is required.

Prepared by Matthew Kowalski

Reviewed by Coy Vaughn

Attachments: Zoning/Parcel Maps
 Aerial Photo
 Zoning Application

c: Owner: David L. Chua and Marilyn Chua
 845 Babb Circle
 Wayne, PA 19087

Petitioner: Nancy Berger, Esq.
 300 N. Fifth Avenue, Suite 210
 Ann Arbor, MI 48104

Assessor
Building
Engineering

MINUTES

ANN ARBOR CITY PLANNING COMMISSION

REGULAR MEETING

7:00 p.m. – July 20, 2004

Time: Chair Thorp called the meeting to order at 7:07 p.m.

Place: Council Chamber, Second Floor, 100 North Fifth Avenue, Ann Arbor, Michigan.

ROLL CALL

Members Present: Blake, Carlberg, D'Amour, Elbing, Lipson, Potts, Thorp
Members Absent: Hall
Arriving Members: Pratt
Staff Present: Foondle, Vaughn

INTRODUCTIONS

None.

MINUTES OF PREVIOUS MEETING

None.

REPORTS FROM CITY ADMINISTRATION, CITY COUNCIL,
PLANNING DIRECTOR, PLANNING COMMISSION OFFICERS AND COMMITTEES,
WRITTEN COMMUNICATIONS AND PETITIONS

See agenda for list of items.

AUDIENCE PARTICIPATION

None.

PUBLIC HEARINGS SCHEDULED FOR NEXT MEETING

None.

Enter Pratt.

REGULAR BUSINESS

a. Public Hearing and Action on The Oaks of Ann Arbor Zoning and Area Plan, 3.74 acres, 3589, 3599 and 3621 Stone School Road. A request to zone this property R4B (Multiple-Family Dwelling District) and a proposal to develop 44 single-family townhouse dwelling units in eight 2-story buildings, each unit having a one-car attached garage (tabled at 4/20/04 meeting) - Staff Recommendation: Approval

Vaughn described the revisions to the proposal.

Noting no further speakers, Thorp declared the public hearing closed.

Moved by Carlberg, supported by D'Amour, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve The Oaks of Ann Arbor Zoning to R4B (Multiple-Family Dwelling District) and Area Plan.

Potts wondered if there were sidewalks on both sides of Stone School Road. She was concerned about moving forward with more family housing in this area without sidewalks, as this road was not in very good condition.

Vaughn stated that the Stone School Townhomes project to the south installed an asphalt pedestrian walkway, and this project would extend that walkway. He did not know if sidewalks existed on the other side of the street.

Carlberg stated that there was a sidewalk on the east side of the street and a bus stop near Champagne Drive, so there was a way for children to access the school bus, as well as AATA buses. She also noted that there was a footbridge across I-94 that connected with a sidewalk on the other side. She stated that the Greenway Collaborative proposal showed a sidewalk and bicycle path along Stone School Road, so with each development that was proposed in this area, the pedestrian access situation was being improved.

Lipson was pleased to see that the petitioner was responsive to the concern about landmark trees and that more of them would now be saved. With regard to the traffic study, he wondered

Ann Arbor City Planning Commission
Minutes – July 20, 2004
Page 3

how 44 units only generated 16 vehicle trips. This seemed low to him, saying he recalled that every residential unit generated 4 to 5 trips per day.

Leonard Michaels, of CIW Engineering, representing the petitioner, stated that they reviewed studies provided by the City's Transportation Division for all three of the developments going in on Stone School Road. He stated that the 16 vehicle trips were for the peak hours only, and that the 4 to 5 vehicle trips per unit per day were for a 24-hour period. He said they basically used all three studies, broke them down and derived their conclusion, which was approved by the Transportation Division.

Pratt asked what the note on the area plan meant that contained an arrow pointing to property boundaries indicating floodplain zone "X".

Michaels replied that zone "X" means that construction can take place. He said this note was for insurance purposes and was a general designation based on FEMA data.

Pratt stated that this appeared to be a phased project and asked about the timeframe for subsequent phases.

