

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of November 20, 2007

**SUBJECT: 42 North Planned Project Site Plan (1430 South Maple Road)
File No. 8361C19.5**

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the 42 North Planned Project Site Plan, and Development Agreement, subject to the approved land division and resolution of Land Development Coordinator's concerns regarding the water budget calculations.

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the 42 North wetland use permit to remove up to 53,547 square feet of wetland area and mitigation plan, including replacement of at least 81,336 square feet, and restoration and monitoring of the remaining wetland area.

STAFF RECOMMENDATION

Staff recommends that the planned project site plan petition be **approved** because it would comply with all applicable local, state and federal laws, ordinances, standards and regulations; the development would limit the disturbance of natural features to the minimum necessary to allow a reasonable use of the land; would not cause a public or private nuisance; and would not have a detrimental effect on public health, safety or welfare.

Staff recommends **approval** of the wetland use permit because issuance of the permit is in the public interest, the permit is necessary to realize the benefits from the development, and the activity is otherwise lawful.

REVISED STAFF REPORT

This petition was tabled on October 16, 2007 to allow additional time for staff to address questions raised by the Planning Commission.

Increased Deferred Parking – The amount of parking being deferred has increased from 178 to 272 spaces. This results in a parking ratio of 2.3 spaces per unit.

Traffic Study – The City Traffic Engineer has reexamined the traffic study and does not recommend changes to the proposed plan. As stated in the staff review letter, the proposed

development will generate a sizable number of trips, but the impact to the system is minimal. Part of the reason is the proposed shuttle service, which tempers trips somewhat, and the second is the available capacity of Maple Road. The signal at the Pauline/Maple intersection was planned as a temporary signal. The volumes there were below what is needed to warrant a signal but they were close. Upon recounting the intersection after construction, volumes were above the thresholds and the additional traffic would merit a signal. The signal is planned to be a permanent installation at this time.

The existing levels of service at the adjacent intersections are all LOS C or better. Post development projections are still LOS C or better. Thus, no mitigation is planned (except indirectly the retention of the Pauline/Maple signal).

Neighborhood Meeting – On October 30, 2007, the petitioner held a second neighborhood meeting at Dicken School. Approximately 80 people were in attendance and the project was presented and questions from the neighborhood were answered. There was no consensus or agreement reached at this meeting.

Planned Project Justifications - The following are responses to Planning Commission concerns regarding additional planned project justification:

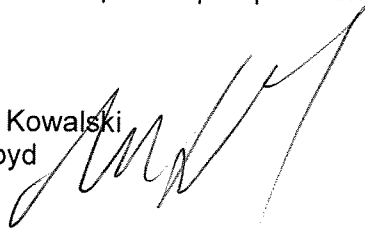
Energy Efficiency – The petitioner has indicated that sustainable design strategies will be utilized wherever economically feasible to minimize energy consumption. In addition, the petitioner will install all 'Energy Star' appliances, which typically use 10-50 percent less energy and water consumption. All interior and attic insulation will exceed minimum Michigan building code requirements.

Active Open Space – The new code language requires 30 square feet of ACTIVE open space per unit. The proposed development would require a minimum of 48,000 square feet and is actually proposing 60,000 square feet of active open space in the central courtyard of the project. This provides 25 percent more active open space than required by City Code.

The following issues are addressed in the attached memo, dated 11-08-2007, from Cresson Sloten, Senior Project Manager:

- Summarize private/public study conducted on water pressure.
- Analyze downstream water pressure, supply and sanitary sewer impacts.
- More details on other private pump stations within the City.

Prepared by Matthew Kowalski
Reviewed by Mark Lloyd
jsj/3/29/07



Attachments: 10/16/07 Staff Report
11/8/07 Memorandum from Systems Planning
Revised Site Plan

c: Petitioner: WP East Acquisitions, LLC
1001 Morehead Square Drive
Charlotte, NC 28203

Petitioner's Agent: Midwestern Consulting
3815 Plaza Drive
Ann Arbor, Michigan 48108

City Attorney
Systems Planning
File No. 8361C19.5

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STAFF RECOMMENDATION

Staff recommends that the planned project site plan petition be **approved** because it would comply with all applicable local, state and federal laws, ordinances, standards and regulations; the development would limit the disturbance of natural features to the minimum necessary to allow a reasonable use of the land; would not cause a public or private nuisance; and would not have a detrimental effect on public health, safety or welfare.

Staff recommends **approval** of the wetland use permit because issuance of the permit is in the public interest, the permit is necessary to realize the benefits from the development, and the activity is otherwise lawful.

LOCATION

This site is located on the west side of Maple Road, which runs parallel to I-94, and is in the Allen Creek watershed (West Area).

DESCRIPTION OF PETITION

The subject site is 15.32 acres in size and is currently zoned R4B (Multiple-Family Dwelling District). The parcel will be divided from the existing Grace Bible Church site (separate item on tonight's agenda) before action from City Council. There are currently two existing houses on

the site that will be removed. I-94 runs along the west side of the site, causing the site to have two front lot lines. Grace Bible Church abuts the site on the north side and the Surrey Park Apartments abut the property on the south side. The petitioner proposes to construct 160 four-bedroom student dwelling units in five buildings, along with 640 parking spaces, a clubhouse, central recreation area and maintenance/pump house. The clubhouse will contain student amenities such as indoor basketball court, game room and study hall. There is also a proposed AATA bus stop in front of the clubhouse for direct service to the U of M Central Campus.

