

M E M O R A N D U M

TO: City of Ann Arbor Planning Commission
FROM: Matt Kowalski, City Planner
SUBJECT: Maple Cove Apartments Site Plan for City Council Approval
File No. SP12-004
DATE: June 5, 2012

The Maple Cove Apartments Site Plan was postponed by the Planning Commission at their May 1, 2012 meeting in order to allow for additional review from the City's Traffic Engineer. After completing the review, the Traffic Engineer has confirmed that City code does permit the site to have a maximum of two curb cuts (based on linear street frontage) and the site plan does meet the requirements of Chapter 47 (Streets).

The Traffic Engineer has noted that the plan does not meet the Michigan Department of Transportation (MDOT) access management guidelines or the recommendations in the City of Ann Arbor Transportation Plan Update. Given the posted speeds (35 mph) along Maple, the recommended distance for curb cut separation from center of drive to center of drive is 245 feet. However, in cases of limited access, guidelines for a posted 30 mph road could be used instead, which require 185 feet center to center separation of curb cuts. The proposed plan has approximately 150 feet separation. In summary, while the code does permit two curbs cuts on the site, the adopted access management guidelines and transportation plan do not support the site plan as proposed.

It should be noted that if the plan is approved and constructed, the City does have authority under Chapter 47 to close, modify or relocate curb cuts which are deemed a traffic hazard.

The concerns of the traffic engineer noted above have been sent to the petitioner and they have declined to make changes to the site plan at this time.

STAFF RECOMMENDATION

While acknowledging concerns of the Traffic Engineer, it is recognized that the site plan does conform to all City codes, therefore, Staff recommends that this petition be **approved** because, if the proposed conditions are met, the development would comply with local, state and federal laws and regulations; would not cause a public or private nuisance; and would not have a detrimental effect on public health, safety or welfare.

PROPOSED CITY PLANNING COMMISSION MOTION
The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Maple Cove Apartments Site Plan and Development Agreement, subject to the combination of parcels and recording of an access easement prior to issuance of building permits.

Attachment: March 20, 2012 Planning Staff Report

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of March 20, 2012

**SUBJECT: Maple Cove Apartments Site Plan for City Council Approval
(1649 N. Maple Road)
File No. SP12-004**

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Maple Cove Apartments Site Plan and Development Agreement, subject to the combination of parcels and recording of an access easement prior to issuance of building permits.

STAFF RECOMMENDATION

Staff recommends that this petition be **approved** because, if the proposed conditions are met, the development would comply with local, state and federal laws and regulations; would not cause a public or private nuisance; and would not have a detrimental effect on public health, safety or welfare.

LOCATION

The site is located on the west side of North Maple Road through to Calvin Street, just north of Miller (West Area, Allen Creek Watershed).

DESCRIPTION OF PETITION

The subject site is 2.96 acres and has frontage along Calvin Street and Maple Road. The petitioner plans to construct two three-story apartment buildings along Maple Road and seven single-family homes along Calvin Street. The site currently contains two parcels (1649 N Maple and 1718 Calvin); these parcels will be combined after project approval. The petitioner will demolish the existing single-family house and two detached garages on Calvin Street. There are no other structures on the project site. Each apartment building will contain a total of 18 one and two bedroom apartments ranging in size from 745 to 1,057 square feet. Each apartment building will have an approximately 1,200 square foot rooftop patio available for use by the residents only. The petitioner is also considering adding vegetated cover (green roof) for the remainder of the roof surface. The apartment buildings will be served by a designated drive from Maple Road leading to a 64 space parking lot. The single-family homes will be accessed via a private street from Maple Road with no vehicular connection to the apartment parking lot. There will also be no connection to Calvin Street. While the property has frontage on Calvin Street, this is a private street with a checkered history regarding access rights.

The development site has a dual zoning designation with the dividing line in the middle of the site. The half of the parcel on the east side, adjacent to Maple Road is zoned O(Office) and residential uses are permitted by right subject to the USE standards of the residential, but the

Area, Height and Placement regulations of the Office district. The half on the west side of the site, adjacent to Calvin Street is zoned R1C (Single-family residential) and will be developed as single-family homes with lots ranging in size from 7,283 to 11,051 square feet. The single-family homes will be constructed on an individual basis as they are sold.

A total of 64 vehicle (including 14 compact, 3 barrier-free and 47 regular spaces) and 8 bicycle (4 Class A, 4 Class C) parking spaces are required for construction of the new apartment buildings. The single family development will have bicycle parking and vehicle parking available in the garages of the proposed houses. One vehicle parking space is required per single-family structure. There are no requirements for bicycle parking. All vehicle parking spaces for the apartment buildings will be located in between the two apartment buildings and in the rear. The 4 enclosed bicycle parking spaces (lockers) will be provided near the northwest corner of the north apartment building.

