



## Battle Creek City Planning Commission

### Staff report for the May 25, 2016 meeting

**To:** Planning Commissioners

**From:** Christine M. Zuzga, AICP, Planning Manager

**Subject:** Petition Z-02-16, request for a conditional rezoning of property located at 15 Carlyle Street to allow residential on the first floor.

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#### **Summary**

Petition from 180Urban Development and Management LLC, Mr. Dave Sciacca, requesting a conditional rezoning of property to allow residential use on the first floor of 15 Carlyle Street, zoned C-7 Street Level Retail". The conditional rezoning is requested pursuant to M.C.L. 125.3405.

#### **Applicable Ordinance Provisions**

In 2005 the Michigan Zoning Enabling statute was amended to allow for conditional rezoning of land. The amendment to allow conditional rezoning provided another tool for property owners seeking the ability to use their property in a way other than what is allowed by current zoning. If approved, a conditional rezoning ties the use and any development of a property to specific conditions offered by the property owner. This is very similar to how the special use permit process and approval works, though this is not limited to a specific list of special uses provided for by ordinance. The other difference is that conditions cannot be imposed by a municipality, but must be offered by the applicant.

##### **M.C.L 125.3405 Use and development of land as condition to rezoning.**

Sec. 405. (1) An owner of land may voluntarily offer in writing, and the local unit of government may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.

(2) In approving the conditions under subsection (1), the local unit of government may establish a time period during which the conditions apply to the land. Except for an extension under subsection (4), if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.

(3) The local government shall not add to or alter the conditions approved under subsection (1) during the time period specified under subsection (2) of this section.

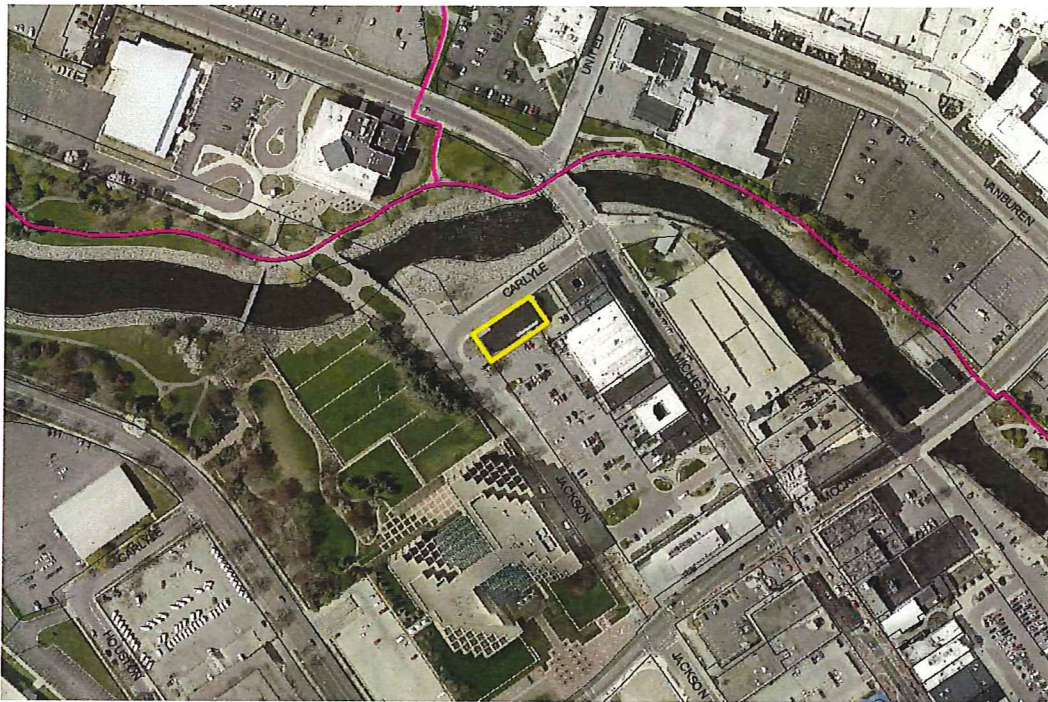
(4) The time period specified under subsection (2) may be extended upon the application of the landowner and approval of the local unit of government.

