

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of April 15, 2008

**SUBJECT: Tierra on Ashley Site Plan (200 South Ashley Street)
File No. 9291D2.5**

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Tierra on Ashley Site Plan and Development Agreement.

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council reduce the premium floor area off-street parking requirement from 11 spaces to four spaces.

STAFF RECOMMENDATION

Staff recommends that the site plan petition be **approved** because the contemplated development would comply with all applicable state, local and federal law, ordinances, standards and regulations; and the development would not cause a public or private nuisance and would not have a detrimental effect on the public health, safety or welfare.

Staff recommends that the parking requirement **be reduced** to four off-street parking spaces because the needs of the property will be met.

STAFF REPORT

This petition was tabled at the March 18, 2008 regular meeting to allow additional time to address outstanding site plan issues including floor area calculations and sanitary sewer capacity. The proposed floor area has now been accurately calculated and is 28,939 square feet (629% FAR). Further analysis and field inspections have determined that there are no sanitary sewer capacity issues – beyond the normal footing drain disconnection program requirements – for this development.

Summarized description of project – The petitioners propose to construct an eight-story, 108-foot tall, 28,964-square foot mixed use building that contains six floors of commercial and office uses (including basement) and three floors of residential use (two dwelling units per floor, six units in total). Four off-street parking spaces are proposed at the rear of the site, accessed from a shared private alley on Washington Street. Several “green” features are proposed to be incorporated into the building design to address storm water management and energy conservation, including wind turbines, a green roof, and a vertical green screen. The petitioner is seeking LEED Platinum certification from the U.S. Green Building Council.

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The proposed development uses the Residential Use Premium option to exceed the normal maximum floor area ratio (normal FAR is 400%). Based on the 10,542 square feet of residential uses provided, an equal amount of additional floor area can be acquired as premium area. (The proposed building is 10,539 square feet more than the 18,400 square feet that is normally allowed, three square feet of available premium area has not been used.) At 28,939 square feet total (629% FAR), the proposed building is within the 660% maximum floor area ratio with premiums permitted in the C2A district.

Off-street parking is required for the portion of the building in excess of the normal maximum floor area. For the 10,539 square feet of premium floor area, 11 off-street parking spaces are required (one per 500 square feet of premium floor area). Four off-street parking spaces will be provided at the rear of the building. City Council may reduce the off-street parking requirement, with a recommendation from the Planning Commission, if the parking needs of the property will be met. The petitioner has requested the requirement for 11 parking spaces be reduced to four spaces.

History Recap – A site plan for an eight-story mixed use building, containing two floors of retail uses, three floors of office uses and three floors of residential uses (with six dwelling units total) was approved on March 5, 2007. This approved site plan also contained an underground parking garage accessed by a ramp from West Washington Street. According to the petitioner, it was discovered during the final design stages that the underground parking garage had corners and angles that were too tight to be functional. The proposed site plan switches the previous seven-space underground parking garage with mechanical rooms and additional retail space, and adds a niche off the private alley for a four-space parking alcove where there was ground floor retail space. A full history can be found in the attached March 18, 2008 staff report.

COMPARISION CHART

		EXISTING	PROPOSED	REQUIRED/PERMITTED
Zoning		C2A (Central Business District)	C2A	C2A
Gross Lot Area		4,600 sq ft	No change	No MIN
Floor Area		1,000 sq ft	28,939 sq ft	18,400 sq ft normal MAX 30,360 sq ft MAX w/premiums
Floor Area Ratio as % of Lot Area		22%	629%	400% normal MAX 660% MAX w/premiums
Setbacks	Front	S. Ashley = 32 ft W. Washington = 27 ft	S. Ashley = 0 ft W. Washington = 0 ft	0 ft MIN
	Side (south)	0 ft	0 ft	0 ft MIN
	Rear (west)	11 ft	0 ft	0 ft MIN
Height		1 story / approx. 10 ft	8 stories / 108 feet	2 stories MIN
Vehicle Parking		Approx. 4 spaces	4 spaces	11 spaces MIN, could be reduced by City Council
Bicycle Parking		None	2 spaces	None required

SERVICE UNIT COMMENTS

Planning – Staff had previously noted that the proposed building design did not meet the current draft architectural design guidelines for the Main Street Character Area overlay district. The petitioner's architect has provided a letter indicating how he believes the proposed design does meet the intent of the architectural design guidelines as discussed by the A2D2 committee. This letter is attached. Staff note that the architectural design guidelines are not yet adopted and several key components are still being developed, including the approval standards and alternative design allowances. However, it was the final recommendation of the A2D2 Architectural Design Guidelines and Executive Committees that the architectural design requirements include a stepback between the second, third, or fourth story of a building and its upper floors to reinforce the current two to four-story height of downtown parapet blocks. New, tall buildings will be encouraged to respect the mid-rise character of downtown by aligning the lower stories of the new, tall buildings with the existing buildings' streetwalls and heights on the block, and physically stepping back any upper stories in addition to any proposed material changes on the front façade.