The site is part of the Garden Homes Drainage District, which is under the jurisdiction of the Washtenaw County Water Resources Commissioner (WCWRC). The storm water treatment system, located under the parking lot at the rear of the apartment buildings, has been reviewed by the WCWRC (preliminary approval has been granted). Based on the total of impervious surface on the site, the petitioner is required to provide first flush and bankfull and 100 year storm detention capacity. All storm water runoff from the site including the single-family parcels and the private street will be treated on site. There currently is no storm water management system for the site. There are five landmark trees that will be removed as a result of construction; 18 new mitigation trees will be planted on the site as required by code.

The parking lot will be landscaped according to City Code requirements and a conflicting land use buffer will provided along the western (adjacent to the proposed parking lot) and northern end (adjacent to the private street and apartment buildings) of the parcel. Additional trees have been provided along the front of the buildings adjacent to Maple Road. A sidewalk will be installed along the front of the site.

SURROUNDING LAND USES AND ZONING

	LAND USE	ZONING
NORTH	Residential	TWP (Township) R1B (Single-Family Residential District)
EAST	Residential	R1C (Single-Family Residential District)
SOUTH	Residential	TWP (Township) O (Office District)
WEST	Residential	TWP (Township)

COMPARISON CHART

		EXISTING	PROPOSED*	REQUIRED
Zoning		O (Office District) R1C (Single-Family Residential)	O (Office District) R1C (Single-Family Residential)	O (Office District) R1C (Single-Family Residential)
Gross Lot Area		2.96 acre	2.96 acre	7,200 sf (R1C) 6,000 sf (Office)
Floor Area in % of Lot Area		0% (0 sf)	63% (38,544 sf)	75% MAX (Office) None (R1C)
Setbacks	Front	None	16 ft (MIN)	15 ft MIN 40ft MAX (Office) 25 ft (R1C)
	Side(s)	None	52 ft (North) 19.85 ft (South)	0 ft MIN (Office) 5 ft MIN (R1C)
	Rear	None	168 ft	0 ft MIN (Office) 30 ft MIN (R1C)
Height		0	44 ft/3 story	55 ft/4 stories MAX (Office) 30 ft MAX (R1C)
Parking - Automobiles		0 spaces	64 spaces	64 spaces MIN (Residential use in Office) 1 per house (R1C)
Parking – Bicycles		0 spaces	4 spaces – Class A 4 spaces – Class C	4 spaces MIN total (Office) (50% Class B, 50% Class C) None required (R1C)

* Proposed setbacks for apartment buildings only, single family structures will be constructed at a later date. Code requirements for will be verified through the Building Permit review process.

HISTORY

The site is part of two previously approved site plans. The name Maple Cove has been reused but the currently proposed project and the previously approved projects are quite different. The entire site was part of the *Maple Cove Site Plan* for 13 detached single family dwellings on 2.2 acres, approved on August 1, 2005.

In early 2008 another site plan was approved containing this entire site and area to the south along Maple Road extending to the intersection of Miller and Maple. This site plan included two 27,000 square foot office/residential buildings on the current site and a mix of smaller apartments closer to the Miller/Maple intersection. Neither approved site plan was constructed. Approval of the currently proposed Maple Cove Site Plan will void the previously approved

Maple Cove Site Plans. The part of the previously approved site plan that is outside of the current proposal will require a new site plan to be submitted for any development other than one single family dwelling, in accordance with Chapter 57, Subdivision and Land Use Control Ordinance.

PLANNING BACKGROUND

The City of Ann Arbor Master Plan: Land Use Element identifies this parcel as Site 8 in the West Area. The future land use recommendation for Site 8 indicates housing as the preferred option, but also supports office uses as residential demand declines. Office uses are noted to be an acceptable alternative to residential uses, as that use would buffer the Calvin Street neighborhood from noise and traffic on Maple Road. Commercial uses are specifically noted as not appropriate for Site 8.

STAFF COMMENTS

Systems Planning – 10 footing drain disconnections or equivalents will be required.

Traffic – The City Traffic Engineer has requested a consolidation of access points for the development in accordance with The City of Ann Arbor Transportation Plan Update, May 2009. In order to minimize potential conflicts along Maple Road, it is advised that the single-family and apartment buildings utilize the same access point.

Parks – Although a rooftop patio area is available for use by the residents, Parks staff has expressed concern over the lack of open space available for residents of the apartments. The requested parks contribution is \$26,660. The petitioner has declined providing a parks contribution.

Planning – Planning staff shares the same concerns mentioned by Parks and Traffic staff, including consolidation of access and lack of open space by apartment residents. In addition Planning staff has requested placement of sidewalks along the private street leading to the single-family development. While these sidewalks are not required by code, staff considers them to be a positive amenity for future residents increasing safety and accessibility to Maple Road. Planning staff also recommends landscaping along the base of the buildings for the benefit of residents as well as future single-family homeowners along Calvin.

While Planning Staff does have concerns as noted above, staff supports redevelopment of this site as residential which is consistent with the City's Master Plan. The proposed re-development of this site will result in an improvement to the Maple Road Corridor and will bring the parcel into conformance with all existing development codes and regulations.