Natural features on the site include 12 small wooded wetlands located throughout the site and two landmark trees. The two landmark trees will be removed and replacement will be provided by planting four additional trees on site as required by City Code. The wetlands range in size from 0.003 acre (130 square feet) to 0.337 acre (14,680 square feet). Staff has evaluated the existing wetland areas to be of medium to low quality, some of which were created by historical dumping and filling on the site by previous owners. The largest wetland on site is regulated by the Michigan Department of Environmental Quality (MDEQ) and will be preserved by the petitioner. This wetland is approximately 14,680 square feet in area and is protected by a 25-foot natural features open space buffer as required by City Code. The remaining wetlands are not regulated by the MDEQ, but are subject to the City of Ann Arbor Guidelines for the Protection and Mitigation of Natural Features. All wetlands, except for the largest one, will be removed and mitigated as required by City Code. Numerous invasive species are found in and around the wetland and will be removed by the petitioner. All wetland mitigation will be designed on the adjacent Grace Bible Church site and subject to approval of the Planning Commission in a separate petition for the revision to the Approved Natural Features Protection Plan for Grace Bible Church. The review of this project has run concurrently with the review of the 42 North plan.

Currently, one curb cut serves the existing two houses on the site. This curb cut will be removed and one new curb cut is proposed on Maple Road to provide access to the development. A total of 640 off-street parking spaces are planned. Of the 640 total parking spaces, the petitioner will defer 146 parking spaces, 189 will be constructed with porous pavers to minimize impervious surface, and 30 parking spaces will be located in garages. The petitioner also is proposing 240 bicycle parking spaces; 40 Class A and 200 Class C bicycle spaces. An 18-foot wide pedestrian and emergency vehicle connection to the Grace Bible site is proposed for the northwestern corner of the parking lot.

The site is the highest elevation point in the City of Ann Arbor. As such, inadequate water pressure currently exists to service the site. The petitioner is proposing a private pump station on site to supply adequate water pressure for fire protection and general water usage. All water mains on the site will be private and installed and maintained privately. The water mains will be constructed to City Standards so that if future upgrades to the City water systems provide sufficient water pressure to the site, the private pump station can be closed and all water mains on site will be dedicated to the public. In addition to the private pump station for water mains, water pumps are required in each building to provide adequate pressure for domestic and fire service for the upper stories of each building. The individual pumps for domestic and fire service within buildings will remain in perpetuity, even if the main pump station is removed.

Each building will contain 32 four-bedroom dwelling units and will have four stories. The total height of each residential building is 49 feet (average to mid-point of roof). As the maximum height in the R4B district is 30 feet, planned project modification for increased height has been requested. Buildings have two entrances in the front, two entrances in the rear leading to exterior stairways, and each dwelling unit has a private exterior balcony or patio.

Storm water detention is being provided in surface detention basins in the western part of the site adjacent to the parking lot. The site will also provide required storm water detention in a shared detention basin on the adjacent Grace Bible site. The storm water detention plan has received preliminary approval from the Washtenaw County Drain Commissioner.

SURROUNDING LAND USES AND ZONING

	LAND USE	ZONING
NORTH	Church – Grace Bible Church	R4B (Multiple-Family Dwelling District)
EAST	Single-Family Residential	R1C (Single-Family Dwelling District)
SOUTH	Multiple-Family Residential	R3 (Townhouse Dwelling District)
WEST	Federal Highway (I-94)	TWP (Township District)

COMPARISON CHART FOR SITE PLAN

		EXISTING	PROPOSED	REQUIRED
Zoning		R4B	R4B	R4B
Gross Lot Area		7,200 sq ft MIN	351,094 sq ft	14,000 MIN
Lot Area Per Unit		7,200 sq ft MIN	2,900 sq ft	2,900 MIN
Setbacks	Front	35 ft to 135 ft (Burton Rd) 135 ft to 230 ft (US-23)	Club House – 216 ft (Maple Road) Bldg 3 – 196 ft (I-94) <i>(setbacks to closest building)</i>	Club House – 41 ft 9in (Maple Road)* Bldg 3 – 46 ft 9in (I-94)* <i>(setbacks to closest front)</i>
	Side	0 ft to 130 ft	156 ft to north side 156 ft to south side	30 ft MIN to north 29 ft MIN to south side
	Rear	Site has no rear	Site has no rear	Site has no rear
Height		1 and 2 stories	49'1"	30 ft MAX
Open Space		Not Applicable	57.1%	55% MIN
Vehicle Parking		Unknown	640 spaces including 146 deferred and 30 within garages	240 spaces MIN
Bicycle Parking		None	240 spaces – 40 Class A, 200 Class C	116 spaces – 50% Class A, 50% Class C

Shading indicates proposed planned project modification.

* Add 1.5 inches per foot of height over 30 feet and 1.5 inches per foot of length over 50 feet

HISTORY

This site is part of the existing Grace Bible Church site. The existing Grace Bible church building was built in 1971 and in February 2007 a 28,297-square foot addition to the existing church was approved. In 1975-76, the church built two houses on the southern end of the property. In March 2007, a land division for the southern 15 acres of the Grace Bible site was

submitted. At the petitioner's request, the land division will not be completed until the 42 North plan is approved. On June 14, 2007, the petitioner met with members of the neighborhood to discuss the project (see attached letter and sign-in sheet).

PLANNING BACKGROUND

The site is located in the West Area. The West Area Plan, adopted in 1995, recommends higher density housing for this site to diversify housing options in the area.

PLANNED PROJECT STANDARDS

Planned project approval is requested to allow increased building heights of 49 feet 1 inch, where a maximum of 30 feet is permitted in the R4B district. Planned project approval is also requested to allow decreased building separation of 42 feet 6 inches between Buildings 1 and 2, and between Buildings 4 and 5, where a minimum of 60 feet 4 inches is required.

As stated by the petitioner, the modifications will allow increased setbacks, which help achieve the objectives of the project by enabling the buildings to be placed in the center of the site and as far as possible from I-94 and all surrounding parcels.

Based upon compliance with the following standards, the Planning Commission may recommend approval, and City Council may approve modifications of the area, height and placement regulations of the Zoning Chapter in the form of a planned project site plan: (Petitioner comments are in plain type; *staff comments are in italics.*)

- 1. The lot(s) included in the planned project must meet the minimum gross lot size requirement of the zoning district in which they are located.**

The site meets the minimum lot size of the R4B district. Minimum lot size is 14,000 square feet; the subject parcel is 351,094 square feet.

