

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of July 7, 2009

SUBJECT: City Place Site Plan (407-437 South Fifth Avenue) File No. SP09-007

PROPOSED CITY PLANNING COMMISSION MOTION

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

STAFF RECOMMENDATION

Staff recommends **approval** of the site plan because it complies with applicable local, state and federal laws, ordinances, standards and regulations; limits the disturbance of natural features to the minimum necessary to allow a reasonable use of the land; and does not cause a public or private nuisance and does not have a detrimental effect on the public health, safety or welfare.

LOCATION

The site is located on the east side of South Fifth Avenue, south of East William Street and north of East Jefferson Street. The site is comprised of seven parcels: 407, 411, 415, 419-21, 427, 433, and 437 South Fifth Avenue. The site abuts the East William Street Historic District to the north (Central Area, Allen Creek Watershed).

PLANNING HISTORY

In January 2008, the City Planning Commission (CPC) recommended denial of a site plan and conditional zoning petition for this site. In May 2008, CPC recommended denial of a PUD site plan that was nearly identical to the original site plan and conditional zoning request. The applicant withdrew both applications before they were scheduled for City Council review. After a second, slightly smaller PUD petition was submitted, CPC recommended denial and City Council denied the petition at their December 2008 meeting.

The current site plan went to City Planning Commission on April 21, 2009 and CPC recommended approval. It then went to City Council, where a public hearing was held on June 1, 2009 and continued on June 15, 2009. Because of errors and inconsistencies between site plan drawings that CPC and City Council were provided, what was shown during the April 21 CPC meeting, and drawings available to the public during the review process, Council voted to return the petition to CPC's July 7, 2009 meeting for reconsideration. A summary of the inconsistencies is below:

- Planning Commissioners were provided with incorrect elevation and floor plan drawings. The elevations shown by staff during the April 21 CPC meeting were correct.

- Site plan drawings in the official file available for public review in the Planning & Development Services office showed the incorrect elevation and floor plan drawings, as did the drawings provided to City Council.

Drawings placed in the lobby were correct and complete. A copy of the City Council resolution returning the City Place Site Plan to CPC is attached. The petition has been treated as a new submission, with a new staff report, public hearing advertising, and neighborhood postcard notification.

Between the April 21 CPC and June 1 City Council meetings, claims were made regarding this petition's consistency with City Code. These claims were investigated by staff, and the petition was found to be consistent with longstanding interpretations of code.

DESCRIPTION OF PROJECT

The petitioner is proposing to construct two apartment buildings with a total of 24 units (144 bedrooms) and 36 surface parking spaces in a single parking lot accessed from a curb cut on South Fifth Avenue. Seven existing multi-family homes built between 1838 and 1902 on the site would be demolished. The buildings are proposed to be clad in cementitious siding that replicates wood clapboard, and have pitched roofs with large dormers. Storm water runoff from impervious surfaces is proposed to be collected in an underground detention system located under the surface parking lot.

There are five landmark trees on the site, and three are proposed to be removed (19-inch Silver Maple, 26-inch Sugar Maple and 28-inch Sugar Maple). The 73 inches of landmark trees to be removed require 36.5 inches of replacement. The landmark trees are proposed to be replaced on site by six 3-inch Hackberries, two 3-inch Basswoods, and five 2.5-inch Northern Pin Oaks.

Revisions: One change has been made to this site plan from the one that CPC reviewed on April 21, 2009. The petitioner has opted to average the front setback requirement, which is allowed in residential zoning districts per Chapter 55, Section 5:57. This recalculation results in a reduction of the front setback from 32 feet minimum to 24 feet minimum. The location of the structures and parking and their actual front setback has not changed. By averaging the front setback line, the petitioner makes room for the possible future addition of porches or other architectural elements to the front façade of the buildings. If approved, future material changes to this facade would require City Council approval, per the development agreement.

SURROUNDING LAND USES AND ZONING

	LAND USE	ZONING
NORTH	Multiple-Family Residential/Office	C2A/R (Commercial/Residential District)
EAST	Multiple-Family Residential	R4C (Multiple-Family Dwelling District)
SOUTH	Multiple-Family Residential	R4C
WEST	Multiple-Family Residential, Parking, and Church	R4C and P (Parking District)

ZONING COMPARISON CHART

		EXISTING	PROPOSED	REQUIRED BY CURRENT ZONING
Zoning		R4C	R4C	R4C
Gross Lot Area		7 lots, ranging from 5,200 sq ft to 10,300 sq ft	53,579 sq ft (1.23 acres)	8,500 square feet (2,175 sq ft per dwelling unit) MIN
Open Space		N. A.	41%	40% MIN
Setbacks	Front	Varies from approx 14 ft to 28 ft	32 ft	24 ft MIN * (17 ft averaged front setback per Section 5:57 + 7 ft additional setback per 5:62)
	Side: North	Varies from 3 ft to 15 ft	16 ft	16 ft MIN * (12 ft min + 4ft additional setback per 5:62)
	Side: South & East	Varies from 3 ft to 15 ft	21-22 ft	18 ft MIN * (14 ft min + 4ft additional setback per 5:62)
	Rear	Varies from 45 ft to 80 ft	37 ft	37 ft MIN * (30 ft min + 7 ft additional per 5:62)
Height		Varies – approx 30 feet	30 ft	30 ft MAX (to mid-point between eaves and ridge)
Parking – Automobiles		Varies	36 spaces	36 spaces (1.5 spaces/ dwelling unit) MIN
Parking – Bicycles		Varies	4 spaces - Class A 24 spaces - Class C	3 spaces MIN - Class A 2 spaces MIN - Class C (1 space/5 units) MIN

* Chapter 55, Section 5:62: Additional front, side, and rear setbacks for buildings over 50 feet in length.

PLANNING BACKGROUND

The Central Area Plan recommends multiple-family residential uses for this site. Per page 65 of the Plan, “this classification includes areas on the edge of downtown and in the campus area where higher density development such as apartments and group quarters is appropriate, although the preservation of existing single and two-family structures in this area is encouraged as well.”

The following are some of the applicable Goals and Actions stated in the Central Area Plan.

a. Neighborhood Preservation

- i. To protect, preserve, and enhance the character, scale and integrity of existing housing in established residential areas, recognizing the distinctive qualities of each neighborhood.

- ii. To encourage the development of new architecture, and modifications to existing architecture, that compliments the scale and character of the neighborhood.

b. Infill Development

- i. To ensure that new infill development is consistent with the scale and character of existing neighborhoods, both commercial and residential. (HN47: Identify sites where the compilation of small parcels for larger developments is appropriate. Otherwise, the combining of smaller parcels in subdivided residential areas is considered inappropriate.)

c. Tension between Commercial and Residential Uses

- i. To protect housing stock from demolition or conversion to business use, and to retain the residential character of established, sometimes fragile, neighborhoods adjacent to commercial or institutional uses.

d. Out of Scale Construction

- i. To encourage the construction of buildings whose scale and detailing is appropriate to their surroundings

e. Historic Preservation

- i. To encourage the preservation, restoration or rehabilitation of historically and culturally significant properties, as well as contributing or complimentary structures, streetscapes, groups of buildings and neighborhoods.
- ii. To preserve the historic character of Ann Arbor's Central Area.
- iii. Where new buildings are desirable, the character of historic buildings, neighborhoods and streetscapes should be respectfully considered so that new buildings will complement the historic, architectural and environmental character of the neighborhood.