Prepared by Matt Kowalski
Reviewed by Jeff Kahan

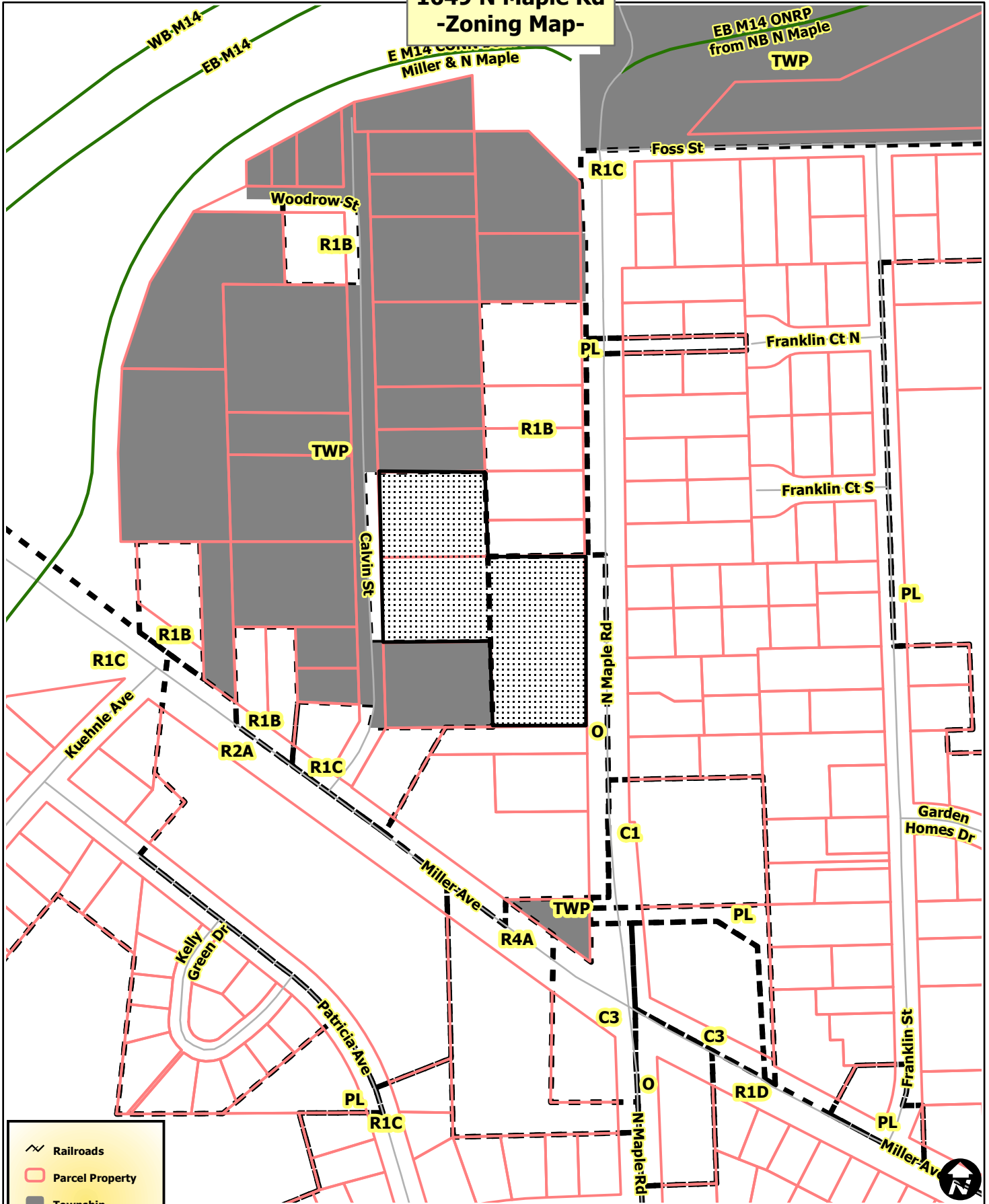
Attachments: Parcel/Zoning Map
Aerial Photo
Site Plan
Landscape Plan
Elevations
DRAFT Development Agreement





c: Petitioner: Muayad Kasham
Dynasty Enterprises
2858 S. Main Street
Ann Arbor, MI 48103

Petitioner's Representative: R. James Gorenflo
Midwestern Consulting, LLC
3815 Plaza Drive
Ann Arbor, MI 48108

City Attorney
Systems Planning
File No. SP12-004

1649 N Maple Rd -Zoning Map-



-  Railroads
-  Parcel Property
-  Township
-  City of Ann Arbor
-  Huron River



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1649 N Maple Rd -Aerial Map-



 Railroads
 Parcel Property



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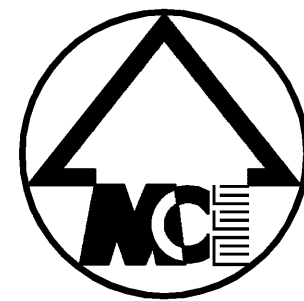
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N 1/4 CORNER
SEC 24
T2S, R5E

NORTH LINE SECTION 24

S89°33'43"W
40.01

NE CORNER
SEC 24
T2S, R5E



SCALE: 1" = 30'

CALVIN ST. (50' WIDE, PRIVATE)