- 2. The proposed modifications of zoning requirements must provide one or more of the following:**

- a) Usable open space in excess of the minimum requirement for the zoning district.
- b) Building or parking setback(s) in excess of the minimum requirement for the zoning district.
- c) Preservation of natural features that exceeds ordinance requirements, especially for those existing features prioritized in the land development regulations as being of highest and mid-level concern.
- d) Preservation of historical or architectural features.
- e) Solar orientation or energy conserving design.
- f) An arrangement of buildings, which provides a public benefit, such as transit access, pedestrian orientation, or a reduced need for infrastructure or impervious surface.
- g) Affordable housing for lower income households.
- h) Permanent open spaces of 20 percent or more in any low-density residential district.

The proposed modifications of zoning requirements provide the following:

- a. There is a small increase in open space over the required 55 percent to 57.5 percent.
- b. Building setbacks are much greater than required per the following chart:

<u>Bldg.</u>	<u>Avg. Ht.</u>	<u>Length</u>	<u>Front</u>		<u>Ave. Ht.</u>	<u>Length</u>	<u>Side</u>	
			<u>Req.</u>	<u>Prov.</u>			<u>Req.</u>	<u>Prov.</u>
1	49.1'	82.8'	E 30.5'	342'	49.1'	205.2'	N 32'	156'
2	49.1'	82.8'	E 30.5'	36.6'	49.1'	205.2'	N 32'	156'
3	49.1'	205.2'	W 46.8'	205'	49.1'	82.8'	N 22.9'	156'
						82.8'	S 20.9'	252'
4	49.1'	82.8'	W 30.5'	309.6'	49.1'	205.2'	S 30'	156'
5	49.1'	61.7'	E 28.9'	350'	49.1'	205.2'	S 30'	156'
Club.	24.5'	182'	E 41.8'	218.7'	32.1'	64'	N 29.3'	215'
					20.67'	45'	S 29.3'	88'
Maint.	15.67'	52.1'	W 25.3'	136.3'	15.67'	47.2'	S 12.3'	93'

The proposed modifications provide (a) usable open space in excess of the minimum requirement and (b) building setbacks in excess of the minimum requirement. Approximately 57.5 percent usable open space is proposed where 55 percent is the minimum requirement in the R4B district. All setbacks are substantially in excess of the minimum requirement in the R4B district. The standards for planned project approval require only one of the listed reasons to justify approval. It is staff's opinion that any one of these reasons is sufficient justification.

3. The planned project shall be designed in such a manner that traffic to and from the site will not be hazardous to adjacent properties.

The planned project is designed so that traffic to and from the site will not be hazardous to adjacent properties. A secondary/emergency/Sunday only access drive is proposed to link to the Grace Bible Church site to the north.

Staff acknowledges.

4. The proposed modifications shall be consistent with the proper development and use of adjacent land and buildings.

No response.

Staff believes the modifications are consistent with proper development and use of land.

5. Required off-street parking and landscaping must be provided in accordance with the provisions of Chapters 59 and 62.

Required off-street parking is provided. Conflicting land use buffer and right-of-way screening landscaping is provided per ordinance.

Staff agrees.

6. The standards of density, allowable floor area and required usable open space for the zoning district(s) in which the project is located must be met.

Standards are met or exceeded as follows:

<u>Standard</u>	<u>Permitted/Required</u>	<u>Proposed</u>
Density	15 dwelling units/acre 225 units	10.67 dwelling units per acre 160 units
Floor area	No standard	N/A
Open space	55 percent	57.5 percent

The proposed project exceeds the standards of density and required usable open space for the R4B district, which requires a minimum of 2,900 square feet of land area per dwelling unit and a minimum of 55 percent usable open space.

7. There shall be no uses within the proposed project which are not permitted uses in the zoning district(s) in which the proposed project is to be located.

The proposed uses are permitted in the R4B zoning district.

The uses within the proposed project are compatible with the R4B district.

SERVICE UNIT COMMENTS

Parks and Recreation – A parks contribution of \$97,216 is being requested.

Systems Planning – The sanitary sewer mitigation calculations were reviewed and approved: 49 footing drain disconnections must be completed. As this area is in an identified sewer problem area (Dartmoor), these disconnections must all occur upstream of the problem area.

The project needs to include a fully private, pressurized water distribution system (all water mains, hydrants, etc.) with the anticipation that when certain system improvements are completed, the on-site pressurization of the distribution system may no longer be needed and the water mains could be placed onto system pressure and converted to public (City) water mains. Booster pumps for building domestic water and fire service will be required in perpetuity.

Planning and Development Services (Land Development) – Staff has noted items relating to wetland mitigation that must be addressed. In general, more detailed information about the wetland mitigation areas proposed the proposed water supply source must be provided to determine the feasibility of the proposed mitigation area. Staff wants to ensure that adequate water is supplied to support the proposed wetland type. This should be addressed before the plan proceeds to City Council. The mitigation area also needs approval from the MDEQ.

Planning and Development Services (Planning) – Regarding the proposed site plan, staff has few comments about the proposed style and layout of the site and supports the planned project modification request. As proposed, the development would significantly contribute to the supply of student housing in the City. In order to minimize the amount of vehicular traffic from the site, the petitioner has worked extensively with the AATA to provide frequent on-site bus shuttle service. Staff has received communication from the AATA documenting conversations with the petitioners to provide a linkage with Central Campus. Discussions have included on-site pick up of students and possible subsidies of the bus route. The petitioner is committed to providing this

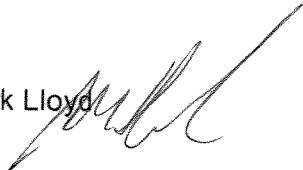
shuttle service for residents of the project and has provided this at similar developments in other locations.