Although the scale of the proposed project is inconsistent with the scale and character of the surrounding residential neighborhood due to the size of the proposed buildings, the project meets the development standards in Chapter 55 (Zoning Ordinance) regarding area, height and placement.

SITE HISTORY

The seven houses proposed to be demolished make up the bulk of one of the most intact late 19th-early 20th century streetscapes in the City of Ann Arbor. Three of the seven houses were a part of the former Individual Historic Properties Historic District (415, 419, and 437 South Fifth Avenue), which was dissolved as a result of court action. The following are brief descriptions of the properties (more information is available from staff upon request).

407 South Fifth Avenue – c.1899

This Dutch Gambrel style house was built around 1899. The first occupant listed in the Polk Directory was Ms. Richmond Bannister (widow of William) in 1902.

411 South Fifth Avenue: Andrew Reule House – c.1901

This house is a fine example of the Queen Anne style and features cross-gabled roofs and varying sized windows, including unusual oval and Diocletian shapes. Mr. Reule, a downtown clothier, occupied this house from 1902 until at least 1940.

415 South Fifth Avenue: Clayton Gaskell (Beakes) House – c. 1838

This Greek Revival style house is believed to be one of the oldest surviving houses in the city. Though it has been altered over the years, particularly the interior, it remains architecturally significant. It features a pedimented gable-front orientation, lunette in the attic, well-defined cornice, corner pilasters, and classical side entry. The house was the home of two important Ann Arbor mayors: Hiram Beakes, from 1860 until the late 1880s; and a short time later Samuel Beakes (no relation), for whom Beakes Street is named.

419 South Fifth Avenue: Henry & Mary Mann House – 1902

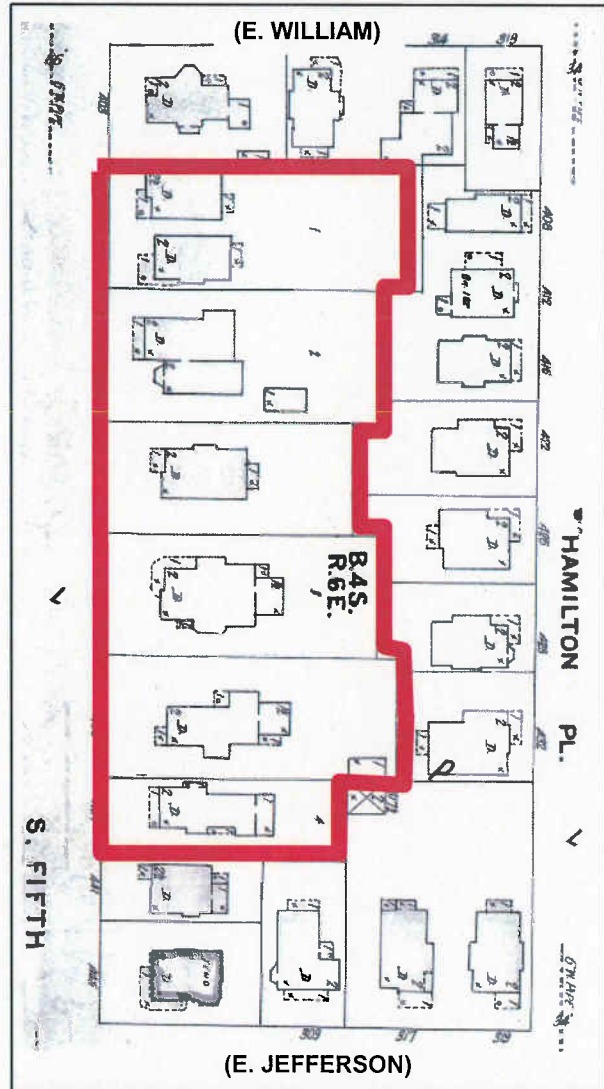
This late Queen Anne style house is symmetrical in form, with fancy shingle and fan patterned siding in the gables and brackets and upper spindles on the front porch. The house also features returns in the front gable and a full pediment and plain round Doric posts on the porch.

427 South Fifth Avenue: Francis M. Hamilton House - c.1894

This house first appears in Polk Directories in 1893 or 1894. Francis Hamilton moved in in 1896, and Hamilton descendents lived there until 1938. Mr. Hamilton was a Mayor of Ann Arbor, and the developer of Hamilton Place, in his Fifth Avenue backyard. The house is a restrained and symmetrical Queen Anne, with cross-gables, a cutaway corner and an open front porch.

433 South Fifth Avenue – c. 1850s(?)

This very old and very charming house with its low pitched roof and symmetrical eaves appears on the 1880 Panorama View of the City of Ann Arbor, and could date back to the 1850s. Herbert Slauson lived here for many years after the turn of the 20th century.



1906 Sanborn Map showing neighborhood with building footprints very similar to their appearance in 2008. Project area outlined.

He was the Superintendent of Ann Arbor Public Schools, and the namesake of Slauson Middle School.

437 South Fifth Avenue: John McCarthy House – 1866

This house is an example of the simplest and most typical form of the Italianate style. It features a plain three-bay façade with the entrance at the right. The door is flanked by pilasters and a modified entablature.

ANALYSIS

Central Area Plan/Zoning – Although the proposed project is inconsistent with the Central Area Plan recommendations regarding neighborhood preservation, infill development, out of scale construction and historic preservation, it meets the minimum development standards for approval identified in Chapter 55 (Zoning Ordinance), Chapter 57 (Subdivision and Land Use Control Ordinance), Chapter 59 (Off-Street Parking Ordinance), Chapter 62 (Landscaping and Screening Ordinance) and Chapter 63 (Storm Water Management and Soil Erosion and Sedimentation Control Ordinance).

The typical residential building in the neighborhood is approximately 2,000 square feet in size with footprints that generally vary from between 1,000 square feet and 1,200 square feet. The size of each of the two proposed buildings is approximately 20,400 finished square feet (12 units x 1,700 square feet per unit) with a footprint of 7,900 square feet.

Parking – The project proposes 36 on-site parking spaces (two of which are barrier free) to accommodate parking demand for 144 bedrooms and visitors. Since no on-street parking is allowed along this portion of South Fifth Avenue, overflow parking will be accommodated in other locations in the area. Chapter 59 (Off-street Parking Ordinance) requires a minimum of 1.5 parking spaces per dwelling unit in the R4C zoning district. It allows more parking spaces if necessary to meet actual demand. The 36 spaces represent the minimum required number of spaces.

STAFF COMMENTS

Parks and Recreation – The requested parkland contribution would be \$32,240, based on 0.806 acres at \$40,000 per acre. The petitioner has indicated that this contribution will be made, and this is included in the development agreement.