Michaels stated that all of the infrastructure would be installed along with Phase 1, which was much more cost effective, and that they intended to move forward with Phases 2 and 3 upon completion of Phase 1.

Vaughn stated that this was an area plan, which contained much less detailed information. He stated that actual phasing would be reviewed at the site plan stage.

Potts expressed concern about Phase 1 construction starting at the rear of the site, which could cause bare and muddy conditions for the first residents.

Michaels stated that part of the erosion control permit will be the requirement to plant and seed all disturbed ground, which would limit muddy conditions in the Phase 2 and 3 areas. He said they also intended to develop the detention area for the entire site during Phase 1 construction, which would help this situation.

Carlberg noted that there was chain link fencing shown along the east property line.

Michaels said this was an existing fence.

Carlberg urged the petitioner to talk to the neighbors in the subdivision to the east about the chain link fence in terms of what would be attractive to both the petitioner and neighbors.

Michaels stated that if this fence were on this petitioner's property, it would be removed.

Carlberg asked about the barbed wire fencing, also shown to be on this property.

Michaels stated that this was leftover fencing from the previous business, adding that it would be changed. He said fencing for this site would be included in the construction documents submitted for this development.

Lipson stated that this was a disturbed site, with the trucking facility that was operated here. He asked if any environmental studies had been done.

Michaels replied yes, stating that the results were provided to the Planning staff.

Vaughn added that the environmental information had been provided previously to Commission.

Blake wished there were a way for some of the driveways to be combined, which would eliminate the amount of poured concrete on the site.

Lipson stated that this was only an area plan and he appreciated the petitioner being responsive to some of Commission's concerns, such as moving the play area and preserving more of the landmark trees. He said Planning Commission was always interested in seeing reduced impervious surface and stated that it would be good to see if there were a way to do this at the site plan stage.

D'Amour understood that this was an area plan and he suspected it would be approved this evening. He agreed that there was too much poured concrete as part of this proposal. Even though there was no criteria to vote against the area plan, he stated that he would do so this evening. In developing the site plan for this proposal, he hoped the petitioner would incorporate community design principles. He was concerned that a large part of the front of the homes was the garage and he would like to see more imagination. He expressed appreciation for the efforts made in preserving natural features.

Potts did not anticipate many layout changes when this came back for site plan review.

Vaughn stated that if Commission were not supportive of the way the area plan was designed, Commission should make it clear what changes it would like to see. He said these would be important messages to the petitioner.

Blake thought the development should be more dense, with greater height. He would like to see taller buildings in a more compressed area, which would allow additional open space.

Thorp was skeptical about the traffic projections. He said the models used were timeworn, noting that it never seemed like the predictions of less traffic or that there would be no problems ever came to pass. He understood that Levels of Service were used as basic measures, but said there was a safety issue too. He stated that part of the duties of a Planning Commissioner was to look out for the health, safety and welfare of the community and he was concerned about each new project that added increments of traffic. He thought the estimated peak hour trips seemed to be a little low for this proposal, but thought a saving feature was that this site was on an AATA bus line. If it were not on the bus line, he said, he would probably be inclined to vote against this because of the traffic it would generate.

Lipson stated that one of the good things about this location was that it was within walking distance to Bryant Elementary School, so the children theoretically could walk to school, which was an attractive feature to people moving into this area.

A vote on the motion showed:

YEAS: Blake, Carlberg, Elbing, Lipson, Potts, Pratt, Thorp
NAYS: D'Amour
ABSENT: Hall

Motion carried.

b. Public Hearing and Action on 1676 and 1678 Broadway Rezoning, 1.10 acres. A request to rezone this site from R1C (Single-Family Dwelling District) to R2A (Two-Family Dwelling District) - Staff Recommendation: Approval

Pratt stated that his home was located within 300 feet of this site, as he received a public hearing notice about this item, and said he was not sure if this meant he had a conflict of interest and should recuse himself from discussion and voting on this proposal. He stated that his home was a couple of lots and a whole street away from the subject site.

D'Amour stated that he had no problem with Commissioner Pratt participating in the discussion and vote on this item.