(5) A local unit of government shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under subsection (1) shall not otherwise affect a landowner's rights under this act, the ordinances of the local unit of government, or any other laws of this state.



### **Background/Property Information**

The subject site is located on Carlyle Street, south of W. Michigan, east of the Battle Creek River. The structure was built in 1903. The brick building is three stories in height, with the lowest level being a daylight basement. The earliest known occupant was the Alsteel Manufacturing Company; the last known occupant was a retail furniture business. This property was subject to potential renovation for residential condominiums in 2007.





### **Surrounding Land Uses / Zoning**

West of the building is the Battle Creek River, and beyond that is the Math and Science Center. North and east is the core downtown, south is the Kellogg Company headquarters, and to the east is the Jackson Street public parking lot.



The subject property and properties along West Michigan to the east in the central part of the downtown are zoned C-7 Street Level Retail. Surrounding blocks in the downtown are C-4 Central Business District. Both zoning districts allow residential uses in the upper levels of buildings:

#### **1266.02 PERMITTED USES (in the C-4 District)**

In a C-4 Central Business District, a building or premises shall be used only for the following purposes: (g) Residential uses accommodated in the upper floors of existing buildings and meeting the requirements of the Building and Housing Code and all State Building and Fire Codes.

#### **1271.07 MIXED COMMERCIAL AND RESIDENTIAL USES. (in the C-7 district)**

Commercial and residential uses may occupy the same building, provided that the residential use is limited in its entirety to the second level or higher of the building and meets the requirements of the Building and Housing Code and all State building and fire codes.

### **Proposed Scope of Project**

As outlined in the application, the applicant will be renovate the entire building into a total of twenty residential apartments, nineteen one bedroom and one two-bedroom unit.

The zoning ordinance does not require properties in the above mentioned zoning districts to provide their own off-street parking. The City is working in conjunction with the applicant on street and parking lot improvements.

The downtown zoning districts allows mixed use but provides that residential must occur on the second story or higher. The basis for the conditional rezoning is to allow for residential apartments on the main level of the building.

### **Public Hearing and Notice Requirements**

As required by the Zoning Enabling Act of 2006, as amended, a public hearing notice was published in the Battle Creek Shopper's Guide on Thursday, May 5, 2016 and notices of the public hearing were also sent by regular mail on Monday, May 2, 2016 to 21 owners and occupants of properties located within 300 feet of the subject parcel. To date, the Planning Department has not received any questions or comments relative to this request.

### **Neighborhood Outreach**

The Central Business District is not located with a specific Neighborhood Planning Commission, however, the renovation of this entire building for residential use has been discussed by numerous boards/commission, agencies, and businesses, all associated with downtown development, and there has been no opposition.

### **Analysis and Recommendation**

As this is a rezoning request, consideration should be given to the proposed use as it relates to the surrounding zoning and land uses, existing infrastructure, and most importantly consistency with the Comprehensive Plan.

Staff has reviewed the application and finds that it meets the requirements for submittal and is considered complete. Staff recommends approval of Z-02-16 Conditional Zoning Reclassification, as outlined herein:

- The Future Land Use map of the 1997 Comprehensive Plan designates these properties as Downtown Mixed Use which encourages a mix of restaurants, stores, hotels, offices, entertainment, open space, residential, etc. The master plan recognizes that residential units are an important component of downtown success (4-7), and encourages the rehabilitation of existing buildings to serve the demand (4-6, 4-7). While the master plan does state that focus should be on the residential use of upper floors of downtown buildings, the plan also specifically calls for preserving commercial uses on the main floors of buildings along the main corridor, Michigan Avenue, (4-6, 4-7). As this building is located on a side street from the main commercial corridor, the request is not contrary to this goal. The request to conditionally rezone this is consistent with the 1997 Comprehensive Plan. The request is also consistent with goals and objectives discussed as part of the BC Vision efforts.