This review and recommendation was based on the plan set dated 6/19/09. The individual sheet dates are listed below.

Prepared by Jill Thacher

Reviewed by Connie Pulcifer and Wendy Rampson *WUR*

jsj/7/1/09

Attachments: Location Map
Zoning Map
Sheet 3: Removal Plan (3/25/09)
Sheet 4: Site Plan (6/19/09)
Sheet 9: Landscape Plan (6/19/09)
Sheets A3.9B and A3.10B Building Elevations (4/9/09)
Sheet B1.2: Accessory Building (4/15/09)
City Council Resolution #09-0420 v2 (6/15/09)
5/4/09 Development Agreement
Peak Hour Trip Generation Summary
Citizen Participation Report

c: Owner: Fifth Avenue Limited Partnership
403 South Fifth Avenue
Ann Arbor, MI 48104

Petitioner: Midwestern Consulting, LLC
3815 Plaza Drive
Ann Arbor, MI 48108

Systems Planning
File No. SP09-007

City Place Location Map



0 100 200 400 Feet

Map Legend

— Railroads



Maps available online:

<http://gisweb.ewashtenaw.org/website/mapwashtenaw/>

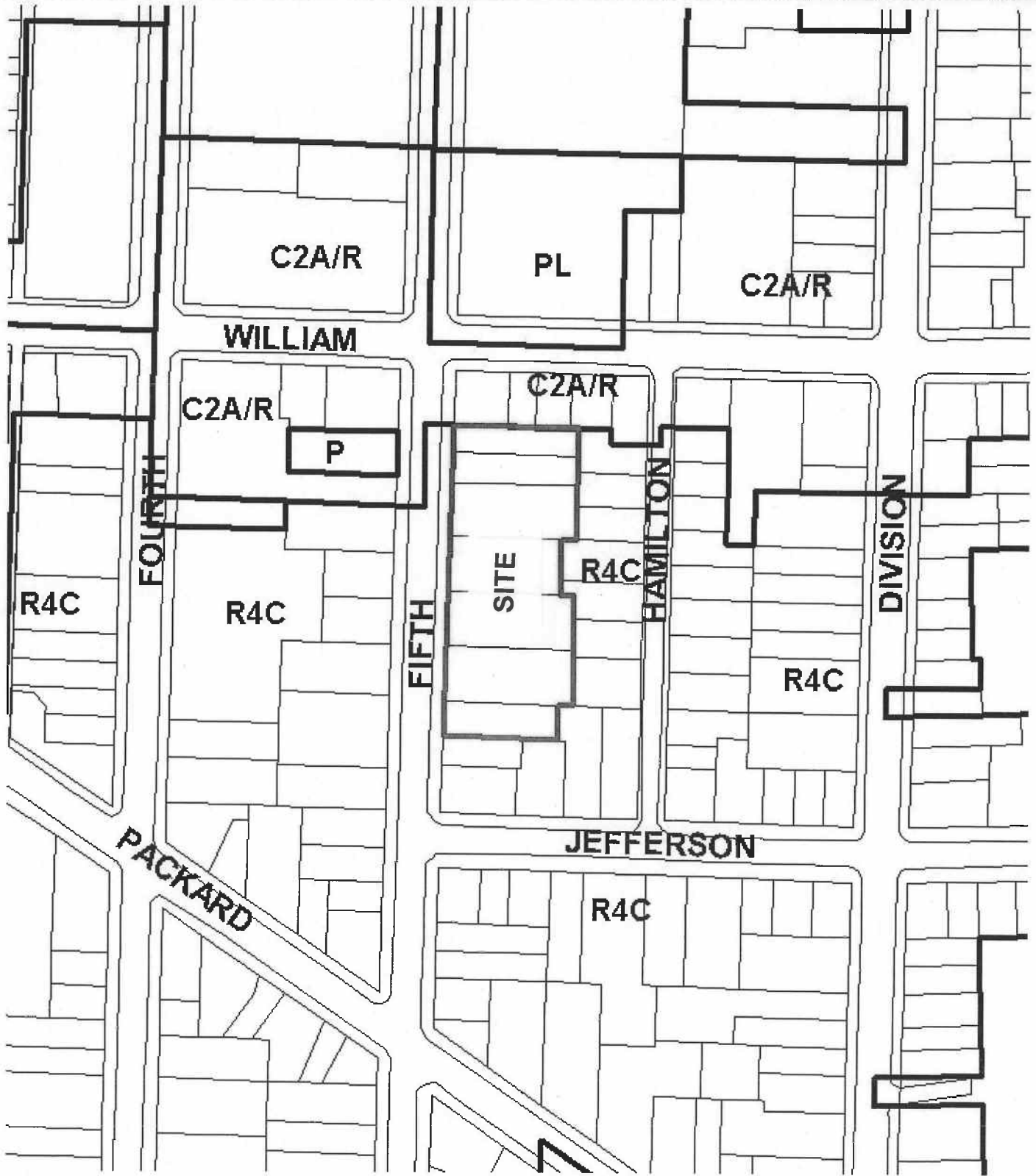
Copyright 2008 City of Ann Arbor, Michigan

No part of this product shall be reproduced or transmitted in any form or by any means, electronic or mechanical, for any purpose, without prior written permission from the City of Ann Arbor.

This map complies with National Map Accuracy Standards for mapping at 1 Inch = 100 Feet. The City of Ann Arbor and its mapping contractors assume no legal representation for the content and/or inappropriate use of information on this map.