Potts did not think Commissioner Pratt's situation met the criteria for a conflict of interest. She did not see how a decision on this proposal would cause him to gain or lose any income for him or his family, as was called out under conflict of interest criteria.

Blake stated that this was not an issue.

Vaughn described the proposal and showed photographs of the site.

Donna Pointer, owner of 1616 and 1666 Broadway, was curious how the adjacent structure could be constructed so close to the lot line. She stated that the R2A-zoned parcel to the north of her property did not have a duplex on it, but a single-family home. She stated that this property was up for rezoning a number of years ago by the previous owner, but it was denied. She stated that the big building on the site used to be an outbuilding/barn, which was then remodeled into a single-family residence and, somewhere along the way, it was changed to a two-family use, with the owners now wanting the zoning changed to make it legal. She did not see this as a compelling reason to change the zoning, simply to accommodate someone who bought the property that was illegally converted to a two-family use. She did not see why this was being considered when all of the other property in this area was zoned for single-family use.

Noting no further speakers, Thorp declared the public hearing closed.

Moved by D'Amour, supported by Elbing, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the 1676 and 1678 Broadway Rezoning from R1C (Single-Family Dwelling District) to R2A (Two-Family Dwelling District).

Elbing stated that she drove by this property to get a better feel for the situation and noticed that 1678 Broadway had two utility meters. She asked if anyone from the City had visited the site to see if it complied with the zoning.

Vaughn stated that staff from Planning and Development Services was investigating this situation.

Elbing stated that she was fundamentally opposed to voting in favor of something that was out of compliance with the law, adding that she would vote against this rezoning request.

Blake recalled the concerns that were expressed about traffic on Broadway that would be generated by the North Quad by Melrose proposal, as well as the impact from the Broadway Village project at the other end of Broadway. These two developments would not cause him to vote against this rezoning, he said, but he was very concerned about how they could affect the residents here in terms of traffic. He stated that the density in this area has already been increased many times. He agreed with the comments made by Commissioner Elbing and asked about the status of the R2A-zoned property at Broadway and Baits. He asked if it were a two-family use.

Vaughn stated that this was being investigated.

Blake stated that he would not support this rezoning.

Potts stated that she also was concerned about this rezoning proposal. She stated that Broadway was a very fragile area, with many lovely, historic houses on a variety of lot sizes. She stated that the two large developments proposed at each end of Broadway would put further pressure on the remaining historic section of Broadway. She believed this property should remain R1C-zoned. She said the two lots already were causing problems and to add to the density with a different zoning would only increase the problems. She stated that she was protective of this neighborhood.

Pratt agreed with the comments made thus far. He did not understand why this parcel was nonconforming and would need to know if the owner received a variance when the building was constructed, stating that he would need to see fact-based information on this. He noted that the draft Northeast Area Plan identified the property to the south for single-family development. He saw Baits Street as a natural divider, with the residential neighborhood beginning just south of Baits. Based on these concerns and statements, he said, he would not vote in favor of the rezoning, even if factual information were to be provided.

D'Amour agreed that Baits was the natural transition for the residential area to the south. He also agreed about the concerns of how the Broadway Village and North Quad projects would impact this neighborhood and said he was concerned about the legality of this site. Given these comments and others made this evening, he said he would voting against this proposed rezoning.

Blake asked Ms. Pointer, as the owner of the very nice piece of property adjacent to this site, which was zoned R1C, what her plans were for her property. He also asked her, as a landowner, how she might feel if she requested rezoning of her property to R2A and it was denied.

Pointer stated that she liked her big woods and she did not see herself requesting such a rezoning, as she did not believe it fit in with the neighborhood.

Lipson stated that this site currently was nonconforming and he disagreed with the analysis that this rezoning would not constitute an increase in the nonconforming use; rather, he saw the

rezoning as doubling the nonconforming use. Given this, and the character of the adjacent neighborhood, he did not see any reason to rezone this property.