N. MAPLE ROAD (80' WIDE, PUBLIC)

ALTERNATIVES ANALYSIS SUMMARY

	Proposed	Alternative A
Zoning	R1C & O	R1C & O
Dwelling Units	36 Apartments, 7 Single Family	36 Apartments, 8 Single Family
Parking Spaces	64 + 7	56 + 8
Parking Location	Surface	Surface
Height	44 ft (3 stories)	50 ft (4 stories)
Landmarks Removed	4	3
Detention	Underground	Underground

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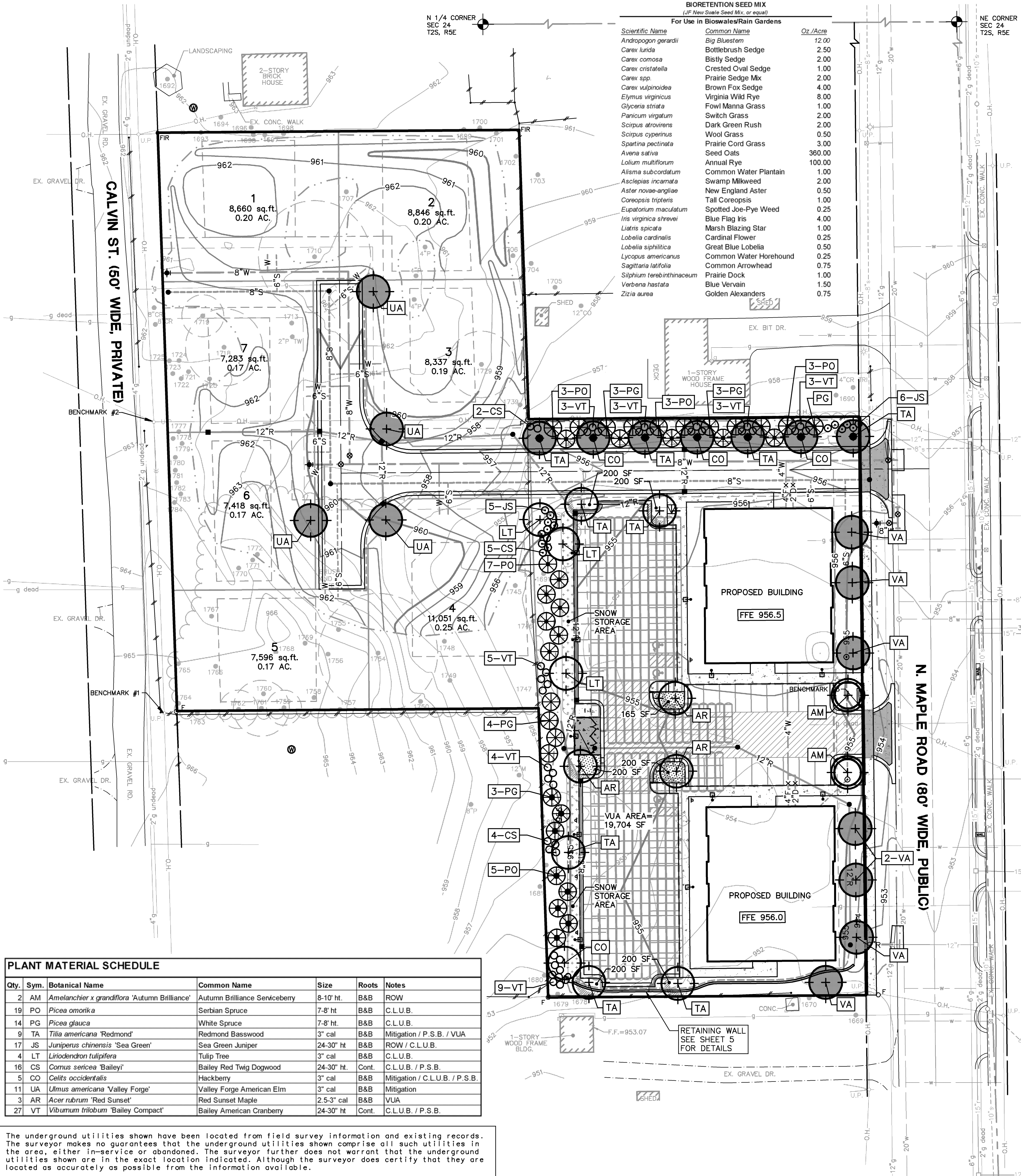
N 1/4 CORNER
SEC 24
T2S, R5E

NE CORNER
SEC 24
T2S, R5E

BIORETENTION SEED MIX
(JF New Swale Seed Mix, or equal)