Prepared by Alexis DiLeo
Reviewed by Connie Pulcifer and Mark Lloyd
jsj/4/10/08



Attachments: 4/8/08 Draft Development Agreement
2/20/08 Response Letter from Damian Farrell, Integrated Architecture
3/18/08 Staff Report

c: Owner: Tierra Equities, LLC
226 West Liberty Street
Ann Arbor, MI 48104

Petitioner: Dax Ponce de Leon
PMA Consultants
226 West Liberty Street
Ann Arbor, MI 48104

Systems Planning
File No. 9291D2.5

DRAFT
4/8/08

TIERRA ON ASHLEY DEVELOPMENT AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2008, 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 Tierra Equities, LLC, a Michigan limited liability corporation, with principal address at 226 West Liberty Street, Ann Arbor, Michigan 48104, hereinafter called the PROPRIETOR, witnesses that:

WHEREAS, the PROPRIETOR owns certain land in the City of Ann Arbor, described below and site planned as Tierra on Ashley, and

WHEREAS, the PROPRIETOR has caused certain land in the City of Ann Arbor, described below to be surveyed, mapped and site planned as Tierra on Ashley, 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 PROPRIETORS 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 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 departments 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) To be included in a future special assessment district, along with other benefiting property, for the construction of streetlights, 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 the streetlights, each unit shall be assessed its pro rata share of the cost of improvements allocable to the Property.

(P-5) 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-6) To cause to be maintained Public 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-7) 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-8) To create an association composed of all owners of Tierra on Ashley condominium, hereinafter called the "Association", in which membership shall be required by covenants and restrictions recorded as part of the master deed for Tierra on Ashley. The association shall be responsible for and shall execute the appropriate documents insuring perpetual maintenance and ownership of the landscape materials, green roof, green screen and planters, wind turbines, on-site storm water management system, and all other constructed common elements. Maintenance obligations under this paragraph shall not preclude the association from redesigning, modifying, or replacing any of the constructed common elements so long as such redesigns, modifications, or replacements are not inconsistent with this development agreement or the approved site plan.

(P-9) To make an aggressive, good faith, commercially reasonable and practical effort to achieve LEED Platinum certification from the governing body of the U.S. Green Building Council.

(P-10) To prepare and submit to the Planning and Development Services Unit one copy of the Master Deed, along with the required review fee of \$3,500.00, prior to issuance of building permits.

(P-11) 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-12) 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 material changes to the approved building elevations, setbacks, aesthetics, or materials, as determined by the Planning and Development Services Manager or designee, 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-13) That the Residential Use Premium option has been used to acquire additional floor area beyond the normal maximum allowed for the district in which the project is located, and is subject to all the requirements for premiums as set forth in the Zoning Ordinance.

(P-14) 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-15) Prior to application for and issuance of certificates of occupancy, to disconnect three footing drains following the *Guidelines for Completion of Footing Drain Disconnections, City of Ann Arbor – Development Offset-Mitigation Program* (October 2004 edition).

(P-16) That certain features of the development, such as the proposed "green screen," projecting into the public right-of-way shall be subject to further review and approval, and may require additional permits, licenses, sub-agreements, and the like as a condition of approval.

(P-17) 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-18) 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-19) 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-20) 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 Tierra on Ashley 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:

Beginning at the Northeast corner of Lot 8, Block 2 South, Range 2 East, "Original Plat of the Village (now City) of Ann Arbor," Washtenaw County, Michigan, as recorded in Transcripts, Page 152, Washtenaw County Records; thence S 00°27'27" E 57.54 feet along the westerly right-of-way line of South Ashley Street; thence S 89°41'07" W 80.00 feet along the centerline of an existing brick wall; thence N 00°27'27" W 57.46 feet; thence N 89°37'44" E 80.00 feet along the Southerly right-of-way line of West Washington Street to the Point of Beginning. Being a part of Lot 8, Block 2 South, Range 2 East, "Original Plat of the Village (now City) of Ann Arbor," Washtenaw County, Michigan, as recorded in Transcripts, Page 152, Washtenaw County Records, and containing 4600 square feet of land, more or less. Being subject to easements and restrictions of record, if any. Assessor's Parcel No. 09-29-146-006

(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.

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

Witnesses:

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

TIERRA EQUITIES, LLC
A Michigan limited liability corporation
226 West Liberty Street
Ann Arbor, Michigan 48104

Witness:

By: _____
Dax Ponce de Leon
Development Manager

STATE OF MICHIGAN)
) ss:
County of Washtenaw)

On this _____ day of _____, 2008, 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 _____, 2008, before me personally appeared Dax Ponce de Leon, Development Manager, Tierra Equities, LLC, 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:
Mark Lloyd, Manager
Ann Arbor Planning & Development Services
Post Office Box 8647
Ann Arbor, Michigan 48107
(734) 994-2800



February 20, 2008

City of Ann Arbor – City Hall 6th Floor
100 N. Fifth Avenue
Ann Arbor, MI 48104

Attn: Alexis DiLeo, City Planner
Planning and Development Services

Re: Tierra on Ashley Site Plan- 9291D2.5

Dear Ms. DiLeo,

Attached to this letter you shall find responses to the staff comments for the above stated project. Also attached are eight copies of the Revised Site Plan Submittal Set.

Thank you,

Damian Farrell, A.I.A.
Principal
dfarrell@intarch.com


Integrated
Architecture

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The lead design architect on this project also served on the Ann Arbor Downtown Design guidelines committee and submitted this project as one of several that were used as a test case by the committee to understand the use and impact of the Design Guidelines in their practical application. The committee was both enthusiastic and unanimous in agreeing that this building met the intent of the guidelines.

