

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of September 18, 2007

SUBJECT: McKinley Towne Centre Liberty Retail PUD Zoning District and PUD Site Plan (500-510 E. Washington and 505-515 E. Liberty) File Nos. 9291A19.03 and .05

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the McKinley Towne Centre Liberty Retail PUD Zoning District and Supplemental Regulations, PUD Site Plan and Development Agreement, subject to receiving approval by the Washtenaw County Drain Commissioner's office, and addressing all outstanding Systems Planning Unit comments.

STAFF RECOMMENDATION

Staff recommends that the McKinley Towne Centre Liberty Retail PUD zoning district and supplemental regulations be **approved** because the uses, physical characteristics, design features and amenities proposed provide a beneficial effect for the City and are consistent with elements of the adopted Master Plan, as discussed below.

Staff recommends that the McKinley Towne Centre Liberty Retail PUD site plan be **approved** because it would comply with the PUD zoning district development program and supplemental regulations; would not cause a public or private nuisance; and would not have a detrimental effect on the public health, safety or welfare.

LOCATION

This site is located in the middle of the block bounded by East Washington Street on the north, South State Street on the east, East Liberty Street on the south and South Division Street on the west (Downtown Area) in the Downtown Development Authority (DDA) district and in the Huron River watershed.

DESCRIPTION OF PETITION

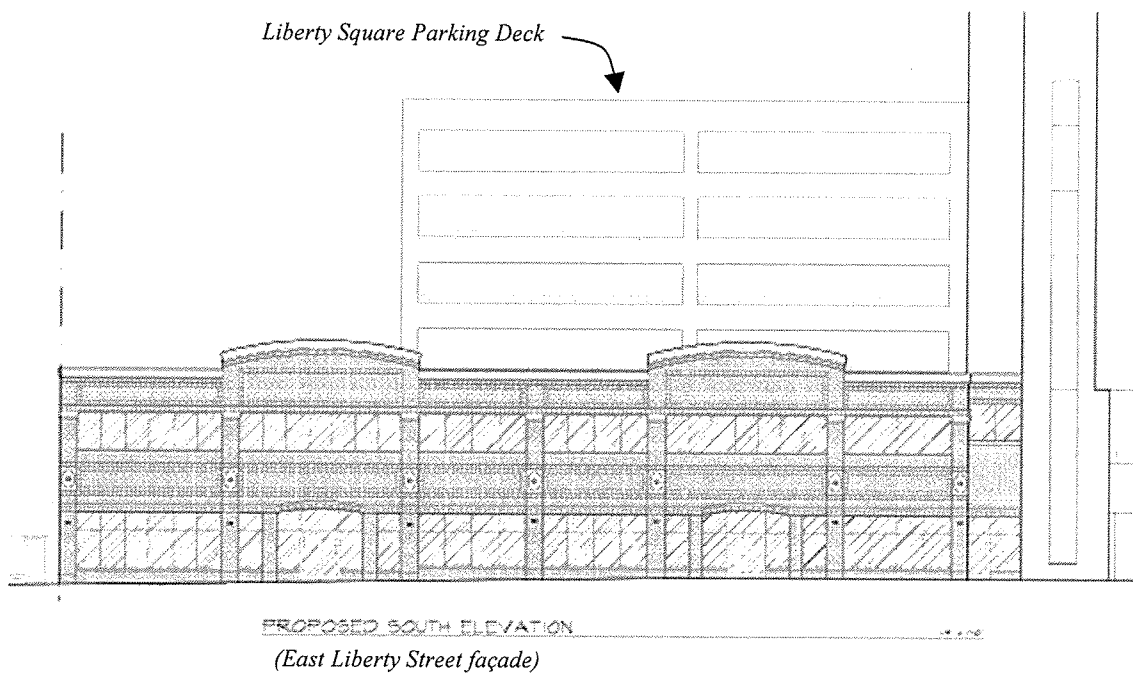
The petitioners proposed to create a planned unit development at the subject site, which consists of two separate parcels. One parcel is 5,199 square feet, is currently zoned C2A (Central Business District) and contains a vacant 9,726-square foot bank building with an address of 505 East Liberty Street. This parcel has a floor area ratio (FAR) of 189 percent, below the 200 percent maximum FAR permitted in the C2A district. The other parcel is 44,889 square feet, is currently zoned C2B/R (Business Service Residential District) and contains the public Liberty Square Parking Deck as well private commercial space that was once the Tally Hall food court and now used for offices. This parcel spans the block and has frontage on both East Liberty and East Washington Streets. The single building, referred to as the Liberty Square building in this report, contains public parking decks and private office space and has an FAR of 593 percent which exceeds the 300 percent maximum FAR permitted in the C2B/R

8a

district. The proposed site is to have a total of 50,009 square feet in surface area and has a combined existing floor area ratio (FAR) of 552 percent.