For Use in Bioswales/Rain Gardens

Scientific Name	Common Name	Oz./Acre
<i>Andropogon gerardii</i>	Big Bluestem	12.00
<i>Carex lurida</i>	Bottlebrush Sedge	2.50
<i>Carex comosa</i>	Bistly Sedge	2.00
<i>Carex cristatella</i>	Crested Oval Sedge	1.00
<i>Carex spp.</i>	Prairie Sedge Mix	2.00
<i>Carex vulpinoidea</i>	Brown Fox Sedge	4.00
<i>Elymus virginicus</i>	Virginia Wild Rye	8.00
<i>Glyceria striata</i>	Fowl Manna Grass	1.00
<i>Panicum virgatum</i>	Switch Grass	2.00
<i>Scirpus atrovirens</i>	Dark Green Rush	2.00
<i>Scirpus cyperinus</i>	Wool Grass	0.50
<i>Spartina pectinata</i>	Prairie Cord Grass	3.00
<i>Avena sativa</i>	Seed Oats	360.00
<i>Lolium multiflorum</i>	Annual Rye	100.00
<i>Alisma subcordatum</i>	Common Water Plantain	1.00
<i>Asclepias incarnata</i>	Swamp Milkweed	2.00
<i>Aster novae-angliae</i>	New England Aster	0.50
<i>Careopsis trisperis</i>	Tall Coreopsis	1.00
<i>Eupatorium maculatum</i>	Spotted Joe-Pye Weed	0.25
<i>Iris virginica shrevei</i>	Blue Flag Iris	4.00
<i>Liatris spicata</i>	Marsh Blazing Star	1.00
<i>Lobelia cardinalis</i>	Cardinal Flower	0.25
<i>Lobelia siphilitica</i>	Great Blue Lobelia	0.50
<i>Lycopus americanus</i>	Common Water Horehound	0.25
<i>Sagittaria latifolia</i>	Common Arrowhead	0.75
<i>Silphium teresbinthaceum</i>	Prairie Dock	1.00
<i>Verbena hastata</i>	Blue Vervain	1.50
<i>Zizia aurea</i>	Golden Alexanders	0.75

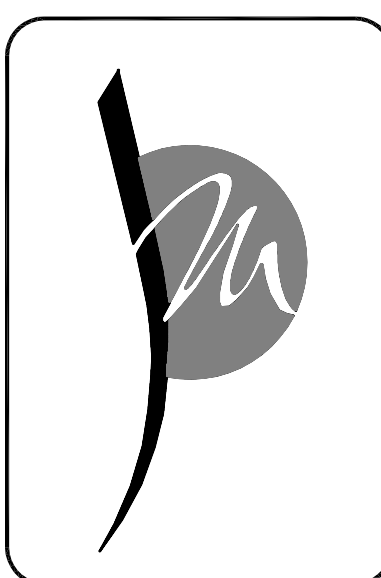


PLANT MATERIAL SCHEDULE

Qty.	Sym.	Botanical Name	Common Name	Size	Roots	Notes
2	AM	<i>Amelanchier x grandiflora</i> 'Autumn Brilliance'	Autumn Brilliance Serviceberry	8-10' ht.	B&B	ROW
19	PO	<i>Picea omarika</i>	Serbian Spruce	7-8' ht	B&B	C.L.U.B.
14	PG	<i>Picea glauca</i>	White Spruce	7-8' ht.	B&B	C.L.U.B.
9	TA	<i>Tilia americana</i> 'Redmond'	Redmond Basswood	3" cal	B&B	Mitigation / P.S.B. / VUA
17	JS	<i>Juniperus chinensis</i> 'Sea Green'	Sea Green Juniper	24-30' ht	B&B	ROW / C.L.U.B.
4	LT	<i>Liriodendron tulipifera</i>	Tulip Tree	3" cal	B&B	C.L.U.B.
16	CS	<i>Cornus sericea</i> 'Bailey'	Bailey Red Twig Dogwood	24-30" ht.	Cont.	C.L.U.B. / P.S.B.
5	CO	<i>Celtis occidentalis</i>	Hackberry	3" cal	B&B	Mitigation / C.L.U.B. / P.S.B.
11	UA	<i>Ulmus americana</i> 'Valley Forge'	Valley Forge American Elm	3" cal	B&B	Mitigation
3	AR	<i>Acer rubrum</i> 'Red Sunset'	Red Sunset Maple	2.5-3" cal	B&B	VUA
27	VT	<i>Viburnum trilobum</i> 'Bailey Compact'	Bailey American Cranberry	24-30' ht	Cont.	C.L.U.B. / P.S.B.

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Maple Cove
Ann Arbor, MI
Proposed Elevations

**J BRADLEY MOORE
& ASSOCIATES**
4844 Jackson Road, #150 Ann Arbor, MI 48103 (734) 930-1500

revisions

job 212050

drawn kwk
date 02.21.12

sht
A2.1



MAPLE COVE DEVELOPMENT AGREEMENT

THIS AGREEMENT, made this leave blank day of leave blank, 2012, by and between the City of Ann Arbor, a Michigan Municipal Corporation, with principal address at 100 North Fifth Avenue, Ann Arbor, Michigan 48107, hereinafter called the CITY; and Dynasty Enterprises, a corporation, with principal address at 2858 S Main Street, Ann Arbor, MI. 48103, hereinafter called the PROPRIETOR, witnesses that:

WHEREAS, the PROPRIETOR owns certain land in the City of Ann Arbor, described below and site planned as Maple Cove Apartments , and

WHEREAS, the PROPRIETOR has caused certain land in the City of Ann Arbor, described below to be surveyed, mapped and site planned as Maple Cove Apartments, and desires site plan and development agreement approval thereof, and

WHEREAS, the PROPRIETOR desires to build or use certain improvements with and without the necessity of special assessments by the CITY, and

WHEREAS, the CITY desires to insure that all of the improvements required by pertinent CITY ordinances and regulations be properly made, and that the PROPRIETOR will install these improvements prior to any permits being issued.

