

**PLANNING AND DEVELOPMENT SERVICES STAFF REPORT**

**For Planning Commission Meeting of June 16, 2009**

**SUBJECT: Near North PUD Zoning District and PUD Site Plan  
(626-724 North Main Street) File No. SP08-023**

**PROPOSED CITY PLANNING COMMISSION MOTION**

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Near North PUD Zoning District and Supplemental Regulations, and PUD Site Plan and Development Agreement, subject to the petitioner obtaining the required floodplain permit from the Michigan Department of Environmental Quality (MDEQ), subject to eight footing drain disconnections, and subject to an archeological review.

**STAFF RECOMMENDATION**

Staff recommends **denial** of the proposed PUD zoning, because the uses, physical characteristics, design features and amenities proposed do not provide an overall beneficial effect for the City and are not consistent with elements of the adopted Master Plan.

Staff recommends **denial** of the proposed PUD site plan(dated June 2, 2009) because it does not adequately achieve the purposes of a PUD zoning district and would have a detrimental effect on the public health, safety and welfare.

**LOCATION**

The site is located on the east side of North Main Street, just south of East Summit Street. The site is comprised of 626, 630, 700, 708, 712, 718, 722, and 724 North Main Street (Central Area, Allen Creek Watershed).

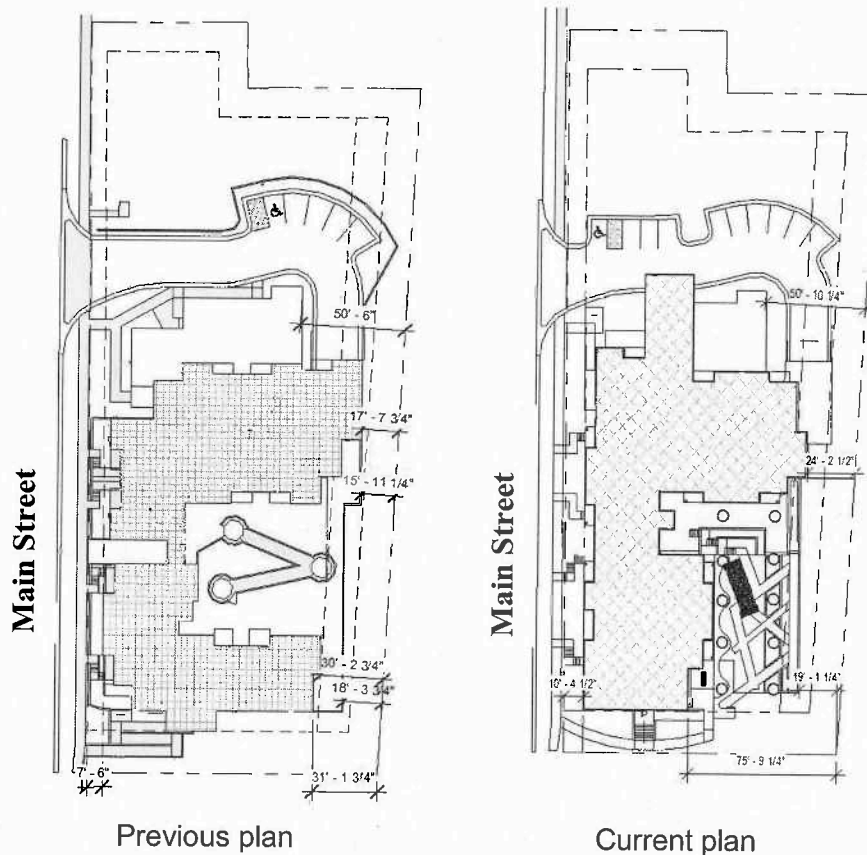
**DESCRIPTION OF PROJECT**

The site plan proposal was postponed at the May 5, 2009 Planning Commission meeting to allow the petitioner additional time to respond to comments from the Commission and staff. These changes are outlined in the attached memorandum from the petitioner and summarized below:

Houses within the Floodway/Floodplain: The three houses located in the floodway on the north end of the site are proposed to be removed. As a result, all eight existing houses on the site will be removed.

Building design: The proposed building has been modified from a 'U' shape to an 'L' shape moving one branch of the building to align parallel with Main Street, see diagram below. The height of the building has been increased along Main Street due to residential units being moved from the part of the building closest to the adjacent houses

in the rear and added to the Main Street section of the building. These additional units increase the southern half of the Main Street elevation from four stories to five stories.



**Setbacks:** The front setback has been increased from 7 feet 6 inches to 10 feet 3 inches, and the front yards have been terraced to more closely match the existing front yards along Main Street. The rear setback has increased slightly for the northern 'arm' of the building from 18.58 feet in the previous plan to 24 feet for the stairwell and 30 feet for the residential units. There is a retaining wall for the entryway to the underground parking structure 15.33 feet from the rear property line. Side setbacks have remained the same.