The site is a very small corner lot. Stepping a building, such as this one, back on two sides would create floor plates that would be less than 3000 sf: an over burdening hardship in any new project when considering the cost of land in the city core and the cost of construction, and the usability of the floor plates.

The committee was especially complimentary about the way in which the building met the intent of the guidelines, while still providing a modern design which they felt contributed in a positive manner to the fabric of the downtown by providing a variety in scale, texture and materials from the older buildings, which is strongly encouraged in the guidelines. The former Michigan National Bank Building on the north east corner of Main and Washington was cited as an excellent example of a tall building marking the corner of a city block, as was the building at the south east corner of 4th Ave. and Washington. This building continues that character.

The building acknowledges its context of abutting an historic district of brick buildings, by continuing the use of brick at the first floor level, while still maintaining transparency and views into the retail space from the sidewalk. The north elevation changes character on Washington by providing a far greater degree of transparency into the first two floors, with a more limited use of brick.

In addition, the entry arch to the condominiums and office floors at the south east corner of the building on Ashley Street reflects the heights of the parapets of the buildings to the south, creating a wide open and sheltered are at the entry to this building. The entry to the retail space steps back at the corner, acknowledging its corner location and allowing for more pedestrian friendly transitions. The overhanging balconies at the second floor define the perception of the street wall height, as discussed in the guidelines.

The east elevation has been carefully considered and separated into a series of 3 different surfaces that are tall and slender, and divide the façade of the building into smaller surfaces. The width of the first element at the southern end of the east façade, (the entry

to the condos and offices) creates a narrower, arcade-like bay, not unlike the scale of the entry to Nickel's Arcade. This allows the remainder of the façade to have a bay width similar to the established rhythm of the remainder of the street, even though this rhythm along this block of Ashley is nowhere near as consistent, as say, Main Street. The unique vertical green screen that separates the two portions of the east façade is an innovative element that makes public display of the sustainable aspects of the building. The glass storefront windows are separated by brick piers, which again is recognition of the detailing, proportion and rhythm that exists along the street.

The numerous balconies form cut outs in to the facades, creating interest, articulation, shadows and shelter on the façade. In addition balconies allow signs of life in a building, increasing a sense of people living in the downtown community. In our opinion, elements such as the balconies have a "stepping" back nature which create interest in a façade that is unable to be stepped back either because of the practical difficulty of the smallness of the site, or the challenges created by asking architects and developers to step back buildings on a corner site. We feel that this building is similar in many ways in its form to other much loved tall, corner buildings in the city that do not step back.

This building is aiming for a Platinum LEED rating, which certainly meets the intent of the Design Guidelines.

The projecting balconies at the second floor define a base to the building, creating interest, variety and shelter at the pedestrian scale. The remainder of the floors above creates the "middle" referred to in the guidelines and the wide band parapet at the termination of the building, the "top".

Care has been taken to provide a well detailed and interesting façade to the building at the pedestrian level, which is one of the primary concerns addressed when the committee worked with the consultants in developing the guidelines. Overhangs, punched window openings to the retail spaces, the small planters along the Ashley façade, located between the storefront glass panels, all create variations in the horizontal and vertical planes, creating layering, richness and interest at the pedestrian level.

The material selections throughout are high quality. The building displays a high degree of appealing design elements to pedestrians, not just a flat façade meeting the sidewalk at ninety degrees, in an unarticulated fashion. There are material changes on the façade that help to break the building massing into parts.

In addition, this project received high praise at both Planning Commission and City Council when it was first approved as sensitive, modern addition to Ann Arbor with a very high degree of sustainability and environmental consciousness.

The language used in this request is to "conform" to the new guidelines. Conforming was never a part of the intent of the guidelines with the emphasis being on the word "guidelines".

We quote from the introduction of the Guidelines: "this document is a tool for achieving a vision for downtown in which **high quality design** is a cornerstone for other community planning objectives." We believe our solution to be in the spirit of this statement.

Another quote: "The design guidelines do not dictate a particular architectural style, but are instead intended to address basic considerations of compatible design"

With reference to the stepping back request, there is a one sentence reference to this concept in 3 pages of other desired concepts. This building meets or reflects the intent of the guidelines in all except the step back, and as we have pointed out, stepping back on such a small corner is something that we feel to be punitive to the design on this particular site and we respectfully decline the suggestion to consider doing this.

As an editorial on the process, and in the personal view of the author of this particular part of the response to Planning Staff's request, this reference to "conforming" to the guidelines, as opposed to using them as a guideline for new design or renovation is one of the greatest concerns that the committee continually expressed.

The committee felt strongly that these are guidelines, and not rules, and that over time we have to be vigilant about them not becoming rules or a political tool for gaining approvals. The sentiment was frequently expressed that not every guideline has to be conformed to in order for the building to be a successful addition to the townscape. There are many parts to the guidelines that can be mixed and matched, interpreted in new and traditional ways, encourage creativity and foster ways to allow freedom of design, not total conformity to one style or every idea in the guidelines.

It was also a very strong sentiment, that the pedestrian environment was probably the most important aspect of evaluating any proposals, as this is the area and zone that creates a lasting impression with pedestrian as to their feelings and responses about a sense of place.