Staff appreciates the amount of deferred parking and the porous pavers being used. However, it is recommended that some parking spaces be eliminated to limit the number that can be installed in the future. However if this is not possible, a greater number of parking spaces should be deferred or the use of porous pavers increased if the current amount of parking remains as proposed.

A development agreement will be prepared to address issues including the private pump station, wetland mitigation, and any other off-site issue that may arise.

Washtenaw County Drain Commissioner – The plan has been preliminarily approved. However, a mutually binding agreement will be needed between the proposed development and Grace Bible Church for the operation and maintenance of the shared detention basin. An easement for the entire basin shall be granted by Grace Bible Church to the 42 North project.

Prepared by Matthew Kowalski
Reviewed by Alexis DiLeo and Mark Lloyd
jsj/10/10/07



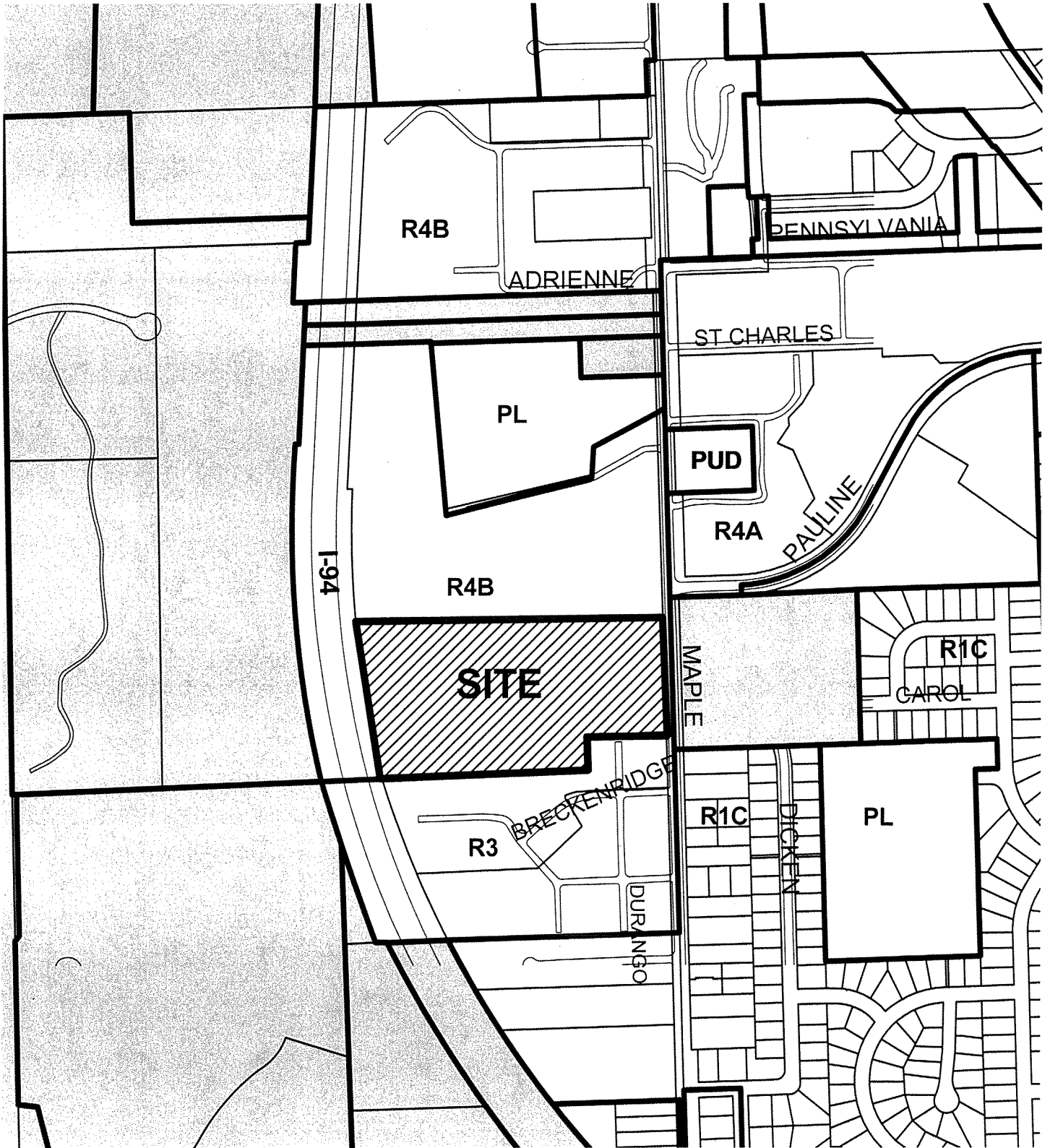
Attachments: Parcel and Zoning Map
Aerial Photo
Letter regarding Neighborhood Meeting
Proposed Landscape/Site Plan
Elevations
10/11/07 Development Agreement

c: Petitioner: Earl Ophoff
Midwestern Consulting
3815 Plaza Drive
Ann Arbor, MI 48108

Attorney
Systems Planning
File No. 8361C19.5

42 North Planned Project Site Plan

Parcel and Zoning Map



 Township Zoning

250 0 250 Feet



42 North Planned Project Site Plan

Aerial Photo



250 0 250 Feet



2002 Aerial Photo





J BRADLEY MOORE
& ASSOCIATES

Matt Kowalski
City of Ann Arbor Planning Dept.
100 N Fifth Ave.
Ann Arbor, MI 48104

October 5, 2007

Re: Maple Road Apartments project (aka 42 North apartment project)

Matt,

On or about the evening of June 14th, 2007 the project development team including myself, Earl Ophoff from Midwestern Consulting and Tim Anderson representing the Ownership /Development partnership met at the Grace Bible Church with concerned/interested members of the neighborhood to discuss the project. A copy of the sign-in sheet from that meeting is attached hereto (although not all the neighbors in attendance elected to sign-in). We sent out notices to a list of neighbors within 300 feet of the proposed project which was supplied to us by the city.