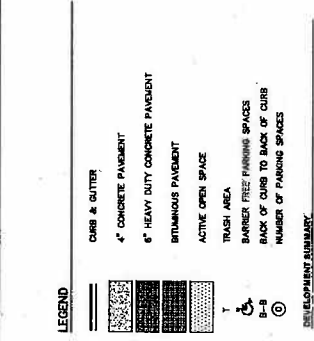
City Place

Zoning Map



200 0 200 400 Feet





DEVELOPMENT SUMMARY

Item	Proposed	Alternative A	Alternative B
Building Footprint Area	175,000 sq. ft.	175,000 sq. ft.	175,000 sq. ft.
Site Area	2,333 sq. ft.	2,333 sq. ft.	2,333 sq. ft.
Maximum Lot Coverage	7.5%	7.5%	7.5%
Maximum Lot Area	2,333 sq. ft.	2,333 sq. ft.	2,333 sq. ft.
Maximum Open Space	40%	40%	40%
Maximum Open Space Area	933 sq. ft. (2,280 sq. ft. maximum)	933 sq. ft.	933 sq. ft.
Maximum Floor Area Ratio	0.32	0.32	0.32
Maximum Floor Area	747 sq. ft.	747 sq. ft.	747 sq. ft.
Maximum Height	20 ft	20 ft	20 ft
Maximum Number of Stories	2	2	2
Maximum Number of Units	17	17	17
Maximum Number of Parking Spaces	17	17	17
Maximum Number of Bicycles	17	17	17
Maximum Number of Storage Spaces	17	17	17
Maximum Number of Storage Units	17	17	17
Maximum Number of Storage Units (Alternative A)	17	17	17
Maximum Number of Storage Units (Alternative B)	17	17	17
Maximum Number of Storage Units (Alternative C)	17	17	17
Maximum Number of Storage Units (Alternative D)	17	17	17
Maximum Number of Storage Units (Alternative E)	17	17	17
Maximum Number of Storage Units (Alternative F)	17	17	17
Maximum Number of Storage Units (Alternative G)	17	17	17
Maximum Number of Storage Units (Alternative H)	17	17	17
Maximum Number of Storage Units (Alternative I)	17	17	17
Maximum Number of Storage Units (Alternative J)	17	17	17
Maximum Number of Storage Units (Alternative K)	17	17	17
Maximum Number of Storage Units (Alternative L)	17	17	17
Maximum Number of Storage Units (Alternative M)	17	17	17
Maximum Number of Storage Units (Alternative N)	17	17	17
Maximum Number of Storage Units (Alternative O)	17	17	17
Maximum Number of Storage Units (Alternative P)	17	17	17
Maximum Number of Storage Units (Alternative Q)	17	17	17
Maximum Number of Storage Units (Alternative R)	17	17	17
Maximum Number of Storage Units (Alternative S)	17	17	17
Maximum Number of Storage Units (Alternative T)	17	17	17
Maximum Number of Storage Units (Alternative U)	17	17	17
Maximum Number of Storage Units (Alternative V)	17	17	17
Maximum Number of Storage Units (Alternative W)	17	17	17
Maximum Number of Storage Units (Alternative X)	17	17	17
Maximum Number of Storage Units (Alternative Y)	17	17	17
Maximum Number of Storage Units (Alternative Z)	17	17	17

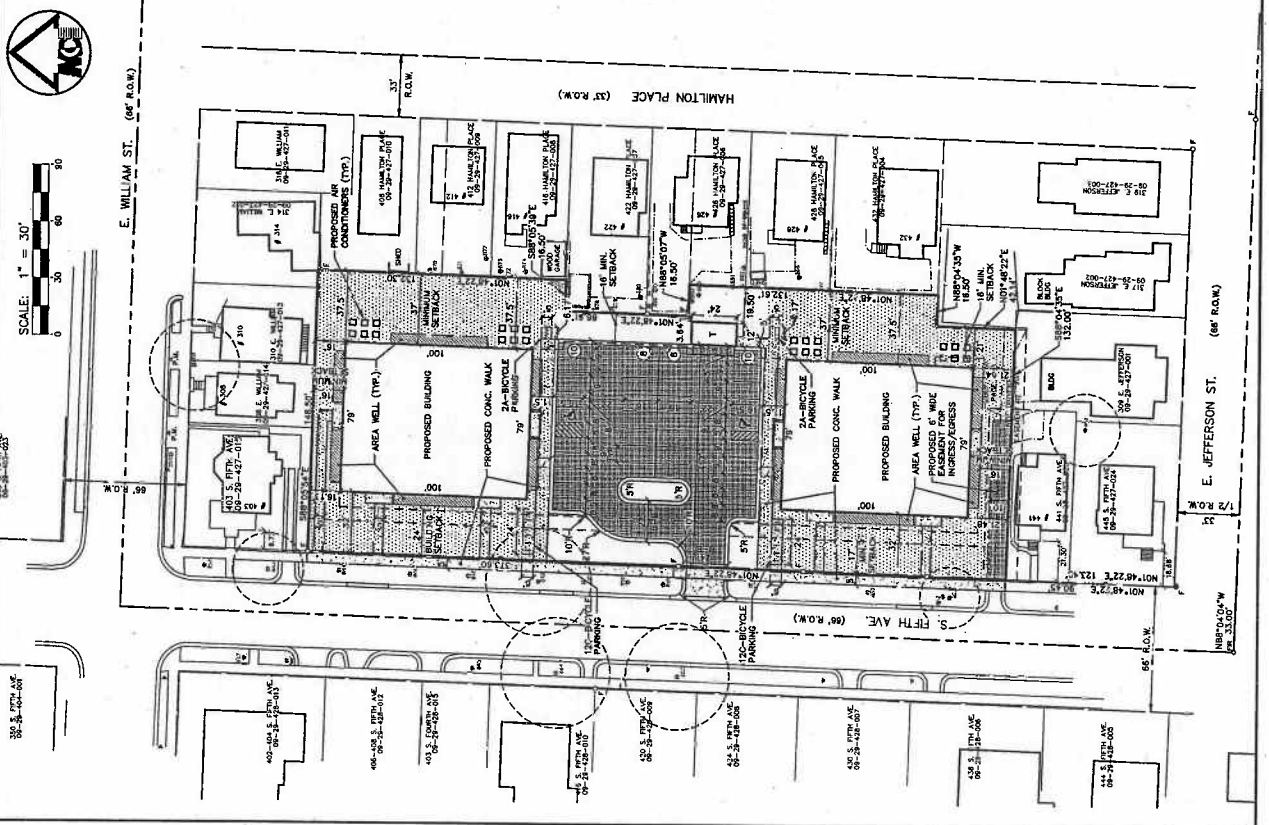
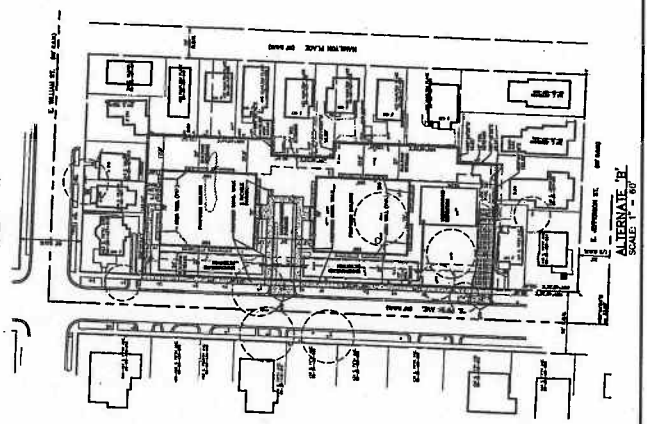
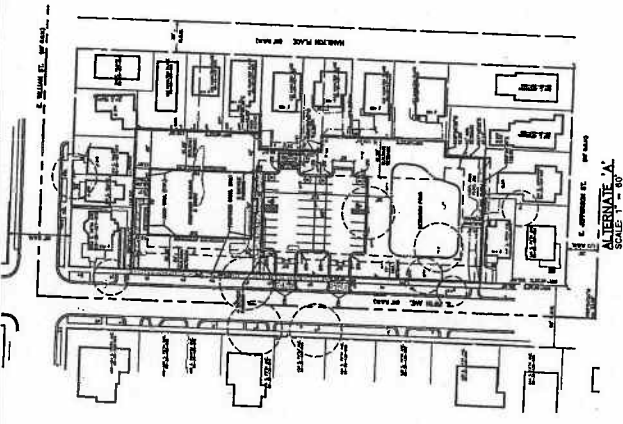
ALTERNATIVE ANALYSIS NOTES