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of March 18, 2008

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File No. 9291D2.5**

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Tierra on Ashley Site Plan and Development Agreement.

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council reduce the premium floor area off-street parking requirement from 14 spaces to 4 spaces.

STAFF RECOMMENDATION

Staff recommends that the site plan petition be **tabled** to allow time for the petitioner and staff to address sanitary sewer capacity and site planning issues.

LOCATION

This site is located at the southwest corner of South Ashley and West Washington Streets (Central Area, Downtown Area) in the Downtown Development Authority (DDA) district and in the Allen Creek watershed.

DESCRIPTION OF PETITION

The 4,600-square foot site currently contains a vacant 1,000-square foot, one-story building, two driveway curb cuts, paved parking area and landscape areas adjacent to the public sidewalk. It is located in the C2A (Central Business District) zoning district and the DDA district. A shared access easement covers the western ten feet of the site, providing additional vehicular access to the site, as well as the rear portions of other properties that front South Ashley Street.¹

The petitioner proposes to demolish the existing building and to remove the existing curb cut on Ashley Street, existing pavement and landscape areas, and then construct an eight-story, 108-foot tall, mixed use building. (It should be noted that a rooftop vestibule is proposed for use by building tenants, which is not counted as a story but is included in the total height dimension and the total floor area calculation.)

¹ The site also abuts the public alley between West Washington and West Liberty Streets, which was recently restored to its original location by land swaps between the City and a private property owner, facilitated by the DDA as part of the redevelopment of the First & Washington parking deck site.

The main entrance to the retail space will be located at the corner of Ashley and Washington Streets, at the northeast corner of the building. The main entrance for the offices and residential units is proposed on Ashley Street, near the southeast corner of the site. Additional entrances are proposed at the rear of the site off the shared access easement.

The first and second floors are proposed to contain retail uses, possibly including a grocery store and café. Additional retail space will be located in the basement of the building. The third through sixth floors are proposed to contain office uses. The top two floors are proposed to contain two residential dwelling units each, for a total of four residential units in the building. (Although not initially proposed, some of the middle office-use floors could be converted to residential units. Such conversion would not require further site plan review or approval.) Four vehicular parking spaces are proposed at the rear of the building accessed from the shared access easement. These four parking spaces are tucked into the first floor of the building, enclosed on three sides and covered by the upper floors of the building. Two bicycle parking spaces and space for rolling refuse and recycling carts are also provided at the rear of the first floor, next to the vehicular parking spaces.

Based on the parking requirements of Chapter 59 (Off-Street Parking Ordinance), 14 parking spaces are required. City Council may reduce this requirement, with a recommendation from the Planning Commission, if the parking needs of the property will be met. The petitioner has requested the requirement for 14 parking spaces be reduced to four spaces. The four spaces provided on site correspond to the number of dwelling units initially planned.

Several “green” features are proposed to be incorporated into the building design to address storm water management and energy conservation. Wind turbines will be installed on the roof for a source of alternative energy. The turbines’ appearance resembles smokestacks. A green roof will be installed over approximately half of the roof surface, with the remaining roof areas devoted to mechanical equipment, the rooftop vestibule, and outdoor decks for residents. A green screen will be installed on the east side of the building, which is a metal gridwork that holds plant containers and allows the plants to climb upwards and outwards. The ten-foot wide, 90-foot tall screen is held away from the building approximately 24 inches. A pressurized misting system to water the plants will use grey water from the building. Maintenance of the metal gridwork and the plants is possible through operable windows behind the screen. Flow-through planters are planned to filter water collected from the green roof and green screen, and any overflow water will be discharged into a groundwater recharge well. It should be noted that there are no storm water management or landscape requirements for the site. However, the green features are designed to provide 100-year storm water volume management, completely contained on the site.

SURROUNDING LAND USES AND ZONING

	LAND USE	ZONING
NORTH	Commercial	C2B/R (Business Service/Residential District)
EAST	Commercial	C2A (Central Business District)
SOUTH	Commercial	C2B (Business Service District)
WEST	Vacant (demolished parking structure)	P (Parking District)

COMPARISION CHART

		EXISTING	PROPOSED	REQUIRED/PERMITTED
Zoning		C2A (Central Business District)	C2A	C2A
Gross Lot Area		4,600 sq ft	No change	No MIN
Setbacks	Front	S. Ashley = 32 ft W. Washington = 27 ft	S. Ashley = 0 ft W. Washington = 0 ft	0 ft MIN
	Side (south)	0 ft	0 ft	0 ft MIN
	Rear (west)	11 ft	0 ft	0 ft MIN
Height		1 story / approx. 10 ft	8 stories / 108 feet	2 story MIN
Vehicle Parking		Approx. 4 spaces	4 spaces	14 spaces MIN, could be reduced by Council
Bicycle Parking		None	2 spaces	None required

HISTORY

From the 1930s to the 1980s, a gasoline service station was located on the subject site. The underground tanks were removed in 1985. In 1988, a site plan for minor modifications was approved to renovate the existing building for an automobile rental business. In 1999, a site plan was approved to construct a six-story, 21,422-square foot mixed-use building that included three dwelling units. The approved building was not constructed and the renovated automobile rental business building, currently vacant, remains. Also in 1999, the site was rezoned from C2B (Business Service District) to C2A (Central Business District).