Issues raised by the neighbors included lighting levels in the parking lot, vegetative screening along the south property line of the project, security/crime prevention measures and quality of on-site management/up-keep operations. We believe we have adequately addressed these concerns. Parking lot lighting will be shielded to prevent spillage off-site as per city code. Screening plantings are included along the southern property line. Secured entry systems will be in place on building entries to discourage access to buildings by nonresidents. The on-site manager will have direct visual access of the entry points to the project, parking stickers will be provide to tenements so that cars not belonging to tenements will be easily identifiable. Management operations will be on-site not remote. If necessary management will contract with a private security company to patrol the parking lot during evening/night hours.

Those in attendance seemed very positive about the increased AATA bus service in the area that will result from the project.

We believe we had been responsible and responsive to the neighbors who shown interest in the project and are always open to hearing any other concerns the neighbors may have. If you have any other questions or concerns regarding the project please let me know.

Sincerely,

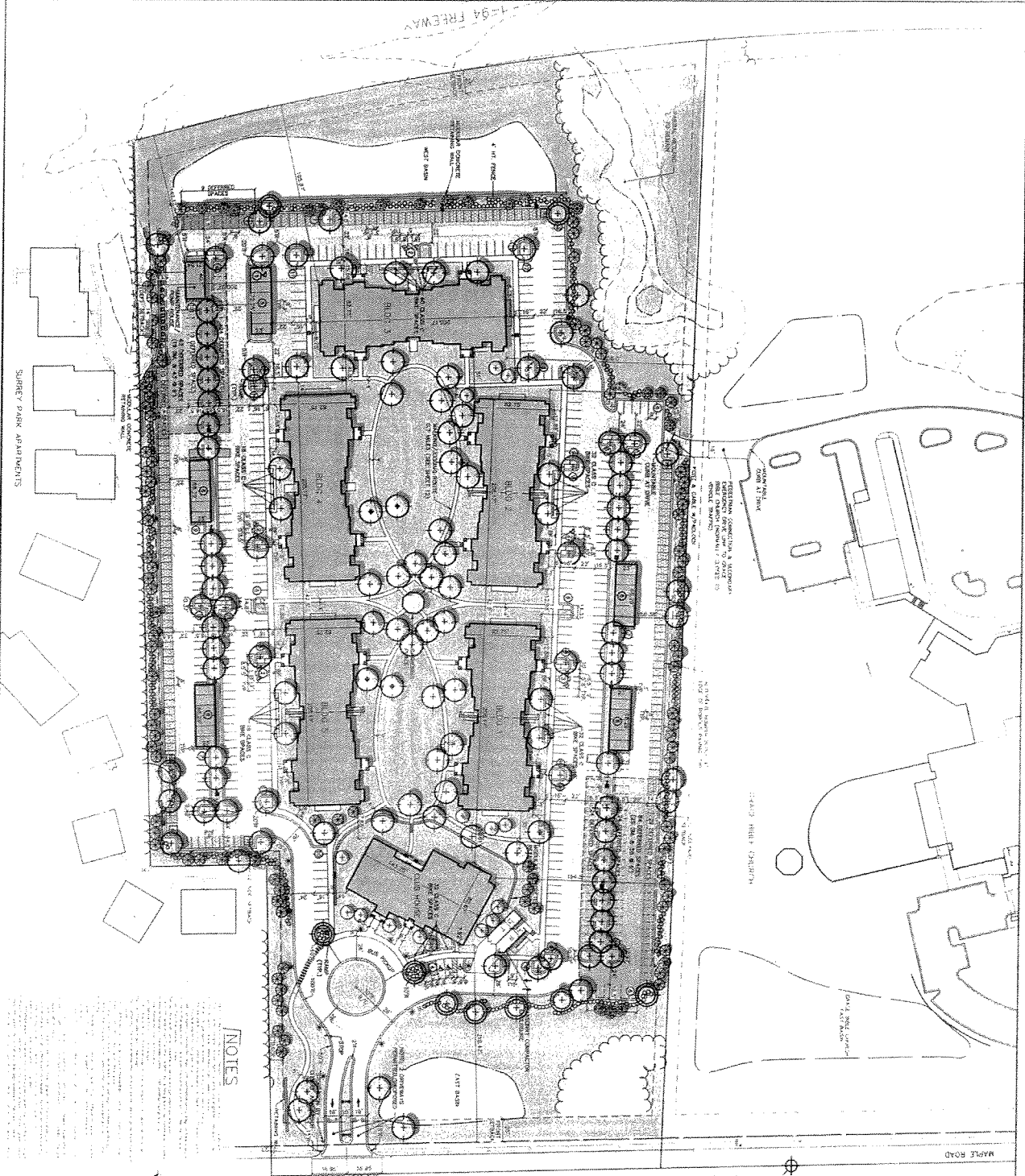


J Bradley Moore, AIA

J BRADLEY MOORE & ASSOCIATES ARCHITECTS, INC.

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734-930-1500 FAX: 734-994-1510
www.jbradleymoore.com

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Mary Elizabeth Palmer	1430 S Maple Rd	734-769-0934	markandme@gmail.com
David Gurk	1315 S. Maple Rd. #108	662-1785	dgurk@hotmail.com
Anne Bagley	1315 S. Maple Rd 307	769 8183	artbagley@yahoo.com
Felitha C. BOWENS	1402 Durango DR	332.3818	felitha6@juno
JAMIEL ZAID	1355 King George BLVD ReMax	734-660-4242	