**Parking:** Surface parking has been increased from 5 spaces to a total of 10 spaces and underground parking has increased from 37 to 40 spaces. Overall parking for the project has increase from 42 spaces to 50 spaces total. Bicycle parking has increased from 20 spaces to 39 spaces.

The petitioner has submitted a revised PUD site plan (dated June 2, 2009) for a maximum five-level (plus underground parking) 40-unit mixed use apartment building, an increase of one residential unit from the previous plan. In addition to 2,950 square feet of retail use (329-square foot increase from previous plan) and 16,966 square feet (1,226-square foot increase) of underground parking, the building will now contain 1,645 square feet of office use for a total building size of 67,719 square feet. The previous building was 63,860 square feet and did not include office space. The previous plan included office space in the three houses that are now proposed to be removed.

The proposed building is now designed in an 'L-shape' around a landscaped courtyard that will contain a walkway, benches and gardens. Due to the significant slope on the property, the building will appear to be four stories on the northern end rising to five stories along Main Street and then reducing to four stories on the southern end. There will be 36 one-bedroom units and 4 two-bedroom units, for a total of 44 bedrooms.

All housing units will be designated affordable housing as defined by Michigan State Housing Development Authority (MSHDA) with up to 14 units designated as supportive housing. Supportive housing is defined by MSHDA as housing targeted to families and individuals at or below 30% Area Median Income.

The petitioner is exploring the possibility of installing numerous 'green' features for the building including geothermal heating/cooling, vegetated roofs, solar shading, and high efficiency water fixtures and appliances, although, they are unable to commit to any of the 'green' features at this point. The petitioner has committed to LEED certification; however, this can only be determined after construction is completed. The requirement for LEED certification will be included within the PUD supplemental regulations.

### ZONING COMPARISON CHART

		EXISTING	PROPOSED	PROPOSED PUD Supplemental Regulations	PERMITTED BY CURRENT ZONING
Zoning		O	PUD	PUD	R4C *
Gross Lot Area		8 lots, ranging from 3,200 sq ft to 10,000 sq ft	51,836 sq ft (1.19 acres)	51,836 sq ft	8,500 square feet MIN
Density (Residential zoning)		8 units	40 units total or 33.6 units/acre	40 units MAX	23 units total or 20 units/acre MAX
Floor Area Ratio (Office zoning)		N. A.	97.91%	100% MAX	40% MAX
Setbacks	Front	Varies from approx 18 ft to 23 ft	10.25 ft	10 ft MIN	45 ft MIN **
	Side: North	Varies from 10 ft to 40 ft	99.0 ft (Proposed Building)	100 ft MIN	12 ft least one/26 ft total of two MIN *
	Side: South	Varies from 0 ft to 5 ft	20.0 ft	20 ft MIN	
	Rear	Varies from 68 ft to 100 ft	24.0 ft	24 ft MIN	55 ft MIN *
Open Space		N.A.	60.5%	60% MIN	40 % MIN
Height		Varies – approx 25 feet	55 ft MAX	55 ft	30 ft MAX

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	EXISTING	PROPOSED	PROPOSED PUD Supplemental Regulations	PERMITTED BY CURRENT ZONING
Parking – Automobiles	Varies	50 Spaces Total	50 spaces MIN	Res - 59 spaces MIN Retail - 9 spaces MIN Office - 11 spaces MIN Total - 79 spaces
Parking – Bicycles	N/A	30 sps - Class A; 4 sps - Class B; 6 sps - Class C	12 sps - Class A MIN 4 sps - Class B MIN 4 sps - Class C MIN	10 spaces Total MIN

\* Although the site is zoned O (Office District), residential uses are a principal permitted use in the district, "subject to all the regulations of the district in which such use occurs." R4C zoning is appropriate due to the size of the existing lots and the R4C zoning of adjacent lots. Therefore, due to the primarily residential use of subject site, the project should be compared to the R4C zoning district standards.

\*\* Includes additional front, side, and rear setbacks for buildings over 30 feet high and 50 feet wide (using averaged front setback of 20 feet).

### STAFF COMMENTS AND ANALYSIS

Floodplain Coordinator – The revised proposal includes increased parking and fill in the floodway. The current proposal includes up to 5 feet of fill in the floodway for the parking lot, and a 9+ foot tall retaining wall along the north side of the parking lot that will obstruct flood flow. Chapter 57, Section 5:129, requires that natural features (floodplain) impact be minimized. It may be necessary to move portions of the building to the south. Staff feels the amount of floodway fill is excessive and recommends that the parking area and related building entrances be redesigned to minimize the floodway encroachment. The petitioner has not demonstrated that the current proposed floodway and floodplain fill has been minimized. The proposal also includes a fence in the floodway at the north end of the parking lot. Staff does not support the fence and requests the design be modified to allow the fence to be removed from the floodway since this can create an obstruction to flood water.