PUD Zoning District and Supplemental Regulations – A PUD Zoning District is proposed for the 50,009-square foot site to consolidate the land under a single zoning district and to allow new development on the non-conforming site. PUD Supplemental Regulations have been drafted to allow 600 percent maximum FAR. The Supplemental Regulations also propose zero-foot front and side setbacks (the site has no rear), no off-street parking requirement and include architectural design standards. Permitted principle and accessory uses are to be the same as those allowed in the C2A district.

PUD Site Plan – A PUD Site Plan is proposed for a 25,503-square foot three-story addition to the existing Liberty Square building. The petitioners seek to demolish the existing bank and a portion of the Liberty Square building lobby that fronts East Liberty Street. The additional floor area is proposed along the entire length of the site's south side, to span between the one-story retail building on the adjacent parcel to the west and the stair tower of the parking deck. One of the three proposed stories will be below grade to match the existing configuration of the private office space. The south half of the open space that runs along the site's west side will be filled in by the additional floor area. After the demolition of the bank and lobby, the net increase in floor area is 14,744 square feet for a new total floor area of 290,871 square feet.



There are no natural features present on the site. No storm water management currently exists. As part of the proposed development, underground storage and treatment of the first flush volume of storm water is proposed in the remaining portion of the vehicular use area in the northwest corner of the site and the petitioner has proposed a \$125,000 contribution to the storm water management fund.

COMPARISON – ZONING DISTRICTS

		EXISTING		PROPOSED
Zoning		C2A	C2B/R	PUD (Planned Unit Development District)
Gross Lot Area		None	None	4,600 square ft MIN
Floor Area Ratio		400% MAX normal 600% MAX w/premiums 660% MAX w/pedestrian and/or residential premiums	300% MAX normal 600% MAX w/pedestrian premiums (only)	600% MAX
Set-backs	Front	None, unless abutting R district	40 ft MIN	None
	Side	None, unless abutting R district	None, unless abutting R district	None
Height		2 stories MIN, no MAX Usable floor area of second story must be min. of 75% of the first story usable floor area.	None	102.5 ft MAX
Vehicle Parking		None required for normal FAR, 1 space per 1,000 square feet of residential use and/or 1 space per 500 square feet of nonresidential use for any premium FAR.		None
Bicycle Parking		None		None

COMPARISON CHART – PUD SITE PLAN

		EXISTING 505 E. Liberty	EXISTING Liberty Square Bldg.	PROPOSED PUD Site Plan	REQUIRED/ PERMITTED PUD Supplemental Regulations
Zoning		C2A	C2B/R	PUD	PUD
Gross Lot Area		5,119 sq ft	44,889 sq ft	50,008 sq ft	51,016 sq ft
Floor Area Ratio		189% (9,726 sq ft)	593% (266,371 sq ft)	582% (290,871 sq ft)	600% MAX
Setbacks	Front	0 ft	0 ft (E. Liberty) 10 ft (E. Wash first story only)*	0 ft E. Liberty 0 ft E. Washington	0 ft MIN
	Side	0 ft	2 ft (east) 26 ft (west)	2 ft (east) 0 ft (west)	0 ft MIN
	Rear	0 ft	No rear	No rear	No rear
Height		1 story	102.5 ft	102.5 ft	102.5 ft MAX
Vehicle Parking		None	562 spaces in public parking deck	No change	None
Bicycle Parking		None	None	None	None

* 30-foot variance granted 3/16/83 (ZBA Appeal 83-2-17) to allow 10-foot front setback along East Washington Street instead of 40-foot front setback.

SURROUNDING LAND USES AND ZONING

	LAND USE	ZONING
NORTH	Commercial, Church	C2A/R (Commercial/Residential District)
EAST	Commercial	C2A (Central Business District) and C2A/R
SOUTH	Commercial	C2A
WEST	Commercial	C2A and C2A/R

HISTORY

505 East Liberty Street has been a bank for over 30 years. Prior to 1982, the parcel on which the bank stood was larger than its current 5,119 square feet. In 1982, the then-owners of the bank sold the bank’s parking lot and drive-thru lane to private developers who were also interested in adjacent parcels to the north.

In 1982, private developers acquired land on the south side of East Washington Street and part of an existing bank site on East Liberty Street (see paragraph above), and approached the City of Ann Arbor about purchasing a surface parking lot on East Washington Street. The private developers proposed a Planned Unit Development to construct a 14-story mixed-use building including commercial, residential and public parking. The proposed PUD, called Ann Arbor Tally Hall, was recommended for approval by City Planning Commission on November 23, 1982 and had a public hearing at City Council on January 10, 1983, but was withdrawn by the petitioner before receiving final action. The project was scaled down to contain just two stories of privately-owned space, one floor at street level and one floor below grade, and a seven-level public parking deck. The Ann Arbor Tally Hall site plan was recommended for approval by City Planning Commission on March 8, 1983 and approved by City Council on March 21, 1983. It appears that city staff at the time did not include the public parking deck in any floor area ratio calculations.