Adjacent buildings along the 200 block of South Ashley Street were constructed around 1900 and have been used for light industrial, warehousing and retail uses since that time. The original platted block of Ashley, Washington, Liberty and First Streets contained a center north-south public alley. The northerly 76 feet of the alley was vacated in 1948 and additional land east of the alley was obtained to allow for the construction of a City parking structure. Existing businesses along Ashley Street created a private access drive to maintain north-south circulation along the rears of the lots, but a formal access easement was not recorded. The parking structure was demolished in 2005.

A site plan for an eight-story mixed use building was approved on March 5, 2007 for this site. The exterior appearance of this building was almost identical to the previously proposed Tierra on Ashley building, was 108 feet tall, and had six residential dwelling units on the top three floors. It also had seven underground parking spaces. The proposed petition eliminates the underground parking (four spaces are replaced at grade at the rear of the building) and reduces the number of initially proposed residential dwelling units. According to the petitioner, the underground parking garage was too small to be functional. Also, additional flexibility is desired to respond to market demands for office or residential uses, hence the reduction of initially proposed residential units and the possible future conversion of the middle floors.

PLANNING BACKGROUND

The site is located in the Downtown Area, which is also part of the Central Area. The City's Downtown Plan emphasizes promoting a balanced mix of office, service and cultural uses in the

downtown area to complement retail and residential development and to create a diverse center of urban activity. Furthermore, the Downtown Plan encourages the development and maintenance of additional downtown housing to expand the downtown resident population and strengthen the downtown's role as an urban neighborhood. Additional relevant recommendations of the Downtown Plan, and the Downtown Development Authority's Master Plan for Pedestrian Improvements, include minimizing parking frontage adjacent to sidewalks, introducing broader setbacks and landscaping, and encouraging commercial and mixed-use building activities to develop to the edge of the sidewalk. The Central Area Plan identifies commercial-office uses for this area. In the description for this land use recommendation, the commercial-office designation also supports residential uses as they contribute to the vitality of a lively downtown. The Central Area Plan also encourages sensitive, attractive and innovative development and renovation in the downtown.

SERVICE UNIT COMMENTS

Systems Planning – Subsequent to the prior site plan approval (200 South Ashley Street Site Plan, approved on March 5, 2007), detailed sanitary sewer flow monitoring was performed in the downtown area during the spring, summer and fall of 2007. The results of this flow monitoring indicate that during peak dry weather flows there is no available capacity in the Washington Street sanitary sewer downstream of this site. Additionally, the sanitary sewer mitigation calculations must be revised so that the proposed square footage matches the figures used in the mitigation calculations.

Staff has offered to meet with the petitioner to provide further details on these findings and examine potential options to resolve the sanitary sewer capacity issue.

Planning and Development Services – Staff continues to support the proposed development as it fulfills many of the goals of the Downtown Plan and the Central Area Plan, and is consistent with the recommendations of the Downtown Development Strategies Project. Staff also continues to support the request to reduce the parking requirement for the premium portion of the building. It appears acceptable to provide one off-street parking space for each dwelling unit and no off-street parking provisions for the nonresidential uses given the relatively small building overall. However, staff advises the Planning Commission that additional scrutiny will be used for petitions of larger buildings. There is increasing concern that the public parking structure system cannot absorb parking demand for premium building spaces, and more of this burden should be satisfied by private developers.

Staff notes the proposed building would not meet the Main Street Character Area design standards, if the current draft was adopted. The proposed building does provide the minimum required streetwall height but exceeds the maximum streetwall height. No offset is proposed at the top of the streetwall, between two and four stories above street level. The proposed lower tower massing is within the maximum diagonal distance and less than the maximum height. No upper tower is proposed. There is no obligation for a building to conform to the proposed architectural design guidelines overlay district standards at this time; these comments are provided for reference.