- Taking into consideration the allowable uses in the C-7 Street Level Retail zoning district, the proposed use of residential is less intensive than some uses allowed by right under current zoning, and will be a low intensity activity that will not be detrimental to the neighborhood or surrounding land uses. The consistent presence of residents would serve to bolster downtown businesses, activity, and perception of safety. If denied, the lower level would be extremely difficult to modify for commercial space as it currently does not meet ADA barrier free access due to the split level entry.
- The conditional rezoning request to allow residential on the main floor of this location is compatible with being in and adjacent to zoning districts that specifically allow mixed uses including residential dwelling units.
- The infrastructure of downtown, including utilities and road networks, will be able to support the six residential units that would be allowed if the conditional rezoning would be approved for the first floor.

**Therefore, based on the above findings and pursuant to M.C.L. 125.3405, planning staff recommends that the Planning Commission recommend to the City Commission approval of Conditional Rezoning Petition Z-02-16 from 180Urban Development and Management LLC, Mr. Dave Sciacca, to allow residential use on the first floor of 15 Carlyle Street, zoned C-7 Street Level Retail”, pursuant to M.C.L. 125.3405, with the following conditions:**

**The approval of this request is directly tied to the proposed use and elements of the proposed use as provided for by the applicant in the application. Any changes contrary to that which is included on the application would require review and approval by the Planning Commission and City Commission.**

### **Attachments**

The following information is attached and made part of this Staff report: Rezoning Application and Supplemental Information (Petition #Z-02-16).

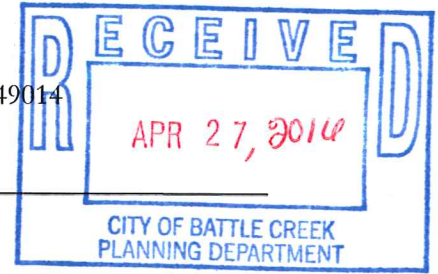


# City of Battle Creek

## Planning and Zoning Division

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# REZONING Application

\_\_\_\_\_ Straight Rezoning  
(to new zoning district)

X Conditional Rezoning  
(to allow specific use/development)

Petition No. Z-02-16

Date Received: 4-27-16

**APPLICANT**

NAME: 180 URBAN DEVELOPMENT AND MANAGEMENT LLC

ADDRESS: PO. BOX 879

PHONE: 269-589-7133 FAX:

EMAIL: *david@180URBAN.COM*

**OWNER (if different from applicant)**

NAME: SAME

ADDRESS: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

EMAIL: \_\_\_\_\_

**\*\*If the applicant is not the property owner, a letter signed by the owner agreeing to the Special Use Permit must be included with the application.**

## EXISTING CONDITIONS

Address(es) of property for which the request is being sought: \_\_\_\_\_

15 CARLYLE STREET BATTLE CREEK MI 49017

Current use of the property: VACANT COMMERCIAL BUILDING

List existing structures on the property, size, and the approximate age of each.

ONE THREE STORY BRICK BUILDING, 20,000 SF.  
CONSTRUCTED IN 1903

Has property involved ever been the subject of a previous application? If yes, please list each one and the date the request came before the Planning Commission.

NO, NONE WE ARE AWARE OF.

**FOR STRAIGHT REZONING REQUESTS ONLY:**

Current Zoning of Property: \_\_\_\_\_

Requested Zoning District: \_\_\_\_\_

Describe land uses surrounding the subject property and those in the vicinity: \_\_\_\_\_

Would the rezoning place excess demands on public resources including roads, utilities, public safety, etc.? Explain \_\_\_\_\_

**FOR CONDITIONAL REZONING REQUESTS ONLY (please attach extra pages if necessary):**

What is the proposed use of the property that warrants the request? Provide specific details as to the use including square footage of each uses proposed for the property: SEE ATTACHED PAGES  
ITEM A

Please list all activities that will take place on the property if the request were approved?

SEE ATTACHED PAGES ITEM B

How many employees currently work on the property? How many will be added if the request is approved, and what days/times will they be onsite? SEE ATTACHED PAGES ITEM C

Will the approval of the proposed use necessitate changes to the property, i.e. building construction, additional parking, landscaping, driveways, fencing? If yes, please provide a list of property improvements that will be associated with the development and attach a site plan/building elevations showing existing and proposed improvements. What is the cost of investment proposed if the development were approved? SEE ATTACHED PAGES ITEM D

What are the proposed hours of operation? Please indicate if the proposed use will be temporary, seasonal, or long term in nature, providing dates and timeframes if applicable:

SEE ATTACHED PAGES ITEM E

Explain the basis for which you feel this application should be approved. \_\_\_\_\_

SEE ATTACHED PAGES ITEM F


## SUBMITTAL REQUIREMENTS

Each request requires the following items to be submitted along with the completed application; incomplete applications will not be forwarded to the Planning Commission.