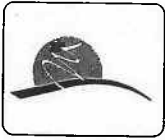
- The removal of the three (3) building footprints that are proposed in plan is unworkable due to the fact that the building footprints are located in the middle of the lot. The building footprints are located in the middle of the lot and are not subject to the same setbacks as the building footprints that are located on the perimeter of the lot. The building footprints that are located on the perimeter of the lot are subject to the same setbacks as the building footprints that are located in the middle of the lot.
- In order for the redevelopment of the site to occur, the existing setbacks and building footprints must be removed. The building footprints that are located in the middle of the lot are subject to the same setbacks as the building footprints that are located on the perimeter of the lot. The building footprints that are located on the perimeter of the lot are subject to the same setbacks as the building footprints that are located in the middle of the lot.
- Alternative A is the proposed development. It is a two-story building with a total floor area of 175,000 sq. ft. It is located on the lot and is subject to the same setbacks as the building footprints that are located on the perimeter of the lot. The building footprints that are located on the perimeter of the lot are subject to the same setbacks as the building footprints that are located in the middle of the lot.
- Alternative B is a two-story building with a total floor area of 175,000 sq. ft. It is located on the lot and is subject to the same setbacks as the building footprints that are located on the perimeter of the lot. The building footprints that are located on the perimeter of the lot are subject to the same setbacks as the building footprints that are located in the middle of the lot.

ALTERNATIVE ANALYSIS SUMMARY

Item	Proposed	Alternative A	Alternative B
Zoning	RAC	RAC	RAC
Permitted Project	30	30	30
Parking Spaces	30	30	30
Parking Location	Surface	Surface	Underground
Height	30 ft	30 ft	30 ft
Construction	Underground	Surface	Underground

Know what's Below. Call before you dig.





© Copyright 2008

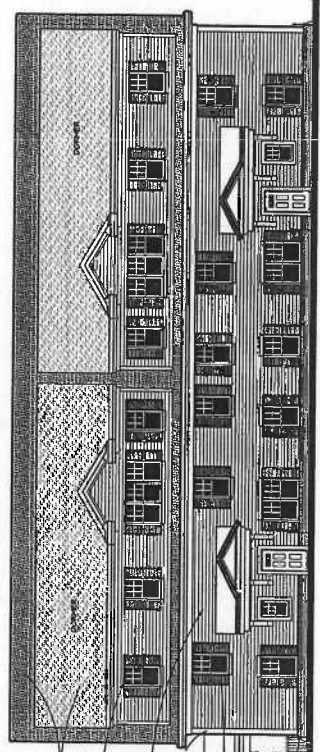
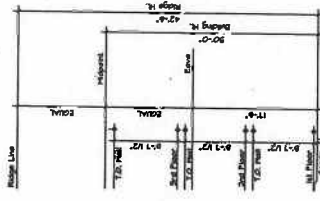
City Place
M.O.R.
Lap Sided Facade

J BRADLEY MOORE & ASSOCIATES
1844 Jackson Road, #150 Ann Arbor, MI 48103 (734) 930-1500

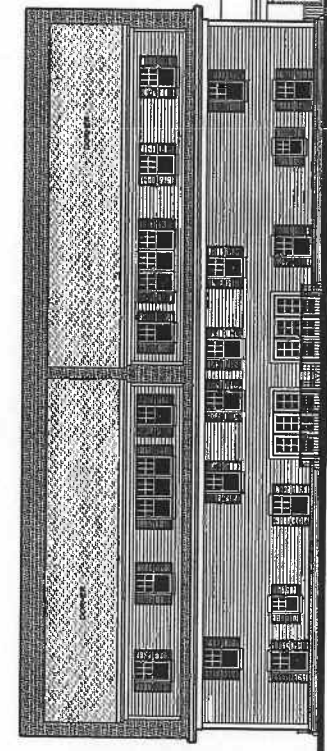
revisions

job 27106

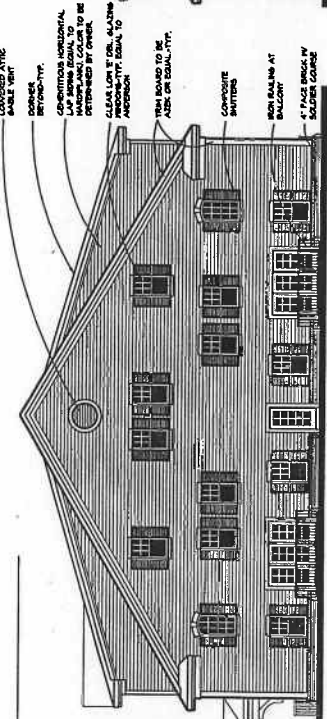
drawn vhw/atu
date 04/09/09
sh: A.3.9B



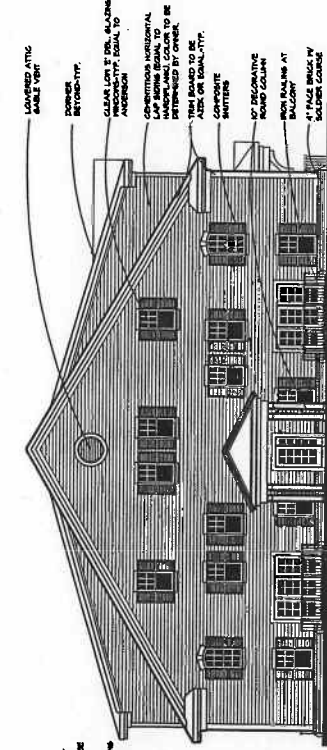
ALT. 'BI' FRONT ELEVATION-WEST (south building) PITCHED ROOF
SCALE: 1/8" = 1'-0"



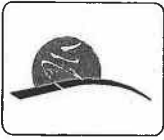
ALT. 'BI' REAR ELEVATION-EAST (south building) PITCHED ROOF
SCALE: 1/8" = 1'-0"



ALT. 'BI' RIGHT SIDE ELEVATION-SOUTH (south building) PITCHED ROOF
SCALE: 1/8" = 1'-0"



ALT. 'BI' LEFT SIDE ELEVATION-NORTH (south building) PITCHED ROOF
SCALE: 1/8" = 1'-0"



© Copyright 2008

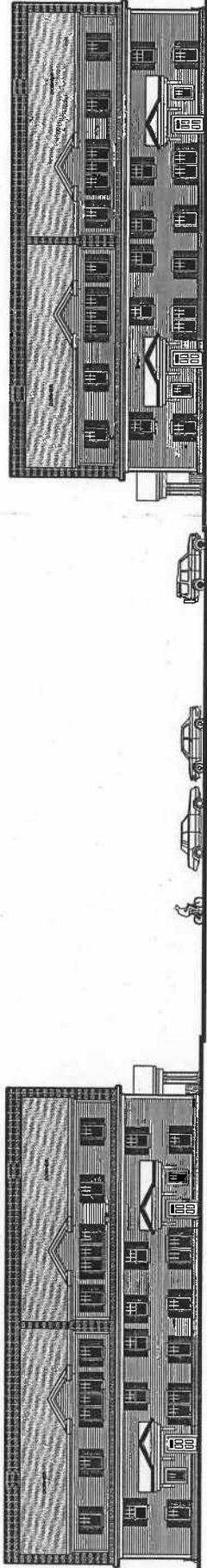
City Place
M.O.R.
Lap Sided Facade
Overall Street Elevation