THE PROPRIETOR(S) HEREBY AGREE(S):

(P-1) To prepare and submit to the CITY for approval plans and specifications ("the Plans") prepared by a registered professional engineer for construction of public water and sanitary sewer mains, public and private storm water management systems, public streets, sidewalks and streetlights ("the Improvements") provided that no work on said Improvements shall be commenced until the Plans have been approved by the City Administrator or designee, and until such other relevant information to CITY service areas as shall be reasonably required has been provided.

(P-2) To construct all improvements set forth in Paragraph P-1 of this Agreement in accordance with the approved Plans and to repair all defects in the improvements that occur within one year from the date of acceptance of the Improvements by the CITY, commencing on the latest date of the acceptance of any Improvements by the CITY. If the PROPRIETOR fails to construct the improvements, the CITY may send notice via first class mail to the PROPRIETOR at the address listed above requiring it to commence and complete the improvements in the notice within the time set forth in the notice. The CITY may cause the work to be completed at the expense of the PROPRIETOR, if the PROPRIETOR does not complete the work within the time set forth in the notice. Every owner of a portion of the property, including co-owners of condominium units, shall pay a pro-rata share of the cost of the work. That portion of the cost of the work attributable to each condominium unit shall be a lien on that Property and may be collected as a single tax parcel assessment as provided in Chapter 13 of the Ann Arbor City Code.

(P-3) To furnish, within 30 days of completion, an engineer's certificate that the construction of the public improvements set forth in Paragraph P-1 above have been completed in accordance with the specifications of the CITY in accordance with the approved plans. The engineer's certificate will cover only those items the PROPRIETOR'S engineer inspects.

(P-4) Prior to the issuance of vertical building permits and recording the master deed, to deposit with a mutually acceptable escrow agent fully executed documents in a form acceptable to the CITY, which will convey, upon delivery to the CITY, easements for the construction and maintenance of public utilities and public streets. The escrow agreement shall provide for delivery of the documents to the CITY solely upon the condition that the CITY has accepted the public Improvement to be conveyed by the easement.

(P-5) To provide, prior to the issuance of building permits, a signing plan to the Fire Department and install all street name signs according to CITY specifications and to provide and install such temporary warning signs during the construction period as are appropriate to protect the health, safety and welfare of the public.

(P-6) Prior to issuance of building permits for the lots, to install the lot monuments and lot corners or provide escrow funds to insure placement of monuments and lot corners in accordance with section 125 of Public Act No. 288, Subdivision Control Act, for all lots and assign lot numbers in the master deed that conform to those on the approved site plan.

(P-7) To install all water mains, storm sewers, sanitary sewers and public streets, through the first course of asphalt, pursuant to CITY approved plans and specifications, necessary to connect the site with existing CITY systems adjacent to the site prior to the issuance of any building permits.

(P-8) To be included in a future special assessment district, along with other benefiting property, for the construction of additional improvements to North Maple Road, such as street widening, storm sewers, curb and gutter, sidewalks, bike paths, street lights, and the planting of trees along North Maple Road, frontage when such improvements are determined by the CITY to be necessary. A provision shall be included in the master deed of the project stating that if the CITY undertakes to establish a special assessment district to improve North Maple Road, each unit shall be assessed its pro rata share of the cost of improvements allocable to the Property.

(P-9) To indemnify and hold the CITY harmless from any claims, losses, liabilities, damages or expenses (including reasonable attorney fees) suffered or incurred by the CITY based upon or resulting from any acts or omissions of the PROPRIETOR, its employees, agents, subcontractors, invitees, or licensees in the design, construction, maintenance or repair of any of the Improvements required under this Agreement and the approved site plan.

(P-10) To cause to be maintained General Liability Insurance and Property Damage Insurance in the minimum amount of \$1,000,000 per occurrence and naming the CITY as named insured to protect and indemnify the CITY against any claims for damage due to public use of the public improvement(s) in the development prior to final written acceptance of the public improvement(s) by the CITY. Evidence of such insurance shall be produced prior to any construction of improvement and a copy filed with the City Clerk's Office and shall remain in full force and effect during construction of the public improvement(s) and until notice of acceptance by the CITY of the Improvements.

(P-11) Existing landmark trees shown on the site plan as trees to be saved shall be maintained by the PROPRIETOR or each condominium unit owner in good condition for a minimum of three years after acceptance of the public improvements by the CITY or granting of Certificate of Occupancy or final approval of the lot or unit. Existing landmark trees that are determined by the CITY to be dead, dying or severely damaged due to construction activity within three years after acceptance of the public improvements or granting of Certificate of Occupancy or final approval of the lot or unit, shall be replaced by the PROPRIETOR as provided by Chapter 57 of the Ann Arbor City Code.