Due to the proposed floodplain fill, this project requires a floodplain permit from the Michigan Department of Environmental Quality (MDEQ). Typically the MDEQ does not permit this type of fill in the floodway, as is proposed with this project. Staff recommends that this petition not be acted on by the City Planning Commission or City Council until an MDEQ floodplain permit has been obtained and the site plan has been revised to conform to the MDEQ permit.

Planning – Planning staff must determine if a proposed PUD meets the standards for PUD approval in Chapter 55 (Zoning) when considering a recommendation for approval or denial. If affordable housing was the only standard for approval, this project (and all

others proposing affordable housing) would meet that standard. However, Chapter 55 includes multiple standards for PUD approval including:

- (a) The use or uses, physical characteristics, design features, or amenities proposed shall have a beneficial effect for the City, in terms of public health, safety, welfare, aesthetics, or convenience, or any combination thereof, on present and potentially surrounding land uses....

Although the proposed project meets the “beneficial effect” of providing affordable housing and using land efficiently, it does not meet other beneficial effects such as, “(i) innovation in land use and variety in design, layout and type of structure which furthers the stated goals and physical character of adopted land use plans and policies” and (vii) the use and reuse of existing sites and buildings which contributes to the desired character and form of an established neighborhood.

- (b) This beneficial effect for the City shall be one which could not be achieved under any other zoning classification and shall be one which is not required to be provided under any existing standard, regulation or ordinance of any local, state or federal agency.

The proposed use could be achieved on this site in a manner that is less visually impactful. Building additions could be proposed for the existing homes that achieves a similar number of dwelling units. New construction could also be proposed in a manner much more consistent with the existing character of the neighborhood and the recommendations of the Central Area Plan.

- (c) The use or uses proposed shall not have a detrimental effect on public utilities or surrounding properties.

The proposed project will have a detrimental effect on surrounding properties by impacting sunlight, views, vegetation and the historic character of the neighborhood.

- (d) The use or uses proposed shall be consistent with the Master Plan and policies adopted by the City or the petitioner shall provide adequate justification for departure from the approved plans and policies.

The petitioner is proposing a project that has some significant inconsistencies with the recommendations of the Central Area Plan regarding a) Housing and Neighborhoods, b) Development/Redevelopment, c) Historic Preservation, and d) Use, as described in the previous staff report. Staff believes that the proposed residential use could be accommodated on the site in a manner much more consistent with the recommendations of the Central Area Plan.

Planning staff acknowledges that the petitioner has made many modifications and some improvements to the site plan in an attempt to address Planning Commission and City staff issues. The petitioner has met with staff and neighbors several times since the May 5, 2009 Planning Commission meeting to identify areas of concern and design solutions. While the revised site plan addresses some of the concerns of staff, the larger issues of retail use, mass, scale and compatibility still apply. The removal of the three houses within the floodway is a benefit that was advocated by staff and is a notable plan

change. Staff has re-examined the project as it relates to the PUD standards and concludes that the issues identified in the April 21, 2009 Planning staff report are still applicable with the revised plan. While the petitioner has moved the southern 'arm' of the building to align with the rear of the units facing Main Street and increased front and rear setbacks, this does not reduce the total mass and height of the building. Furthermore, as a result of these changes, the proposed building has increased in total size, added office uses, and added more units to the highest floor of the building. Staff feels that while the changes to the plan address some issues, the benefits created by the modified plan do not outweigh the impacts of the massing of the proposed building in this location.

Planning staff has evaluated this project in the same manner as all other projects, weighing the benefits and the impacts. Affordable housing and floodplain remediation are identified City goals, and defined benefits of this project, but staff feels that these goals can be accomplished in a manner that is not as detrimental to the existing neighborhood and contrary to Master Plan recommendations. For example, a retail use, while beneficial in some mixed use projects is not supported by the Central Area Plan at this location and is not essential for an affordable housing project. The plan also proposes almost twice the recommended density for the site and over two times the allowable Floor Area Ratio. Remediation of a natural feature such as a floodway is a benefit, however, when this is accomplished while increasing the negative impacts of the project, the beneficial aspect of the remediation is lessened.

Regarding the retail use in the project, which is not supported in the Master Plan, the petitioner has indicated a willingness to prohibit a retail/liquor store while the existing Summit Market is operational. However, because the petitioner does not own or control the Summit Market parcel, there is nothing that the City or the petitioner can do to prevent duplicate retail uses at both locations. There is language in the supplemental regulations prohibiting a liquor store from opening in the Near North building while the Summit Market is open. This will prevent a liquor store from moving into the Near North building while the Summit Market is operating, however, it will not prevent another similar use from moving into the vacated Summit Market if and when the use does move out. The Summit Market is zoned for commercial uses and the Central Area Plan identifies office/commercial uses at this location in the future land use plan.

Although staff continues to support the provision of affordable housing and floodplain mitigation as key elements of this project, the overall massing and scale characteristics are significant land use issues that should be properly addressed to justify approval of a PUD at this particular location. Staff acknowledges the costs, issues and benefits involved with developing an affordable housing project and removing buildings from the floodway.

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jsj/6/12/09