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

revisions

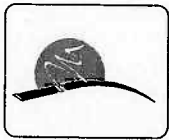
job 27106

drawn kmw/MTJ
date 04/09/08
shd A3.10B



ALT. 'B'' STREET ELEVATION-PITCHED ROOF

SCALE: 3/32" = 1'-0"



© Copyright 2008

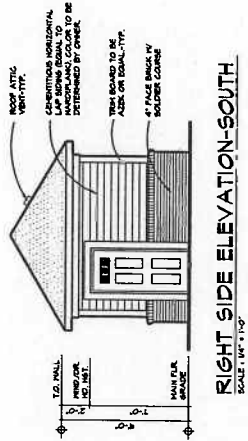
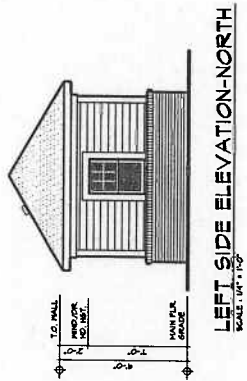
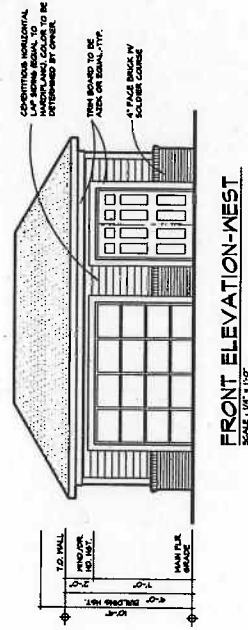
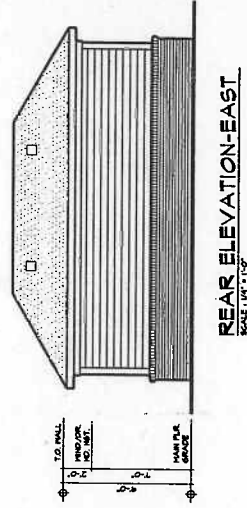
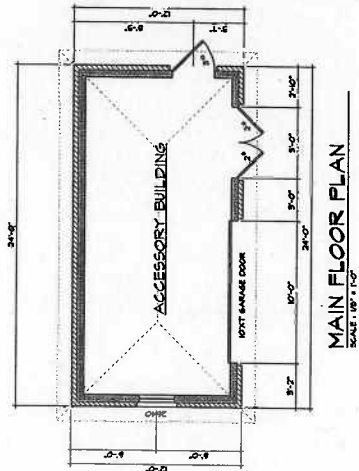
City Place Accessory Building
M.O.R.
Plan and Elevations

1 BRADLEY MOORE & ASSOCIATES
1844 Jackson Road, #150 Ann Arbor, MI 48103 (734) 930-1500

revisions

job 27106A

drawn wtj date 04/15/08
shl B1.2





City of Ann Arbor

100 N. Fifth Avenue
Ann Arbor, MI 48104
www.a2gov.org

Legislation Text

File #: 09-0420, Version: 2

Title

Resolution Returning City Place Site Plan to Planning Commission

Body

Whereas, Immediately prior to its meeting and consideration of the city place site plan on June 1, 2009 city council determined that some of the site plan documents were incorrect, and postponed consideration until June 15, 2009;

Whereas, Upon investigation, city staff have determined that there were errors and inconsistencies in site plan documents presented to the city planning commission and available to the public for review prior to, during and after the planning commission's consideration of the city place site plan on April 21, 2009; and

Whereas, City council has a responsibility to its citizens to ensure that the entire site plan review, recommendation, and approval process are in compliance with procedures provided by city ordinance and state law;

Resolved, That the city place site plan be returned to the city planning commission, so that the planning commission can provide a recommendation to the council based on accurate and consistent plans for the project, and so that the city can provide the public with proper notice, and further comply with all required city ordinances and procedures in its consideration of the site plan;

Resolved, That the planning commission be directed to hold the required public hearing and to provide a recommendation on the site plan at the earliest possible meeting date after providing required notice, which is July 7th, 2009, and that the city place site plan be brought back to council on July 20th for final consideration; and

Resolved, That city council extend the required time limits for consideration of the site plan, which have previously been extended to June 31st, for an additional 30 days, if any extension is deemed necessary.

As amended by Ann Arbor City Council on June 15, 2009

5/4/09

CITY PLACE DEVELOPMENT AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2009, 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 Fifth Avenue Limited Partnership, a Michigan limited partnership, with principal address at 403 South Fifth Avenue, 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 City Place, and

WHEREAS, the PROPRIETOR has caused certain land in the City of Ann Arbor, described below to be surveyed, mapped and site planned as City Place (and sometimes referred to as "Project" or "Site Plan"), and desires site plan and development agreement approval thereof, and

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

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

THE PROPRIETOR HEREBY AGREES:

(P-1) Should PROPRIETOR proceed with the Project, to prepare and submit to the CITY for approval plans and specifications ("the Plans") prepared by a registered professional engineer for private storm water management systems, sidewalks and streetlights (each an "Improvement", and collectively, "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 an Improvement that occurs within one year from the date of acceptance of an Improvement by the CITY, commencing on the latest date of the acceptance of the Improvement by the CITY. If the PROPRIETOR fails to complete construction of an Improvement, the CITY may send notice via first class mail to the PROPRIETOR at the address listed above requiring it to commence and complete the improvement in the notice within a reasonable 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-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 install all water mains, storm sewers, sanitary sewers and public streets, through the first course of asphalt, pursuant to CITY approved plans and specifications, necessary to connect the site with existing CITY systems adjacent to the site prior to the issuance of any building permits.

(P-5) To be included in a future special assessment district, along with other benefiting property, for the construction of additional improvements to South Fifth Avenue, such as street widening, storm sewers, curb and gutter, sidewalks, bike paths, street lights, and the planting of trees along South Fifth Avenue frontage when such improvements are determined by the CITY to be necessary.

(P-6) To indemnify, defend, 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-7) 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-8) Existing landmark and street 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 landmark and street 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-9) For the benefit of the residents of the PROPRIETOR'S development, to make a park contribution of \$32,240.00 to the CITY Parks and Recreation Services Unit for improvements to CITY parkland in the vicinity of downtown prior to the issuance of the first Certificate of Occupancy for the Project.

(P-10) 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-11) To combine, prior to any building permits being issued, all individual parcels comprising site of said development into one contiguous parcel.

(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. Any proposed changes to the system must be approved by the City of Ann Arbor Systems Planning and Planning and Development Services Units.