NOTES

1. ALL DIMENSIONS ARE IN FEET AND INCHES. DIMENSIONS IN PARENTHESES ARE ALTERNATE DIMENSIONS.

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MAPLE ROAD

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LEGEND

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07009

42 NORTH APARTMENTS
PLANNED PROJECT SITE PLAN

MIDWESTERN CONSULTING

THREEDIMENSIONAL SITE PLAN

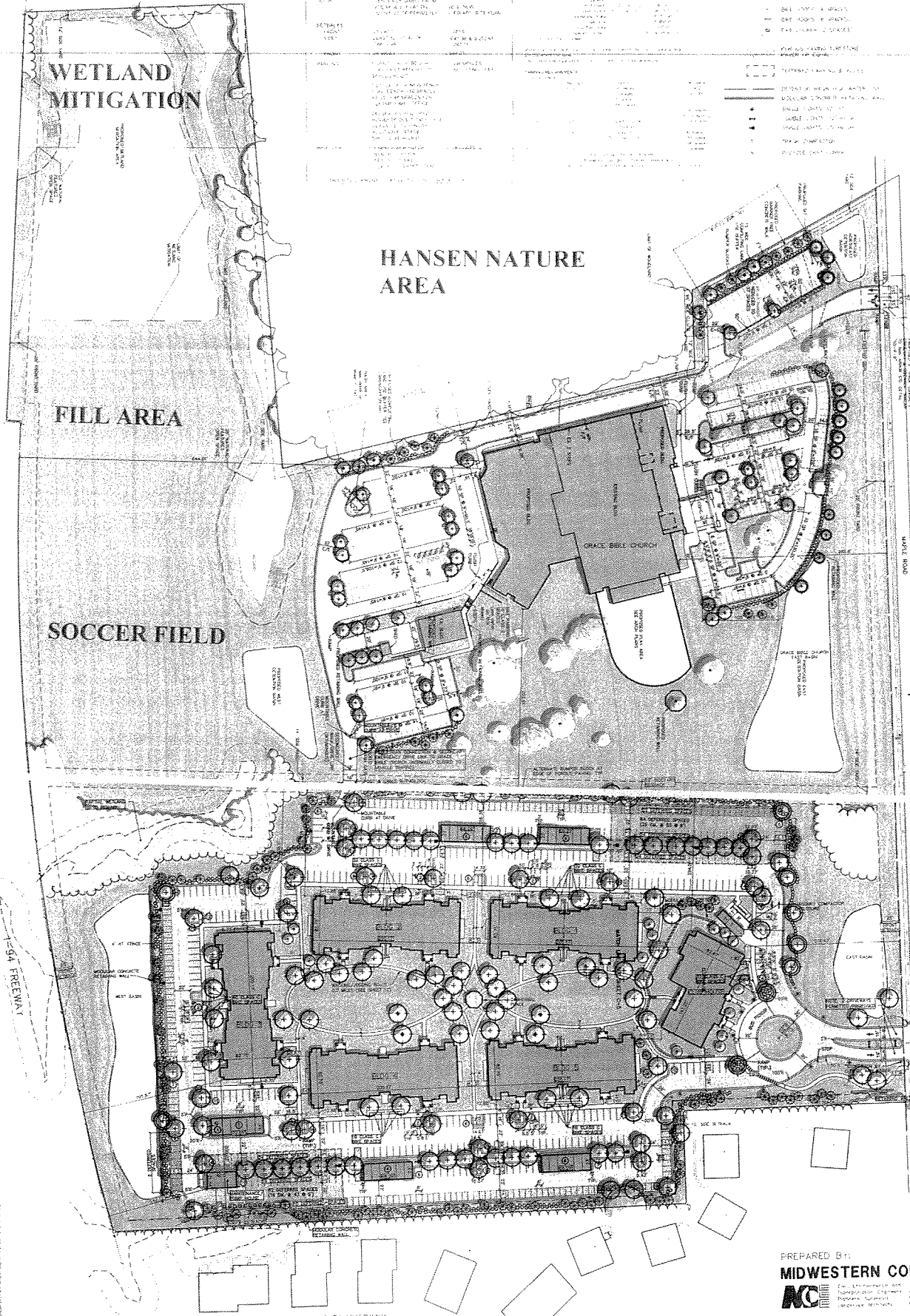
**GRACE BIBLE CHURCH
COMPARISON CHART**

42 NORTH APARTMENTS

NO.	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL
1	CONCRETE	1000	100.00	100,000.00
2	STEEL	500	200.00	100,000.00
3	BRICK	2000	50.00	100,000.00
4	GLASS	1000	100.00	100,000.00
5	PAINT	1000	100.00	100,000.00
6	ROOFING	1000	100.00	100,000.00
7	MECHANICAL	1000	100.00	100,000.00
8	ELECTRICAL	1000	100.00	100,000.00
9	PLUMBING	1000	100.00	100,000.00
10	LANDSCAPE	1000	100.00	100,000.00
11	CONCRETE	1000	100.00	100,000.00
12	STEEL	500	200.00	100,000.00
13	BRICK	2000	50.00	100,000.00
14	GLASS	1000	100.00	100,000.00
15	PAINT	1000	100.00	100,000.00
16	ROOFING	1000	100.00	100,000.00
17	MECHANICAL	1000	100.00	100,000.00
18	ELECTRICAL	1000	100.00	100,000.00
19	PLUMBING	1000	100.00	100,000.00
20	LANDSCAPE	1000	100.00	100,000.00