Prepared by Alexis DiLeo
Reviewed by Connie Pulcifer and Mark Lloyd
jsj/3/13/08



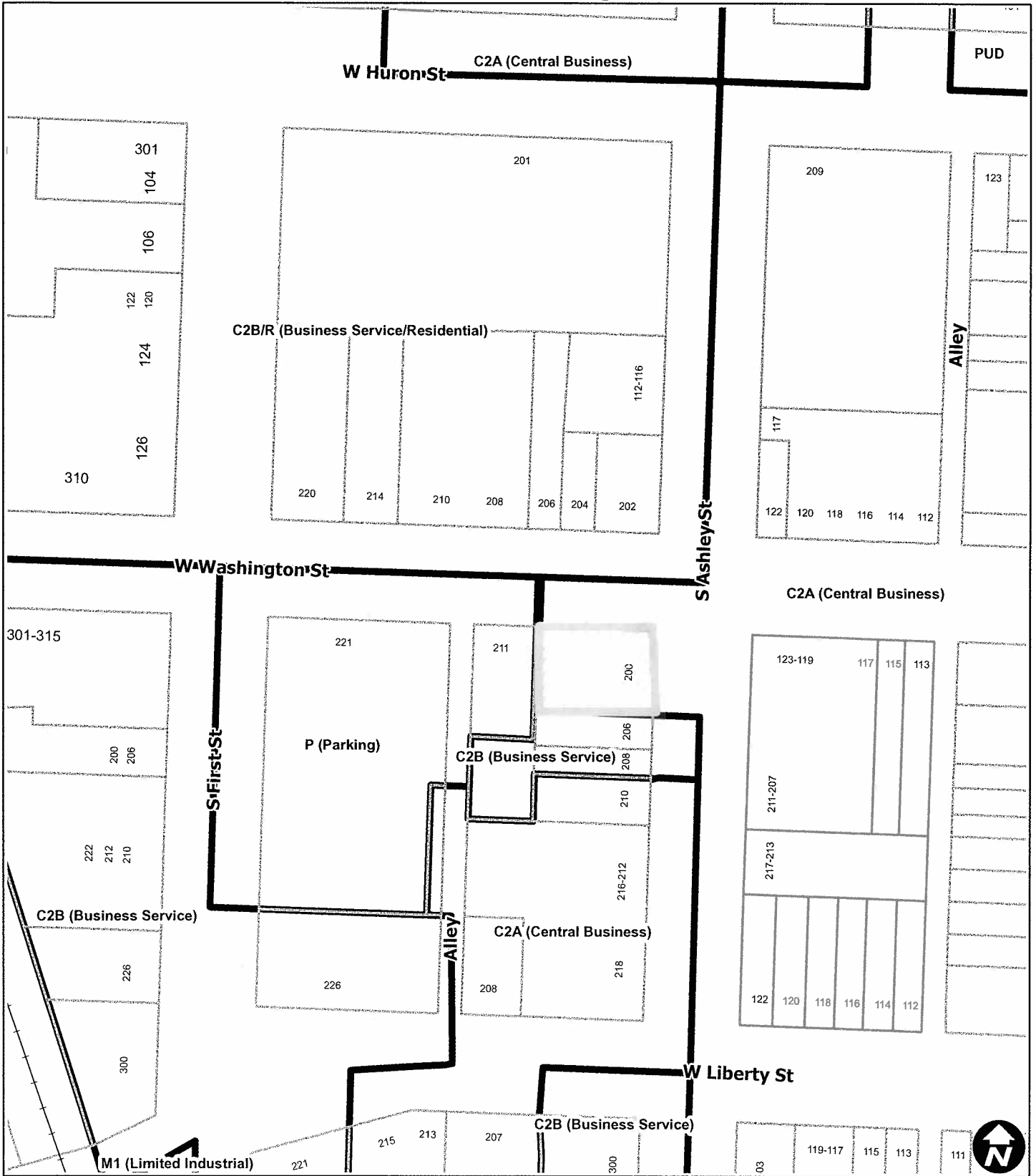
Attachments: Parcel/Zoning Map
Aerial Photo
Site Plan
Elevations
3/14/08 Draft Development Agreement

c: Owner: Tierra Equities, LLC
226 West Liberty Street
Ann Arbor, MI 48104

Petitioner: Dax Ponce de Leon
PMA Consultants
226 West Liberty Street
Ann Arbor, MI 48104