A vote on the motion showed:

YEAS: None
NAYS: Blake, Carlberg, D'Amour, Elbing, Lipson, Potts, Pratt, Thorp
ABSENT: Hall

Motion failed.

c. Public Hearing and Action on 1310 Hill Street Rezoning, 0.36 acre. A request to rezone this site from R2B (Two-Family Dwelling District) to R4C (Multiple-Family Dwelling District) - Staff Recommendation: Approval

Vaughn described the proposal and showed photographs of the site.

Nancy Berger, representing the petitioner, stated that the petitioner purchased this beautiful, historic home within the last year. She stated that one of the petitioners lived in this spacious home, which contained five bedrooms, along with three other roommates. She said the petitioner would like to share this home with another two roommates and needed the zoning change to R4C to allow six unrelated persons to reside in the home. She said this was the only reason this zoning change was being requested. She said the property was located on the edge of the central campus and the rezoning would offer quality student housing. She stated that the rezoning met the stated intended use of the Zoning Ordinance and the R4C zoning was compatible with the surrounding area. She said the City has voiced its desire to increase residential density downtown and, with this change, two more people could live in this home. She said two objections were made against this petition, one dealing with the Historic District Commission and the potential for changes to the property. She said it was their belief that historical protections were already in place for this property, stating that in the event any owner of this property now or in future wished to make changes to the property, that owner would have to obtain approval from the Historic District Commission. She said another objection was from a neighbor who had concerns about the way other uses in this area were managed. She stated that these were enforcement issues and not pertinent to this property. She did not believe the petitioner should be penalized for the action of other property owners. She also noted that another nearby resident, Dianne Clark, sent a letter supporting this rezoning. She believed this was a reasonable petition for orderly and realistic change and was a win-win situation.

David Chua, owner of 1310 Hill Street, petitioner, stated that his daughter had the opportunity to own this house and use it for her residence while she attended the University of Michigan. He stated that when he purchased this house, he realized it was quite large and knew his daughter would need to find roommates to live with her. He believed adding two more residents to the house was a contribution to the housing situation on campus. He said he loved this house and guaranteed that there would be no more changes. He believed this was a very simple request and hoped the Planning Commission would support it.

Kim Winick, 1045 Olivia, said he just found out about this proposal today. He has lived in North Burns Park for 20 years and was committed to Ann Arbor. He stated that, as many were aware, the penetration of rental housing in the North Burns Park area was significant. Many of the properties were in extreme disrepair, he said. He stated that he liked this neighborhood and liked

being around students. What he perceived happening in this area was a transition from diversity to a lack of diversity, stating that he believed this neighborhood would eventually become all student housing, which would be unfortunate. These were beautiful neighborhoods, he said, and they needed to be maintained with some type of balance. He was not against rental housing, he said, but there came a point where it went too far and that was what was happening here. He noted that this property was not owned by someone with a long-term commitment to Ann Arbor. He strongly urged the Planning Commission to vote against this rezoning, saying that owner-occupied homes needed to be retained here in addition to rental homes.

Tiffany Chua, one of the petitioners, stated that she would be a junior in the fall at the University of Michigan and she lived in this house. She said she was a very responsible homeowner, having been taking care of the house for several months now and doing very well. She stated that the quality of the home and the property have been maintained. She stated that this was prime housing for students and believed the rezoning was vital to provide good quality housing for students.

Lawrence Sklar, 904 Olivia, stated that this house was a single-family house inappropriate to be occupied by six unrelated people, given the garbage and parking problems that would inevitably result. He stated that the issue was that if this house were rezoned to R4C, it would end up in the hands of a commercial company leasing to students, just like the home at 901 Forest, which was now a pigsty with a variety of problems. Any more such conversions would make this area too unstable, he believed. He implored the Planning Commission to not allow another beautiful single-family house to be turned into a messy structure with a parking lot in the backyard.

Bill Canning, 911 Olivia, reiterated the negative comments previously made about this rezoning. He stated that this was a wonderful historic home that needed to stay that way. He said Burns Park had a very good reputation, which also needed to be maintained. He stated that the precedent that could be established by this rezoning greatly concerned him. He stated that another single-family home in the 900 block of Lincoln and the 900 block in Olivia currently were up for sale and the owners of those homes might take advantage of a rezoning if this rezoning were approved. He asked that it be denied.