LEGEND

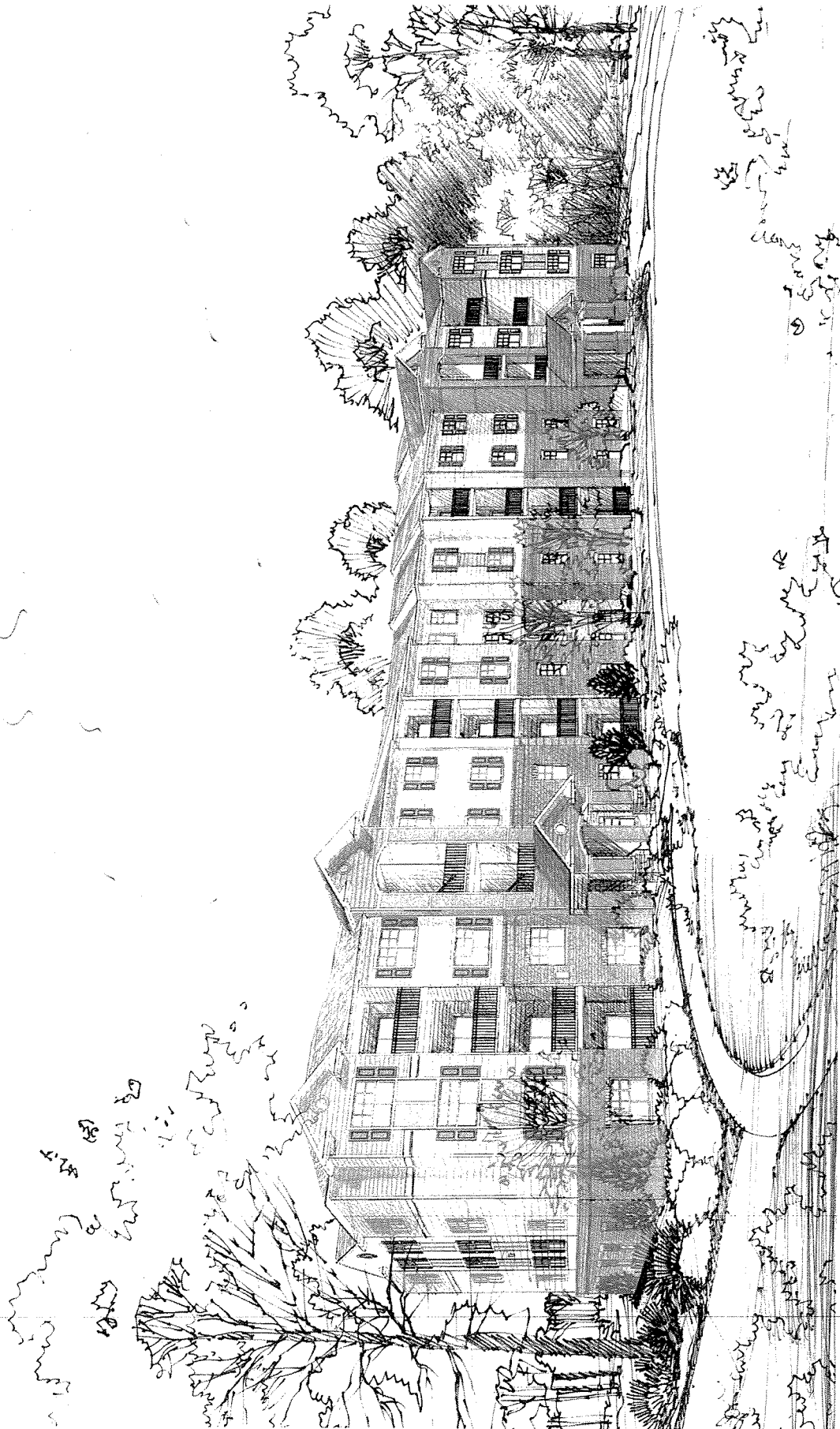
- EXISTING TREE
- NEW TREE PLANTING
- EXISTING TREE REMOVAL
- EXISTING TREE PRESERVE
- EXISTING TREE PROTECT
- EXISTING TREE TRIM
- EXISTING TREE TOPPING
- EXISTING TREE STUMP
- EXISTING TREE BRUSH
- EXISTING TREE LOGS
- EXISTING TREE CHIPS
- EXISTING TREE MULCH
- EXISTING TREE SOIL
- EXISTING TREE FERTILIZER
- EXISTING TREE WATER
- EXISTING TREE LIGHTS
- EXISTING TREE SIGNAGE
- EXISTING TREE BENCHES
- EXISTING TREE SEATINGS
- EXISTING TREE FOUNTAINS
- EXISTING TREE STATUES
- EXISTING TREE MONUMENTS
- EXISTING TREE WALLS
- EXISTING TREE FENCES
- EXISTING TREE GATES
- EXISTING TREE LIGHTS
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- EXISTING TREE SEATINGS
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- EXISTING TREE STATUES
- EXISTING TREE MONUMENTS
- EXISTING TREE WALLS
- EXISTING TREE FENCES
- EXISTING TREE GATES



PREPARED BY:
MIDWESTERN CONSULTING

 1517 15th Street
 St. Paul, MN 55109
 Phone: 612.291.2200
 Fax: 612.291.2200

42 NORTH APARTMENTS AND GRACE BIBLE CHURCH COMPOSITE PLAN



42 NORTH DEVELOPMENT AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2007, 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 _____, a _____, with principal address at _____, hereinafter called the PROPRIETOR, witnesses that:

WHEREAS, the PROPRIETOR owns certain land in the City of Ann Arbor, described below and site planned as 42 North; and

WHEREAS, the PROPRIETOR has caused certain land in the City of Ann Arbor, described below to be surveyed, mapped and site planned as 42 North, and desires planned project 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 HEREBY AGREES:

(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 private water and sanitary sewer mains, private storm water management systems and sidewalks ("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 private 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 building permits, 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 with delayed effectiveness for the maintenance of utilities if they are dedicated to the public at a later date. 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) To install all water mains, storm sewers, sanitary sewers and drives 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-7) To be included in a future special assessment district, along with other benefiting property, for the construction of additional improvements to South Maple Road, such as street widening, storm sewers, curb and gutter, sidewalks, bike paths, street lights, and the planting of trees along South Maple Road frontage when such improvements are determined by the CITY to be necessary.

(P-8) 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-9) 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-10) Existing trees shown on the site plan as trees to be saved shall be maintained by the PROPRIETOR in good condition for a minimum of three years after acceptance of the public improvements by the CITY or granting of Certificate of Occupancy. Existing 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, shall be replaced by the PROPRIETOR as provided by Chapter 57 of the Ann Arbor City Code.

(P-11) For the benefit of the residents of the PROPRIETOR'S development, to make a park contribution of \$97,216.00 to the CITY Parks and Recreation Services Unit prior to the issuance of building permits for improvements to west area parks.