1. Payment of a non-refundable \$600.00 filing fee, made payable to the City of Battle Creek.
2. An affidavit authorizing an applicant to act on behalf of the owner if the petitioner is not the owner.
3. Legal description of subject property and a list of all deed restrictions.
4. Property Site Plan, if site changes are proposed.
5. Building Elevations, if building elevation improvements are proposed.

## APPLICANT SIGNATURE

By signing this application, the applicant hereby declares that all answers given herein are true to the best of their knowledge, and confirms that all information required for submission of a rezoning application have been submitted. Furthermore, the applicant understands that all any approval is based upon the contents of the submitted application and any future proposed change must be reviewed with the Planning Department and may be subject to approval of a revision of the special use permit by the Planning Commission and City Commission.

  
Name \_\_\_\_\_ Date 04-27-16  
DAVID SCIACCA  
PRESIDENT AND CHIEF OPERATING OFFICER  
180 URBAN DEVELOPMENT AND MANAGEMENT LLC





**15 CARLYLE STREET ZONING APPLICATION QUESTIONS ATTACHMENT  
APRIL 27, 2016**

**ITEM A:** Currently the street level floor of 15 Carlyle Street is not zoned for residential use. We are seeking a Conditional rezoning of the first floor only. The upper two stories will not require rezoning. 15 Carlyle Street is currently a long vacant three story commercial building intended to be fully redeveloped into 20 loft style residential apartment units for rent. The units will consist of 19 one bedroom and one two bedroom units over the three floors. The building is approximately 20,000 total square feet and the majority of that space will be utilized for the residential units with only a small amount of square footage being utilized for common areas (entries, bike storage, stairway) and a utility/mechanical room.

**ITEM B:** The property will be redeveloped as a residential use property. Uses are expected to be consistent with the normal everyday activities that take place in a private household including but not limited to: cooking, eating, private interaction with family and friends, sleeping, and common household chores like cleaning and laundry. Some residents may engage in "work from home" on occasion from a laptop or other device as is common these days but the building will NOT have a commercial function nor will persons coming to the building specifically for business purposes.

**ITEM C:** No employees currently work in the building. No one has worked at this property in at least 20 years, as it has been completely vacant and unmaintained for the bulk of that time.

**ITEM D:** This redevelopment is comprehensive in scope. The entire interior of the structure will require complete renovation. Currently the building is mostly open inside with a few nonstructural walls that will be removed. New construction internally will create the 20 individual units. Exposed brick walls, hardwood flooring, and timber ceilings will be retained throughout. The building already has a new roof installed (December 2015) and will receive all new mechanical systems, windows, electrical, plumbing, fire suppression, among many other updates and improvements. On the Exterior extensive masonry repair must be done as well as the addition of additional lighting for both safety and aesthetic reasons. On the rear of the building new doors will need to be added to allow for entry and to increase safe egress. Other exterior site improvements are currently being coordinated with the City of Battle Creek as part of the City's overall downtown plan. This has been and will remain a collaborative effort between the City of Battle Creek and 180urban. Those aspects include parking, sidewalks, some landscaping and traffic flow in adjacent areas all of which are NOT a part of the 15 Carlyle property owned by 180urban therefore those elements need to be reflected on the City plans for those adjacent areas. Total budget for this project is **\$2,365,000**.

**ITEM E:** This property will not function as a commercial property housing businesses so NO business hours will be maintained. 180urban will conduct any normal routine maintenance on the building during normal daytime business hours, typically 8:00AM-5:00PM.

**ITEM F:** This project fits entirely within the strategy of the City of Battle Creek's MASTER PLAN. This zoning will help bring people into our downtown and contribute to the overall vitality of our community. Currently 180urban is redeveloping three other properties downtown and 15 Carlyle is the ONLY building that we will be requesting first floor residential use. All three other buildings are developing currently will be true mixed-use with commercial uses on street level.