Edward West, 1025 Baldwin, stated that when shopping for his home, he had been looking for an historic structure with architectural character. In his hunt for a home, he said, he looked at the house in question at 1310 Hill Street. He said it was a single-family home, not a two-family home. Although the condition of the house was excellent, he said, the bedrooms were small. He said he was struck by the erosion of the community with the group homes, noting that there were sororities and fraternities all over. He also suggested that diversity was now moving the other way, noting that 20 of the 30 properties adjacent to his along Hill Street were multiple-use structures. He stated that the ability to live in this community with non-transient residents was vital. Once a zoning occurred, he said, it would stand and set precedent. He believed this zoning change threatened the historic nature of this site and he hoped the Planning Commission would take this into consideration. He added that this was a larger issue than one person's investment.

Jan Barney Newman, 931 Oakdale, stated that she previously lived at 1310 Hill Street with her family of six and she encouraged the Planning Commission to keep the present zoning. In this home's history, she said, it has been occupied by seven families, with turnover fairly slow through the its first 80 years. She stated that since this has become an institutional neighborhood, the house has still been occupied by private, single families. She stated that this house was very special with an interesting history. It was a gracious home that did not lend itself to multiple

dwellings, she said. She did not believe there was any way a 114-year-old house could be properly maintained by four or six students, questioning what would then happen once those students were gone.

Marlena Studer, 911 Olivia, a member of the North Burns Park Association, asked whose voice should be heard in decisions about this neighborhood. She questioned whether it was members of the Planning staff, absentee landlords, or the residents themselves. She stated that the North Burns Park Association conducted a neighborhood survey and received responses from 246 households. Of those, she said, 82% were homeowners and 18% renters. Of the renters, 91% claimed that landlords were not residents in the neighborhood; rather they were absentee landlords who did not experience the living conditions of the neighborhood. She said 75% wanted the City to enforce the building codes and 92% wanted to make landlords more responsible for the upkeep of property. She said 72% disagreed with measures to increase density, presumably because they felt the area was already concentrated. She said 45% indicated that the conversion of nearby family homes to multiple-family uses would increase the likelihood that they would move out of neighborhood. She stated that this conversion would continue the process by which the City disinvests in its older neighborhoods, empowering absentee landlords who were unaccountable for their actions. This issue was not about students who would live here temporarily, she said, but about what would happen to the house and neighborhood over time. She urged the Planning Commission to vote against this rezoning.

Casey Constable, 1208 Ferdon, stated that she rode her bicycle past this beautiful house the other night and was distressed when she saw the notification of the rezoning. She stated that this was a precarious neighborhood and was distressed that this proposal would contribute to the slowly chiseling away that is occurring. She said this was a gorgeous house and Hill Street was a gorgeous street. She said if someone wanted to buy property and use renters as a way to finance their stay here while at college, then that person needed to recognize that a certain zoning was in place and it could not be changed just to accommodate more tenants. She believed the petitioner needed to find a house properly zoned to suit their needs. She opposed this rezoning, stating that Ann Arbor needed to take an important stand on its architecturally important buildings and neighborhoods.

John Nystuen, 1016 Olivia, stated that he has lived here for 42 years. This was the first time in over 100 years that this house has been bought as an investment property with the intent to rent, he said. He said the petitioner, who lived in Pennsylvania, bought this house for his daughter who needs tenants to help pay for the investment. While he appreciated the petitioner wanting to stay within the law by not renting to more people than what the zoning allowed, changing the law was not appropriate, he said. He stated that the previous owner invested a great deal in this beautiful house and, while he believed the present owners would take care of the house, he was concerned about what the subsequent owners would do. When the petitioner's daughter finished school, he said, the house likely would go up for sale and this neighborhood would be left with an R4C-zoned parcel intruding into this R2B-zoned area. This was a bad precedent to set, he said, and expressed his disappointment that staff would support the rezoning. He asked that Commission deny the request.