(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) 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-15) 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. Nonmaterial changes to the approved building elevations, setbacks, aesthetics, or materials may be approved by the Planning and Development Services Manager or designee. 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-16) 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-17) Prior to application for and issuance of certificates of occupancy, to disconnect 4 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-18) 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-19) 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-20) 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-21) 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 City Place Site Plan.
- (C-2) To use the park contribution described above for improvements to downtown parks.
- (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 intersection of the centerline of south Fifth Avenue (66 feet wide) and the centerline of East Jefferson Street (66 feet wide); thence S 88°04'04" E 33.00 feet along the centerline of said East Jefferson Street; thence N 01°48'22" E 123.45 feet along the East line of said South Fifth Avenue, and its extension thereof, to the POINT OF BEGINNING, thence continuing N 01°48'22" E 373.60 feet along the East line of said South Fifth Avenue; thence S 88°05'54" E 148.50 feet; thence S 01°48'22" W 132.30 feet; thence N 88°05'39" W 16.50 feet; thence S 01°48'22" W 66.61 feet; thence S 88°05'07" E 16.50 feet along the North line of Lot 3, Block 4 South, Range 6 East, of said "Original Plat of the City of Ann Arbor;" thence S 01°48'22" W 132.61 feet; thence N 88°04'35" W 16.50 feet along the south line of said Lot 3; thence S 01°48'22" W 42.14 feet; thence N 88°04'35" W 132.00 feet to the POINT OF BEGINNING. Being a part of Lots 1, 2 3 and 4, Block 4 South, Range 6 East, of said "Original Plat of the City of Ann Arbor," and containing 1.23 acres of land, more or less. Being 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. The venue for any action arising under this agreement shall be a court of appropriate jurisdiction in Washtenaw County.

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

Witness:

Fifth Avenue Limited Partnership
A Michigan limited partnership
403 South Fifth Avenue
Ann Arbor, Michigan 48103

By: _____
Alex de Parry, President
Ann Arbor Builders, Inc.
Its General Partner

STATE OF MICHIGAN)
) ss:
County of Washtenaw)

On this _____ day of _____, 2009, 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 _____, 2009, before me personally appeared _____, to me known to be the person who executed the foregoing instrument, and acknowledged that he executed the foregoing instrument as his free act and deed.

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

DRAFTED BY AND AFTER RECORDING RETURN TO:
Mark Lloyd, Manager
Ann Arbor Planning & Development Services
Post Office Box 8647
Ann Arbor, Michigan 48107
(734) 794-6265

**PEAK HOUR TRIP GENERATION
ITE 220 - APARTMENT BUILDING**

PEAK HOUR OF GENERATOR = 144 Persons
 ON A: WEEKDAY
 PEAK HOUR OF GENERATOR

EQUATIONS USED TO PRODUCE TOTAL TRIPS GENERATED

FITTED CURVE EQUATION - WEEKDAY TRIPS $T = 3.47(X) - 64.48$ R2 = 0.90
 FITTED CURVE EQUATION - AM $P_e T = 0.26(X) + 10.99$ R2 = 0.67
 FITTED CURVE EQUATION - PM $P_e T = 0.39 + 2.03$ R2 = 0.66

TOTAL WEEKDAY TRIPS
435

TOTAL TRIPS ENTER/EXIT DISTRIBUTION

AM	% ENTER=	20%
AM	% EXIT=	80%
PM	% ENTER=	65%
PM	% EXIT=	35%

TOTAL TRIPS GENERATED USING EQUATIONS SHOWN ABOVE

GROSS TRIP SUMMARY				20% Non Motorized Reduction			
	AM	NOON	PM		AM	NOON	PM
ENTER	10	24	38	Enter Exit	2	8	14
EXIT	39	30	20		10	9	8
TOTAL	48	53	58		12	17	22

NET TRIP SUMMARY			
	AM	NOON	PM
ENTER	8	16	24
EXIT	29	21	12
TOTAL	36	36	36

CITIZEN PARTICIPATION REPORT

The following is a summary of the public meeting that was held to discuss the proposed R4C project to be located in the 400 block of South Fifth Avenue. It was attended by members of the development team and the public.

NOTICES: 2,019 notices were sent by a combination of mail, email and personal delivery.

NUMBER OF ATTENDEES (not including development team): 21

MEETING DATE/LOCATION: Wednesday, February 11, 2009 at 6:00 p.m., Ann Arbor Public Library

Alex de Parry, developer, opened the meeting by explaining that its purpose was to present the proposed R4C project and to answer any questions that attendees might have. He then turned the meeting over to Brad Moore, of J. Bradley Moore and Associates and the project's architect, who explained, with the aid of drawings, what can be built on the site without variances. The drawings showed, and Brad explained in greater detail, two buildings with basements on the site, each at three stories high with 12 units in each building, four 6-bedroom units per floor. A parking lot with 36 spaces would separate the two buildings and there would be 3 curb cuts. The entrance to each building would face the parking lot. Brad also explained the building's setbacks and height, including the parapet at the top to hide the mechanical units on the roof.

Attendee Question: Why is the parking lot between the buildings? Brad answered that Midwestern Consulting completed the site plan based on city requirements, including drainage and setbacks. Alex also explained that a single building would become too long and narrow because the minimum setbacks would change.

Attendee Question: Would the target market essentially be students? Alex answered yes, that the market for 6 bedroom units was different from the market he had hoped to reach with the original proposal, but he added that each bedroom would be unlike the 6 bedroom units that are currently being built in that each bedroom in the proposed project would have its own bath, a small refrigerator and microwave.

Attendee Question: How noisy will the compressors on the roof be and is there anything that can be done to lessen the noise? Brad explained that each unit will have its own compressor, but reiterated that the compressors will be concealed by the 42" high parapet and that the parapet also acts as a noise buffer. Alex confirmed that the units he chooses to install will be as quiet as possible.

Attendee Question: Will there be any landscaping? Brad showed the audience a preliminary landscaping plan prepared by Midwestern Consulting and explained that it showed what is required by code. Alex added that additional foundation plantings would be added to the site plan.

Attendee Question: How many bedrooms and residents are in the existing houses? There are 45 bedrooms in the existing houses. 60 to 70 residents live in them at any given time.

Attendee Question: How many parking spaces are currently on the site? There are 52 parking spaces currently on site.

Attendee Question: What are the proposed rents? Alex answered between \$700 and \$800 per bedroom.

Attendee Question: Has financing for the project been secured? Alex answered yes.

Attendee Question: Has Alex looked into current vacancy rates? Alex answered that he has done a thorough analysis of the market.

Attendee Question: Will each unit be individually metered? Alex answered yes.

Attendee Question: Has Alex built other buildings? Alex explained that he will not be building the project. It will be bid out. The followup question was had he bid out projects of this size? Alex answered yes, many.

Attendee Question: Will there be places for bicycles and recycling? Alex answered yes.

Attendee Question: Will the units be furnished? Alex answered no.

Attendee Comment: This project seems more like high end student housing and does not seem to be affordable housing. Alex explained that comparable housing ranges from \$600 to \$1100 per month based on the configurations.

Attendee Question: Will there be a common kitchen? Alex reiterated that each unit will have a common kitchen and living space.

Attendee Question: Will there be management? Alex answered there will be on site management.

Attendee Concern: The project appears to ignore the Central Area Plan and it should pay attention to the character of the neighborhood. Alex explained that the drawing Brad presented was merely conceptual and that the building can be made to appear in any number of styles. Another attendee followed up by suggesting Alex look at the style of Wycliffe, and Alex agreed.

