



## Legislation Text

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**File #:** 16-0994, **Version:** 1

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Resolution to Approve the 221 & 223 Felch Street and 214 West Kingsley Street Brownfield Plan Attached is a resolution to approve the 221 & 223 Felch Street and 214 West Kingsley Street Brownfield Plan. Approval of this resolution will allow the brownfield plan to advance to the Washtenaw County Brownfield Redevelopment Authority (WCBRA), which may authorize Tax Increment Financing (TIF) to reimburse the developer for the eligible activities identified within the Plan.

The Kingsley Condominiums Redevelopment Project (Project) consists of the redevelopment of the subject properties, which are located at 221 & 223 Felch Street and 214 West Kingsley Street in Ann Arbor. The existing two-acre site consists of a collection of small industrial buildings constructed over the last 80 years. The existing buildings lay within the flood plain and above the Allen Creek Drain. The site soils are composed almost entirely of contaminated fill material, and stormwater from the site drains directly into the storm drain system and Huron River with no environmental mitigation or stormwater controls. The proposed project will consist of an approximately 125,900 square foot multi-story residential building, the first level being parking and the four levels above being 51 condominium "flats". Redevelopment of the eligible property is anticipated to create approximately 250 temporary construction jobs and two full-time equivalent jobs.

According to previous environmental investigations conducted on the property in 2012, metals (e.g., arsenic, lead, mercury, and selenium) and polynuclear aromatic hydrocarbons (PNAs) (e.g., phenanthrene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(g,h,i)perylene, benzo(k)fluoranthene, chrysene, fluoranthene, and phenanthrene) have been identified in soil and/or groundwater on the property at concentrations exceeding historical Michigan Department of Environmental Quality (MDEQ) Residential Cleanup Criteria (RCC). Based on these findings, 221 Felch Street meets the definition of a "facility." 223 Felch and 214 Kingsley are considered eligible properties as they lie adjacent and contiguous to 221 Felch.

Although total estimated costs of eligible activities, including contingency, is \$6,184,887, the City and the Developer have agreed to cap the maximum reimbursement to \$4,000,000. Tax increment revenue generated by the subject property will be captured by the Authority and used to reimburse the cost of the eligible activities completed on the subject property after approval of this Brownfield Plan and an associated Reimbursement Agreement.

The Brownfield Plan has been submitted and processed in accordance with the City of Ann Arbor Brownfield Program and Washtenaw County Brownfield Redevelopment Authority (WCBRA) procedures.

The City of Ann Arbor Brownfield Review Committee (BRC) comprised of Council members Eaton, Smith, Warpehoski, and Westphal has reviewed the attached Brownfield Plan. At the January 4, 2016 BRC meeting, the Committee recommended City Council participation in the Brownfield Plan

with the following parameters based on staff recommendations and discussion: Developer reimbursement limited to \$4 million and LSRRF capture limited to 10%.

Both the Brownfield Plan and the Project Site Plan will be considered by City Council after holding public hearings. The Washtenaw County Brownfield Redevelopment Authority (WCBRA) will consider the plan and the Washtenaw County Board of Commissioners will review the plan subsequent to Council action. If WCBRA makes any changes to the plan after it is reviewed by City Council, the plan will be sent back to the BRA for consideration of the changes.

Prepared by: Matthew Naud, Environmental Coordinator

Sponsored by: Councilmembers Eaton, Smith, Warpehoski and Westphal (Council Brownfield Review Committee)

Whereas, The developer Kingsley Condominiums LLC has requested approval of the 221 & 223 Felch Street and 214 West Kingsley Street Brownfield Plan in order to pursue tax increment financing through the Washtenaw County Brownfield Redevelopment Authority:

Whereas, The Washtenaw County Board of Commissioners established the Washtenaw County Brownfield Redevelopment Authority (the "WCBRA") and adopted the Brownfield Redevelopment Plan for Washtenaw County (the "Plan"), which facilitates the implementation of plans relating to the identification and treatment of environmentally-distressed areas within the County of Washtenaw, pursuant to and in accordance with the provisions of the Brownfield Redevelopment Authority Act, being Act 381 of the Public Acts of the State of Michigan of 1996, as amended (the "Act");

Whereas, The Act requires the explicit consent of each local governmental unit to be included in the Authority Zone, and that the County resolution included a provision that the Proposed Brownfield Redevelopment Zone will include all local governmental units within the County that pass a resolution approving the inclusion of the Brownfield Redevelopment Zone;

Whereas, The Ann Arbor City Council passed Resolution R-24-1-02 to include the City of Ann Arbor in the Washtenaw County Brownfield Redevelopment Authority and developed the Brownfield Implementation Plan to describe the Brownfield process in the City;

Whereas, The Brownfield Implementation Plan allows for public participation and comment;

Whereas, The 221 & 223 Felch Street and 214 West Kingsley Street properties were identified as potentially eligible for Brownfield financial Incentives after a finding that the property contained contaminants in the soil exceeding the generic residential cleanup criteria of Part 201;

Whereas, The Developer conducted a public presentation of the Plan which described site conditions and their intent to pursue tax increment financing for this project;

Whereas, The Developer has paid the application fee for City review of the application;

Whereas, On January 4, 2016, the Brownfield Review Committee ("Committee") met to review the proposed Brownfield Plan and its associated agreements, and being fully apprised of the physical condition of the property, intended cleanup, and redevelopment and tax capture, recommended

approval of the petition to City Council and WCBRA;

Whereas, The Plan would enable the Developer to seek tax increment capture on a portion of the project;

Whereas, The reimbursement by the WCBRA is for actual eligible expenses only;

Whereas, The burden is on the developer to build the project and pay taxes in order for tax capture and reimbursement to occur;

Whereas, The City is not liable for any costs associated with this project if the project is not built or if it fails to achieve the estimated taxable value;

Whereas, It is understood that neither the initiation of the review process by the WCBRA for development of the Brownfield Plan nor the recommendation of the Brownfield Plan to WCBRA by the City is a guarantee that it will be approved by the Washtenaw County Board of Commissioners, the MDEQ or that financial incentives will be obtained; and

Whereas, The Brownfield Review Committee recommends the Brownfield Plan for action by City Council;

RESOLVED, That City Council approve the 221 & 223 Felch Street and 214 West Kingsley Street Brownfield Plan submitted by Kingsley Condominiums LLC dated January 25, 2016;

RESOLVED, That the City Clerk be directed to submit a copy of this Resolution to the Washtenaw County Board of Commissioners as documentation of the City's consideration and approval of the Brownfield Plan; and

RESOLVED, That any changes to the Brownfield Plan after the date of this Resolution will require review by the Brownfield Review Committee and approval by City Council.