(P-12) To deposit, prior to any building permits being issued, a street tree planting escrow account with the Parks and Recreation Services Unit in the form of a check payable to the City of Ann Arbor. The escrow amount shall be based on the CITY policy in effect at that time and is to include all on-site public streets. The City Administrator may authorize the PROPRIETOR to install the street trees if planted in accordance with CITY standards and specifications. If the street trees are found to be acceptable by the CITY, the escrow amount will be returned to the PROPRIETOR one year after the date of acceptance by the CITY.

(P-13) To complete an archaeological study for the site, as required by CITY ordinance or regulations, which is acceptable to the CITY prior to issuance of a grading permit and to follow the recommendations of the report.

(P-14) To create an association (or associations) composed of all owners of Maple Cove Apartments and Village condominium, hereinafter called the "Association", in which membership shall be required by covenants and restrictions recorded as part of the master deed for Maple Cove Apartments and Village. The association(s) shall be responsible for and shall execute the appropriate documents insuring perpetual maintenance and ownership of the landscape materials, exterior lighting, driveways, on-site storm water management system, and all other common elements.

(P-15) To construct, repair and/or adequately maintain on-site storm water management system. If the PROPRIETOR fails to construct, repair and/or maintain the private storm water management system, the CITY may send notice via first class mail to the PROPRIETOR at the address listed above, requiring it to commence and complete the items stated in the notice within the time set forth in the notice. The CITY may cause the work to be completed at the expense of the PROPRIETOR if the PROPRIETOR does not complete the work within the time set forth in the notice.

(P-16) After construction of the private on-site storm water management system, to maintain it until non-developer co-owners elect one or more directors to the Association's board of directors. Thereafter, by provision in the master deed, the Association shall own and maintain the storm water management system. Any proposed changes to the system must be approved by the City of Ann Arbor Systems Planning and Planning and Development Services Units. If the PROPRIETOR or Association, as appropriate, fails to maintain any portion of the system, the CITY may send notice via first class mail to the PROPRIETOR, or Association, at the address listed above, requiring it to commence and complete the maintenance stated in the notice within the time set forth in the notice. The CITY may cause the work to be completed at the expense of the PROPRIETOR or Association if the PROPRIETOR or Association does not complete the work, as appropriate, within the time set forth in the notice. If the CITY completes the work, and the costs remain unpaid by the Association for 60 days after notice via first class

mail, the CITY may bill each condominium unit for the pro rata share of the total cost, or assess the pro rata share of those costs to each condominium unit as a single tax parcel assessment as provided in Chapter 13 of Ann Arbor City Code. Provisions for maintenance and responsibility for the storm water management system, as well as the pro rata share of each condominium unit shall be included by the PROPRIETOR in the master deed.

(P-17) After construction of the private on-site storm water management system, to commission an annual inspection of the system by a registered professional engineer evaluating its operation and stating required maintenance or repairs, and to provide a written copy of this evaluation to the CITY Public Services Area.

(P-18) To prepare and submit to the Planning and Development Services Unit one copy of the Master Deed, along with the required review fee of \$1,500.00, prior to issuance of building permits.

(P-19) To design, construct, repair and maintain this development in accordance with the provisions of Chapter 119 (Noise Control) to ensure that any noise emanating from said development will not impact nearby residents or businesses. In addition, PROPRIETOR shall review existing noise sources surrounding said development and incorporate necessary design and construction techniques to ensure that future tenants will not be exposed to noise sources in violation of Chapter 119.

(P-20) To include the elevation drawings, as submitted to City Council, as part of the approved site plan and to construct all buildings consistent with said elevation drawings. If the PROPRIETOR proposes any changes to the approved building elevations, setbacks, aesthetics, or materials, that those changes be brought back to the City Council for consideration. The PROPRIETOR is required to submit signed and sealed drawings to staff reflecting the elevations, setbacks, aesthetics, materials and site plan approved by City Council.

(P-21) To remove all discarded building materials and rubbish from the development at least once each month during construction of the development improvements, and within one month after completion or abandonment of construction.

(P-22) No lot in Maple Cove Apartments and Village may be divided such that an additional building parcel is created.

(P-23) Prior to application for and issuance of certificates of occupancy, to disconnect 10 footing drains from the sanitary sewer system in accordance with the *Guidelines for Completion of Footing Drain Disconnections, City of Ann Arbor - Development Offset-Mitigation Program* (November 2005 edition, as amended). The PROPRIETOR, however, may be allowed to obtain partial certificates of occupancy for the development prior to the completion of all of the required footing drain disconnects on a prorated basis, at the discretion of the CITY Public Services Area. All required footing drain disconnects for the single-family homes must be completed before issuance of the certificate of occupancy for the first single-family home. CITY agrees to provide PROPRIETOR with a certificate of completion upon PROPRIETOR'S submittal of approved and final closed-out permits to the CITY Public Services Area.