Attendee Question: Will fire safety issues be addressed? Alex answered yes.

Attendee Question: With every unit having a bathroom, would the city's sewer system be overloaded? Brad explained that the city required Alex to hire a company to determine if there was adequate sewer capacity and had found that there is.

Attendee Question: Where does the wastewater go? Alex and Brad explained there is underground stormwater retention.

Attendee Question: Since the project has 36 spaces, how would additional parking be handled if needed? Alex answered he had conducted an informal survey of his current residents and found that many use busses and other forms of transportation, and he expects that the location will likewise encourage the use of public transportation and other means.

Attendee Question: How does the style fit in with the neighborhood? Alex and Brad both explained that the zoning ordinance drives what can be done on the site, but reiterated that the drawings presented were conceptual and that the style could be modified. A followup question was: Why does it have to be a box? Alex and Brad again reiterated that the drawing was conceptual and that facades could be broken up in various ways.

Attendee Comment: The first version of City Place (i.e., the PUD proposal) was nice. It had the appearance of row houses. The commenter would like to see similar indentations on the new R4C project. Alex and Brad again explained that indentations and perhaps bay windows were possible.

Attendee Question: Could the project contain units with less than 6 bedrooms so that it provides a better mix? Alex stated that his preference has always been to provide a mix of 1, 2 and 3 bedroom units, but that the existing zoning limits the number of units that can be built to 24, thus making it unfeasible to decrease the number of units.

Attendee Comment: Those of us who are trying to make a neighborhood don't want apartments. Alex reminded the commenter that apartments already exist in the location and throughout most of the neighborhood.

Attendee Question: Could the existing homes be renovated and carriage houses added to the back of the property, thus providing a compromise between those who want the existing homes saved and the developer who wants additional units? Alex explained that it would not meet zoning requirements as most of the houses are non-confirming.

Attendee Question: Could the existing houses be lifted so that underground parking could be built? Alex said that this could not be done under R4C zoning.

Attendee Question: Could the existing streetscape be saved without connecting the buildings? Alex explained that an alternate PUD project is being explored with neighbors, one that keep a significant portion of the existing houses. He said that many additions had been made to the existing houses and that the additions would be eliminated, leaving the original front elevation and sides and incorporating them into a building.

Attendee Question: If this were to happen, could the buildings remain unconnected? Alex explained that the buildings would be connected, but that the connectors would be at the back and the rear architecture would mimic the front. He added that the rear would include courtyards and open space. Brad added that if the buildings were unconnected, there are safety issues that would have to be addressed and each building would have to have two staircases.

Attendee Question: How high will the porches be? Alex answered that he wants the building to be handicap accessible and Brad answered that the porches would be approximately 12" off the ground.

Attendee Comment: The idea of incorporating the existing houses seems like an effort to achieve a common goal.

Attendee Question: Would the density of the revised PUD, incorporating the existing houses, be the same as the R4C? If not, how many bedrooms would be in the PUD proposal? Alex answered that the revised PUD would be a mix of 1, 2 and 3 bedroom units for a total of about 60 units and 170 bedrooms.

Attendee Question: Would the revised PUD include affordable units? Alex answered yes.

Attendee Comment: Mix of units is better than 6 bedroom units but increased density is objectionable.

Attendee Comment: Mix of units is better than 6 bedroom units, the increased density will attract a nice mix of tenants. Commenter said, "We have no problem with increased density."

Attendee Comment: The R4C project is an abomination and called it "Sewer Place." Commenter wants to satisfy the Central Area Plan, preserve the integrity of the neighborhood, designate the houses historic and keep them.

Attendee Comment: Expressed anger about the existing zoning and said directly to Alex, "Any jerk-off can build a piece of crap. You should do something meaningful with your life." Alex responded by asking that we agree to disagree respectfully.

Attendee Comment: Told Alex, "You need to compromise because we're holding the reins." Alex explained that he is willing to compromise but his concern is that the neighbors themselves can't agree on what they want, and that 20 people can have 20 differing opinions. He further stated that we all need to realize that compromise means that none of us gets everything we want, but again stated that he is willing to proceed with a revised PUD which would incorporate the houses if the neighbors can agree on what they want to see.

Attendee Comment: Incorporating the streetscape would meet one of the Central Area Plan's goals of preserving neighborhood character. Alex agreed.

Attendee Question: When would the R4C project be started? In other words, when would the houses be demolished? Alex said that he could not give a specific date, but that he expects the project to be completed by September 2010.

Attendee Question: Was the R4C project submitted? Alex answered yes and that the meeting was part of the requirement. He added that the minutes of this meeting would be incorporated in the submittal and that planning would most likely review it in March and City Council would most likely review it in May.

Attendee Question: When does the developer have to decide on the R4C project or the modified PUD? Alex answered that time is very short. He is willing to continue discussion on the modified PUD but will continue to work on the R4C submittal, which would have to be completed by March 2.

The meeting concluded with several of the immediate neighbors deciding that they would meet on Sunday, February 15 to discuss their ideas and attempt to reach a consensus that they could present to Alex. After their discussion, Alex and Brad would join their meeting.

The meeting adjourned at 8 p.m.

SIGN IN SHEET

	Name	Address	E-Mail
1	Tom & Martha Luczak	438 South 5 th Ave, ⁴⁸¹⁰⁴ Ann Arbor	luczakfamily@comcast.net
2	Tom and Susan Whitaker	444 S 5 th Ave	tgwhitaker@gmail.com
3	Emel Potts	1014 Elder Blvd. 03	erpotts@provident.net
4	ISA STELTER	510 N MAIN ST	isa@ISA STELTER.COM
5	John FINGERLE	1316 ILLINOIS 48107	JO FINGERLE @ AOL.COM
6	GENE & ROSE WILSON	412 HAMILTON RACE	ROGE WIL @ GMAIL.COM
7	Nahoua Basmajian	315 E. Liberty ^{Volunteers} _{part of letting}	
8	RAY DETER	120 N. DIVISION	R DETER @ UNIC. EDU.
9	mike Anglin	542 S outh First ST	mikeanglin@comcast.net
10	Kevin Hankins	439 Third St, Apt. 9	
11	Mary Hathaway	1407 Wakefield	
12	WALT APPEL	548 S. ST A Ave	
13	Dawn Relyea	541 S. 4 th Ave	Walt Relyea@gmail.com
14	Christine Gaudin	506 E. Kingsley St.	chris@cricketcollaotion.com
15	Ellen Ramsburgh	1503 Cambridge Rd.	elramsburgh@hotmail.com
16	Shirley Zempel	434 S. 4 th Ave	zempel.shirley@gmail.com
17	FOR WATKINS	444	
18	Jane Smusterin	115 W Haven	JESSE@ANNARBORCHAMBER.ORG

CITY PLACE SIGN IN SHEET

	Name	Address	E-Mail
19	Kristyler	126 N. Division	tyler@guinnovans.com
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			
31			
32			
33			
34			
35			
36			