Systems Planning
File No. 9291D2.5

Tierra on Ashley Location/Zoning



Map Legend

- Railroads
- Parcels



Maps available online:
<http://gisweb.ewashtenaw.org/website/mapwashtenaw/>

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Tierra on Ashley Aerial



0 55 110 220 Feet

Map Legend

-  Railroads
-  Parcels

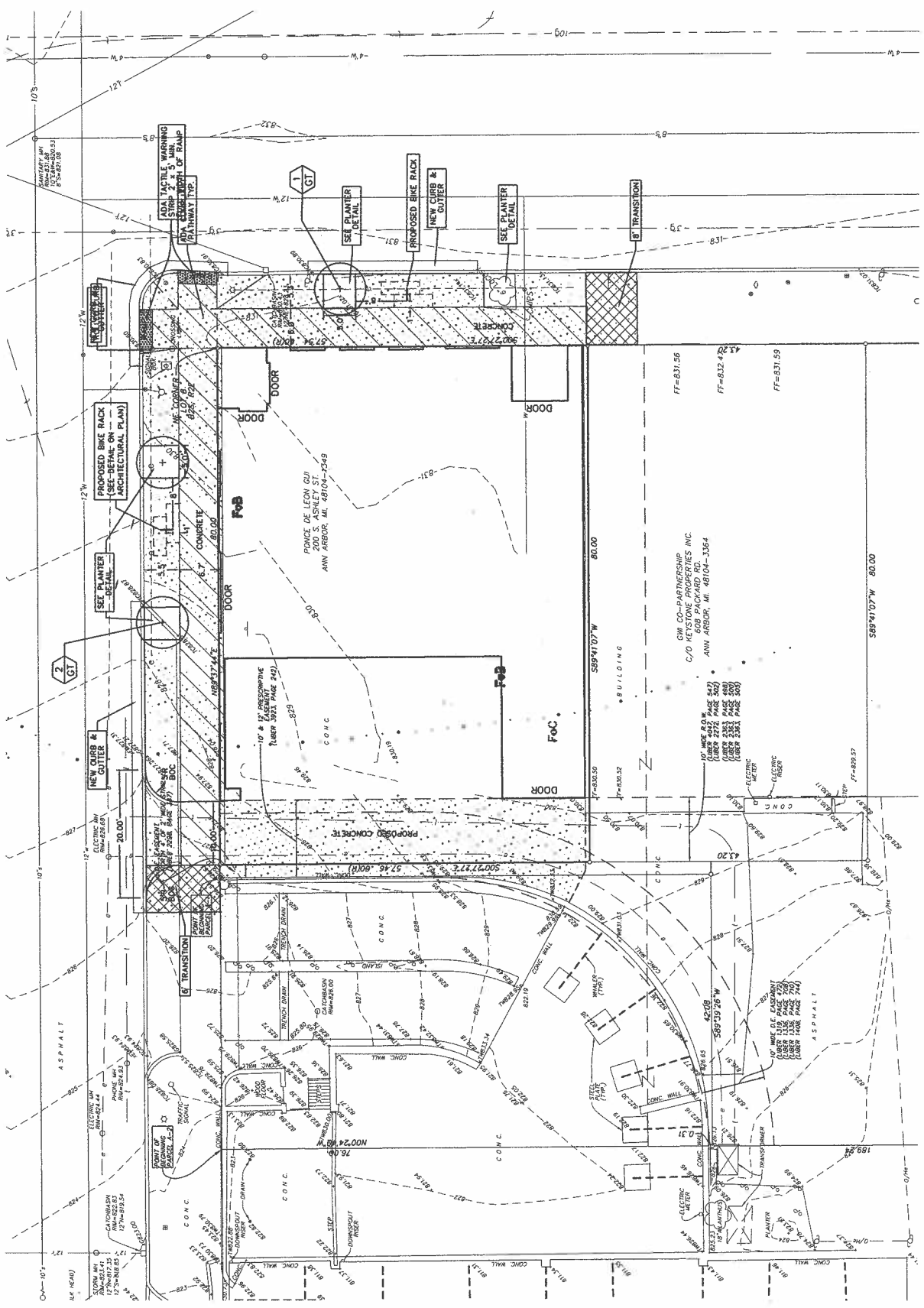


Maps available online:
<http://gisweb.ewashtenaw.org/website/mapwashtenaw/>

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LANDSCAPING NOTE:
 THERE ARE NO LANDSCAPING REQUIREMENTS
 FOR THIS SITE. REFER TO "NOTES" PAGE