(P-12) 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-13) 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-14) Prior to building permits being issued, to restrict, but not prohibit, by covenants and restrictions recorded with the Washtenaw County Register of Deeds, the use of lawn care chemicals and fertilizers in order to minimize the impacts on Allen Creek.

(P-15) Prior to the issuance of any permits, to submit to the CITY Land Development Coordinator for review and approval a 5-year Wetland Monitoring Plan, to implement the plan concurrently with construction of the site improvements, to submit an Invasive Species Control Plan to be implemented during the 5-year wetland monitoring period, and to submit an annual report regarding implementation of the Wetland Monitoring Plan recommendations to the CITY following issuance of certificates of occupancy.

(P-16) 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-17) 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-18) 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-19) Prior to application for and issuance of certificates of occupancy, to disconnect 49 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. 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-20) 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-21) 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-22) 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-23) 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 42 North Planned Project Site Plan.

(C-2) To use the park contribution described above for improvements to parks in the west area of the CITY.

(C-3) To provide timely and reasonable CITY inspections as may be required during construction.

(C-4) 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:

Commencing at the East 1/4 corner of Section 36, T2S, R5E, City of Ann Arbor, Washtenaw County, Michigan; thence N 01°19'00" W 126.81 feet along the East line of said Section 36 and the centerline of Maple Road (66 feet wide) to the POINT OF BEGINNING; thence S 88°41'00" W 343.00 feet; thence S 01°19'00" E 129.64 feet (recorded) 129.40 feet (measured); thence S 88°13'00" W 797.99 feet (recorded) S 88°15'01" W 798.16 (measured) along the East-West 1/4 line of said Section 36; thence Northerly 641.80 feet in the arc of a curve to the right, radius 3674.83 feet, central angle

10°00'24", and chord N 09°56'53" W 640.98 feet along the East right-of-way line of the I-94 Expressway; thence S 88°05'08" E 1239.30 feet; thence S 01°19'00" E 428.44 feet along the East line of said Section 36 and the centerline of said Maple Road to the POINT OF BEGINNING, being a part of the NE 1/4 of Section 36, T2S, R5E, City of Ann Arbor, Washtenaw County, Michigan, and containing 15.32 acres of land, more or less, subject to the rights of the public over the East 33 feet as occupied by Maple Road and subject to easements and restrictions of record, if any.

(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:

Roger W. Fraser, City Administrator

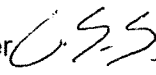
Approved as to Form:

Stephen K. Postema, City Attorney

MEMORANDUM

DATE: November 8, 2007

TO: Matt Kowalski
Planning and Development Services

FROM: Cresson S. Slotten, P.E., Senior Project Manager 
Public Services Area – Systems Planning

RE: 42 North Planned Project Site Plan
File No. 8361C19
Questions from 10/16/07 City Planning Commission Meeting

Below are our responses to questions from the above-mentioned meeting regarding the 42 North Planned Project Site Plan petition that you have requested us to respond to:

- Q: Provide summary of the private/public study conducted on water pressure in the area.
- R: The study was performed by CDM, a consultant who had recently updated the city's water distribution hydraulic model. The petitioner commissioned the work by CDM. The study examined how a typical extension of the city water distribution system though the site would be anticipated to function during various fire flow scenarios. The study concluded that such a system would meet the required minimum fire flow and pressure requirements for most conditions. However, it noted that under some extreme conditions, such as if the Liberty Road pump station was not available during a maximum day demand situation, then adequate fire flow could not be provided at the minimum required pressure by a typical on-site extension of the city water distribution system. The study used water system pressures at ground level to analyze service criteria and multi-level structures would need boosted water pressures to meet service pressure expectations.

In response to this result, the petitioner is proposing to construct a private, on-site water distribution system that includes a water booster station. Provisions are included so that in the event that the city's water distribution system is modified such that the need for the booster station is eliminated (although this is unlikely due to the high cost of modifying additional water system infrastructure to meet this criteria), then the city could potentially incorporate the on-site water distribution system into the city's system. Though not preferred, this proposal is allowed as the site will remain under single ownership.

- Q: How will this project affect water pressure and sanitary capacity?
- R: The private, on-site booster station for the water distribution system will increase the water pressure on the site. But because this will be a "closed" system, it will not affect the water pressure in the city water distribution system outside of the site.

With regards to affect on sanitary capacity, because this site will be generating new, additional flow into the sanitary sewer system the development must offset this flow by removing 120% of the amount of flow being added to the system. In addition, because this site flows into a known problem area (Industrial Park Sanitary District) downstream of the site, this required mitigation must take place within the upper reaches of the Industrial Park Sanitary District.

Q: Is there adequate water supply in the area?

R: There is a 20" water main in Maple Road providing the main water supply to the site, which is more than adequate supply for the site.

Q: Will this increase the possibility of sewer backups in the area?

R: As mentioned earlier, sanitary flow offset mitigation directed in the upper reaches of the Industrial Park Sanitary District will actually reduce the likelihood of sewer backups.

Q: Research more details on the history of private pump stations in the City. What other stations exist in the City and what are the problems, if any?

R: There are other sites in the city with private, isolated water distribution systems including the Pfizer sites and the VA Hospital site. The only sites that also include a private pump station is the Pinelake Village Cooperative site on South Maple Road and the Edwards Brothers commercial parcel on South State Street. Because these are private systems, the city does not perform any maintenance activities on them. As a result, unless we are notified by the owner(s) we are unaware as to what, if any, problems occur related to these systems. The only "problem" that we have been notified of is that the Edwards Brothers system has leaks; however the facility is still operating under these conditions.

CSS:cs (S:\System Planning\Public\Cresson\Planning Petitions\Maple Road Apartments\42 North CPC Q Responses.doc)

C: Craig Hupy, Systems Planning Manager
Alison Heatley, Senior Project Engineer
Troy Baughman, P.E., Senior Project Engineer
Pete Perala, P.E., Utilities Engineer