(P-24) PROPRIETOR is the sole title holder in fee simple of the land described below except for any mortgage, easements and deed restrictions of record and that the person(s)

signing below on behalf of PROPRIETOR has (have) legal authority and capacity to enter into this agreement for PROPRIETOR.

(P-25) Failure to construct, repair and/or maintain the site pursuant to the approved site plan and/or failure to comply with any of this approved development agreement's terms and conditions shall constitute a material breach of the Agreement and the CITY shall have all remedies in law and/or in equity necessary to ensure that the PROPRIETOR complies with the approved site plan and/or the terms and conditions of the approved development agreement. The PROPRIETOR shall be responsible for all costs and expenses including reasonable attorney fees incurred by the CITY in enforcing the terms and conditions of the approved site plan and/or development agreement.

(P-26) In addition to any other remedy set forth in this Agreement or in law or equity, if PROPRIETOR fails to make a timely or full payments to the CITY as set forth elsewhere in the Agreement to the CITY in the agreed upon manner, any unpaid amount(s) shall become a lien, as provided under Ann Arbor City Code and recorded with the Washtenaw County Register of Deeds, against the land described below and may be placed on the CITY tax roll as a single lot assessment, or if the development is converted to condominium ownership, every owner of a portion of the property shall pay a pro-rata share of the amount of the payments attributable to each condominium unit. If the unpaid amount(s), in whole or in part, has been recorded as a lien on the CITY'S tax roll and with the Washtenaw County Register of Deeds, upon payment of the amount in full along with any penalties and interest, the CITY, upon request, will execute an instrument in recordable form acknowledging full satisfaction of this condition.

(P-27) To pay for the cost of recording this Agreement with the Washtenaw County Register of Deeds, and to pay for the cost of recording all documents granting easements to the CITY.

THE CITY HEREBY AGREES:

(C-1) In consideration of the above undertakings, to approve the Maple Cove Apartments and Village site plan.

(C-2) To provide timely and reasonable CITY inspections as may be required during construction.

(C-3) To record this agreement with the Washtenaw County Register of Deeds.

GENERAL TERMS

Both the PROPRIETOR and the CITY agree as follows:

(T-1) This agreement is not intended to create a contractual right for third parties.

(T-2) This Agreement and any of its terms, conditions, or provisions cannot be modified, amended, or waived unless in writing and unless executed by both parties to this Agreement. Any representations or statements, whether oral or in writing, not contained in this Agreement shall not be binding on either party.

(T-3) This Agreement and any of its terms or conditions shall not be assigned or transferred to any other individual or entity unless prior approval of the CITY is received. Such approval shall not be withheld unreasonably.

(T-4) The obligations and conditions on the PROPRIETOR, as set forth above in this Agreement and in the approved site plan, shall be binding on any successors and assigns in ownership of the following described parcel:

legal description(s) to be inserted here

(T-5) In addition to any other remedy in law or in equity failure to comply with all of the above paragraphs on the part of the PROPRIETOR, or any part of the approved site plan, in part or in whole, shall give the CITY adequate basis and cause to issue a stop work order for any previously-issued building permits and shall be an adequate basis and cause for the CITY to deny the issuance of any building permits, certificates of occupancy, or any other permits unless and until the CITY has notified the PROPRIETOR in writing that the PROPRIETOR has satisfactorily corrected the item(s) the PROPRIETOR has failed to perform.

(T-6) This agreement shall be interpreted, enforced and governed under the laws of the State of Michigan and Ann Arbor City Code.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day first above written.

Witnesses:

CITY OF ANN ARBOR, MICHIGAN
100 North Fifth Avenue
Ann Arbor, Michigan 48107

By: _____
John Hieftje, Mayor

By: _____
Jacqueline Beaudry, City Clerk

Approved as to Substance:

Steven Powers, City Administrator

Approved as to Form:

Stephen K. Postema, City Attorney

Witness:

By: _____
Name, Title

STATE OF MICHIGAN)
) ss:
County of Washtenaw)

On this _____ day of _____, 2005, before me personally appeared John Hieftje, Mayor, and Jacqueline Beaudry, Clerk of the City of Ann Arbor, a Michigan Municipal Corporation, to me known to be the persons who executed this foregoing instrument, and to me known to be such Mayor and Clerk of said Corporation, and acknowledged that they executed the foregoing instrument as such officers as the free act and deed of said Corporation by its authority.

NOTARY PUBLIC
County of Washtenaw, State of Michigan
My Commission Expires: _____
Acting in the County of Washtenaw

STATE OF MICHIGAN)
) ss:
County of Washtenaw)

On this _____ day of _____, 2005, before me personally appeared _____, to me known to be the person who executed the foregoing instrument, and acknowledged that he executed the foregoing instrument as his free act and deed.

NOTARY PUBLIC
County of Washtenaw, State of Michigan
My Commission Expires: _____
Acting in the County of Washtenaw

DRAFTED BY AND AFTER RECORDING RETURN TO:
Ann Arbor Planning & Development Services
Post Office Box 8647
Ann Arbor, Michigan 48107
(734) 994-2800

DRAFT