Margie Checkoway, 1044 Olivia, stated that the proposal seemed simple, but said residents have seen this happen time and time again. The winners in this would be the landlords, she said, while the historic character of this house was simultaneously condemned. She expressed concern about the landlords continuously winning at this planning game and the City planners demonstrating little appreciation for the value of such a neighborhood. She said the residents

valued the current diverse housing uses, but if more of them were rezoned, she said, it would be an indicating that the City was saying "no" to the value of new urbanism and neighborhood camaraderie. She stated that not all families and working people wanted to live in areas that were predominated by students. She urged the Planning Commission to not be short-sighted and realize the far-reaching implications to urban sprawl that this proposal would have.

Alan Gibbard, 908 Lincoln, stated that he has lived here for 27 years and it has been a constant struggle to try to keep the neighborhood diverse with both single and multiple-family housing. As others have pointed out, he said, once this property is rezoned, it will be final. He said residents here have had bitter experience with this in the past when, during the approval process, the residents are assured how wonderful the current owners are. He said it is convincing, but once that owner doesn't work out, then the house changes hands and an unfortunate situation arises. If this property were zoned R4C, he said, how could the next owner be prohibited from turning the house into a multiple-family apartment building. He shuddered to think how many people the R4C zoning would allow inside this house if it were divided into more than one dwelling.

Beth Gibbard, 908 Lincoln, stated that over the course of the 15 years she has lived here, she has witnessed the gradual deterioration of the neighborhood. She stated that it is distressing, year after year, to pick up beer bottles and everything else littered by students. She said has actually thought about not living here any longer, but said it was good for University faculty members to live nearby. She said there was a uniqueness about these historic homes, stating that the subject house was one of the most beautiful of its kind in Ann Arbor. She said the beech tree in the front yard was also one of the most beautiful of its kind in Ann Arbor. She stated that the tree dominated the yard and she believed it should be given landmark status if it didn't already have it. She hoped Commission would vote against this rezoning.

Susan Contratto, 1617 Cambridge, stated that she read the Planning staff report and was mystified about the criteria for recommending approval. She stated that her house was large: it had five bedrooms and three and a half bathrooms. If this rezoning were approved, she said, she could come in and request a rezoning as well, as she would meet the same criteria. She was not about to do that, but noted that many houses in Burns Park would meet the criteria for this rezoning if it were approved. She said it would be precedent-setting if done. If this were the intention of the City, she said, then there should be a public hearing on the issue. If it were not the intention of the City, she stated that the City then needed to be aware that this is what would happen with this rezoning.

Eric Mavis, a neighborhood resident, stated that he would want the rezoning if his neighbor, the previous speaker, got her property rezoned. He stated that the rezoning would chip away at this neighborhood and pointed out that the current zoning of R2B protected the mix of single-family and two-family residences.

Mark Hildebrant, 1930 Cambridge, a member of the Historic District Commission, stated that the Commission recommended against the rezoning, stating that the rezoning would downgrade this property. As a citizen, he said, he was opposed to the absentee petitioner purchasing this knowing it was zoned R2B and then requesting that the zoning be changed to make it possible for the use to be changed for his daughter and five other roommates. He believed that changing the zoning would adversely affect the character of the building. He said this was a gorgeous building with a great streetscape and he believed there was plenty of good reason to not change the zoning.

Gwen Nystuen, 1016 Olivia, questioned the City policy with regard to changing this rezoning. She read from Section 5:107 of the zoning ordinance, which stated that the zoning ordinance “shall not be amended except to correct an error in the Chapter, because of a change in municipal policy, or because of changed or changing conditions in a particular area or in the municipality generally, to rezone an area, extend the boundary of an existing Zoning District or to change the regulations and restrictions thereof.” She said it was quite clear that zoning was not casually amended. None of the three conditions stated was met by this rezoning request, she said. She stated that the master plan did not propose changing this area, adding that the greenbelt passage and the City's expressed desire to increase density was for the downtown and DDA district, not this area. She did not see any justification for this rezoning.

Noting no further speakers, Thorp declared the public hearing closed.