PIANT LIST

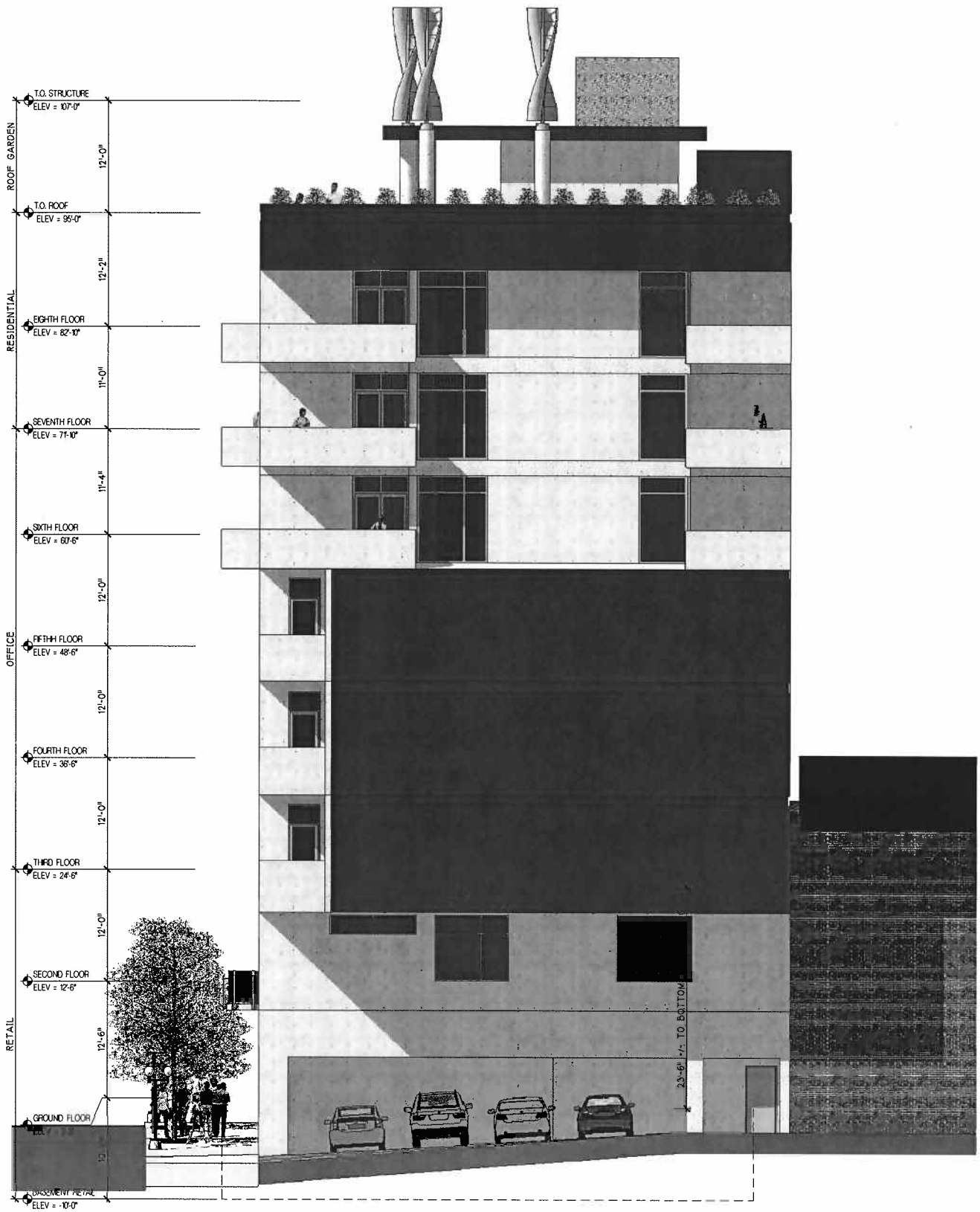


TERRA ON ASHLEY - SITE PLAN

3/18/08



3 CTIVE
A-2 NORTH EAST PERSPEC
SCALE



4
 A-3 WEST ELEVATION
 SCALE - 1/8" = 1'-0"

**DRAFT
3/14/08**

TIERRA ON ASHLEY DEVELOPMENT AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2008, 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 Tierra Equities, LLC, a Michigan limited liability corporation, with principal address at 226 West Liberty Street, Ann Arbor, Michigan 48104, hereinafter called the PROPRIETOR, witnesses that:

WHEREAS, the PROPRIETOR owns certain land in the City of Ann Arbor, described below and site planned as 200 South Ashley Street, and

WHEREAS, the PROPRIETOR has caused certain land in the City of Ann Arbor, described below to be surveyed, mapped and site planned as 200 South Ashley Street, 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 PROPRIETORS 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 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 departments 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) To be included in a future special assessment district, along with other benefiting property, for the construction of streetlights, 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 the streetlights, each unit shall be assessed its pro rata share of the cost of improvements allocable to the Property.

(P-5) 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-6) To cause to be maintained Public 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-7) 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-8) To create an association composed of all owners of 200 South Ashley Street condominium, hereinafter called the "Association", in which membership shall be required by covenants and restrictions recorded as part of the master deed for 200 South Ashley Street. The association shall be responsible for and shall execute the appropriate documents insuring perpetual maintenance and ownership of the landscape materials, green roof, green screen and planters, wind turbines, on-site storm water management system, and all other constructed common elements. Maintenance obligations under this paragraph shall not preclude the association from redesigning, modifying, or replacing any of the constructed common elements so long as such redesigns, modifications, or replacements are not inconsistent with this development agreement or the approved site plan.

(P-9) To make an aggressive, good faith, commercially reasonable and practical effort to achieve LEED Platinum certification from the governing body of the U.S. Green Building Council.

(P-10) 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 the Allen Creek watershed.

(P-11) To prepare and submit to the Planning and Development Services Unit one copy of the Master Deed, along with the required review fee of \$3,500.00, prior to issuance of building permits.

(P-12) 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-13) 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 material changes to the approved building elevations, setbacks, aesthetics, or materials, as determined by the Planning and Development Services Manager or designee, 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-14) In accordance with the Residential Use Premium section of Chapter 55 of the Ann Arbor City Code, to maintain residential uses in a minimum of 11,112 square feet of the development, except upon prior written approval of the CITY.

(P-15) 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-16) Prior to application for and issuance of certificates of occupancy, to disconnect three footing drains following the *Guidelines for Completion of Footing Drain Disconnections, City of Ann Arbor – Development Offset-Mitigation Program* (October 2004 edition).

(P-17) 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-18) 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-19) 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-20) 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 Tierra on Ashley.

(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:

Beginning at the Northeast corner of Lot 8, Block 2 South, Range 2 East, "Original Plat of the Village (now City) of Ann Arbor," Washtenaw County, Michigan, as recorded in Transcripts, Page 152, Washtenaw County Records; thence S 00°27'27" E 57.54 feet along the westerly right-of-way line of South Ashley Street; thence S 89°41'07" W 80.00 feet along the centerline of an existing brick wall; thence N 00°27'27" W 57.46 feet; thence N 89°37'44" E 80.00 feet along the Southerly right-of-way line of West Washington Street to the Point of Beginning. Being a part of Lot 8, Block 2 South, Range 2 East, "Original Plat of the Village (now City) of Ann Arbor," Washtenaw County, Michigan, as recorded in Transcripts, Page 152, Washtenaw County Records, and containing 4600 square feet of land, more or less. Being subject to easements and restrictions of record, if any. Assessor's Parcel No. 09-29-146-006

(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.

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

Witnesses:

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

TIERRA EQUITIES, LLC
A Michigan limited liability corporation
226 West Liberty Street
Ann Arbor, Michigan 48104

Witness:

By: _____
Dax Ponce de Leon
Development Manager

STATE OF MICHIGAN)
) ss:
County of Washtenaw)

On this _____ day of _____, 2008, 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 _____, 2008, before me personally appeared Dax Ponce de Leon, Development Manager, Tierra Equities, LLC, 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:
Mark Lloyd, Manager
Ann Arbor Planning & Development Services
Post Office Box 8647
Ann Arbor, Michigan 48107
(734) 994-2800