Moved by Elbing, supported by Carlberg, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the 1310 Hill Street Rezoning from R2B (Two-Family Dwelling District) to R4C (Multiple-Family Dwelling District).

Carlberg stated that the neighbors spoke very eloquently this evening about the reasons against rezoning this property. She stated that this rezoning would be spot zoning, that it was a zoning that should be applied to larger areas. She said this was a stressed area and she saw no benefit to the community in this rezoning, as well as no justification. She added that the owner knew what the property was zoned when it was purchased. She saw no reason to support this.

Potts believed that the homes in this historic area needed to be protected. She said the reality was that if this were zoned R4C, deterioration would begin once ownership started changing hands. If one were to look at the houses in this area that were zoned R4C, she said, one would see that these once large and beautiful homes were now divided into apartments and the backyards were paved for parking lots. She said a great deal of deterioration takes place and the Historic District Commission could only protect the outside of the home, not the inside. She said she has seen the Historic District Commission grant demolition permits in cases where rental houses were so badly neglected they could not be rebuilt. She did not think adding two more tenants to this house was adequate justification for this rezoning. She would not be able to vote for this rezoning.

Lipson endorsed the comments of the other Planning Commissioners. He thought this rezoning would set a terrible precedent. He said this was a particularly precarious neighborhood and this rezoning could push the neighborhood over the edge with too much rental use and not enough owner-occupied dwellings. He did not see a reason to rezone this property. He said the current owners did an excellent job of taking care of their property and he appreciated them going through the legal process to increase the number of tenants, rather than doing it illegally as others have done.

D'Amour agreed. He said the issue was not the current owner, but the question of what could happen to the property in the long term. He said the issue of City policy was raised and the lack of justification for rezoning this. He did not see a reason to change the zoning of this property and said he would be voting against the proposal.

Elbing echoed the thoughts and comments of her fellow commissioners. She said she was a student and she understood the needs involved in finding affordable, decent housing. However, she did not see a reason to rezone this, not for the temporary convenience of one family. She was more interested in the long-term stability of this community. She said she would be voting against this proposal.

Blake agreed. He stated that architecture was an art and the community should try to embrace that. He stated that the community was a part of the artscape and the Planning Commission should do its best to preserve the essence and quality of the neighborhood. He stated that Ann Arbor was a gem and he did not want to tarnish it. He would be voting against the rezoning.

Thorp understood everyone's position, as well as the reasons for requesting the rezoning. He agreed that the petitioner was aware of the zoning when the property was purchased it and pointed out that a rezoning from the Planning Commission was not automatic. He believed there was a larger issue here, that this was a university town and it was filled with students. He said students were infused practically in every neighborhood in the City, which was part of the City's character. He stated that there were arguments about increasing density in the downtown and people would need to accept at some point that it may involve rezoning. In this situation, he said, he agreed that there was no compelling reason for the rezoning.

A vote on the motion showed:

YEAS:	None
NAYS:	Blake, Carlberg, D'Amour, Elbing, Lipson, Potts, Pratt, Thorp
ABSENT:	Hall

Motion failed.

d. Public Hearing and Action on Eisenhower Center Site Plan, 0.89 acre, 2888 Colony Road. A proposal to construct a 10,175-square foot, single-story adult convalescent facility with a 28-space parking lot - Staff Recommendation: Table

Vaughn described the proposal and showed photographs of the site.

Michael Van Goor, of Van Goor Architects, representing the petitioner, stated that based on last minute changes that were being made and the fact that City staff review was still ongoing, he respectfully requested that this project be tabled.

Michael Rine, pastor of the King of Kings lutheran church, said the church had some suggestions for this proposal. He said the church had no objections to this use, but had concerns related more to the self-interest of the church. He said they would like to maintain maximum visibility of the church and had suggestions for fence changes to make it more visible. He said they would like to keep traffic near Packard away from the residential area by exchanging the current proposed location of the parking lot and building. He said they also were concerned about the impact of drainage on the church property and had questions about the material that would be used for the proposed construction.

Noting no further speakers, Thorp declared the public hearing continued.