A condominium was established for this unique development with two units. Unit Number 1 consists of the below-grade and street-level floor area, which at that time was used as a food court with numerous vendors. Unit Number 2 consists of the seven levels of parking deck that start one story above the street level. The 26 feet of open space along the west side of the site as well the two-foot wide side and rear setback areas are general common area of the condominium. The City of Ann Arbor was the original, and continues to be, the owner of Unit 2 of the Ann Arbor Tally Hall condominium. Today, McKinley, Inc. owns Unit 1 of the condominium.

Separately from this PUD petition, the two condominium unit owners are working to redefine the boundaries of the units and the general common area. Unit Number 1 (McKinley, Inc.) is seeking to expand the unit to include the area that is now 505 East Liberty Street as well as some of the general common area. Because of the three-dimensional nature of the condominium, the parcel cannot be subdivided so that the parking deck and the private office space are on separate parcels of land.

PLANNING BACKGROUND

Land Use Plans – 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.

Ann Arbor Discovering Downtown – The Ann Arbor Discovering Downtown project, often referred to as the A2D2 project, is a recent and on-going planning activity with a focus on five high priority action items in the downtown area: zoning, architectural design guidelines, historic districts, parking/transportation, and development process. These five high priority action items were selected from the recommendations contained in the *Downtown Development Strategies Project* (commonly known as "the Calthorpe Report"). A separate committee has been established for each action item. The zoning committee and the architectural design guidelines committee have each prepared preliminary recommendations which are scheduled to be considered by the City Council on October 15, 2007.

Preliminary recommendations from the A2D2 Zoning Committee are to create two or three zoning districts for the downtown area, allowing 400 percent maximum FAR by right in these districts, allowing up to 700 percent maximum FAR with premiums and up to 900 percent maximum FAR with super-premiums such as on-site affordable housing units. Shared on-site parking has been identified as a premium, as well as energy conserving designs, alternative energy use, LEED certification and low-impact development.

Preliminary recommendations from the A2D2 Architectural Design Guidelines include designating character areas and developing distinct guidelines for each character area to reflect existing patterns. Wrapping parking structures with retail uses, and continuing commercial activity along the street are among the architectural design guidelines being considered.

SERVICE UNIT COMMENTS

Systems Planning – The site plan must be submitted to the Downtown Development Authority for its review and approval for proposed work in the right-of-way. Existing utilities as shown on the proposed site plan must be re-examined for accuracy; city records indicate that the water main in East Liberty Street is a six-inch main rather than the 12-inch main as currently shown. The water main must be up-sized from the existing main at Thompson and Liberty Streets to the property line to accommodate the fire service lead. Fire hydrant coverage is not fully provided for the site by the proposed hydrant and must be revised. The sanitary sewer mitigation calculations must be better clarified and explained.

Planning note: While important, these items do not affect the proposed PUD zoning district supplemental regulations for the proposed building footprint on the PUD site plan. It would be appropriate to make addressing these items approval recommendation conditions that must be completed prior to City Council consideration.

Land Development – Because this site has multiple property owners, jurisdiction for review and approval of the storm water management system is extended to the Washtenaw County Drain Commissioner’s office, in accordance with Chapter 63 (Storm Water Management and Soil Erosion and Sedimentation Control). It must be noted that normally first flush, bankfull and 100-year storm volume management would be required for this site if reviewed and approved by City staff. However, it will be up to the discretion of the Drain Commissioner’s office if up to 100-year storm volume management will be required. A lesser volume could be found satisfactory to the Drain Commissioner. Only storage and treatment of the first flush volume is currently proposed on-site, and a \$125,000 contribution to the Storm Water Management Fund is proposed in-lieu of providing up to 100-year storm water volume on-site. The Drain Commissioner’s review and approval is still pending. Staff in the Drain Commissioner’s office have indicated that contributions to the City’s storm water management fund would be voluntary and would not satisfy their requirements.

Downtown Development Authority – The number of people who use the East Liberty Street lobby entrance to the Liberty Square Parking Deck is sufficient to warrant double doors rather than the single door that is currently proposed. The design of the lobby entrance should be revised to provide double doors.

Planning and Development Services – The overall concept of the proposed development is in keeping with many of the City’s adopted plans as well as the working recommendations of recent planning activities. Redeveloping this underutilized mixed-use site with additional uses would strengthen the downtown area and contribute to a livelier, more desirable City overall. The proposal meets the minimum criteria for consideration of a planned unit development and provides benefits that would otherwise not be achieved. As the petitioner has stated, this project will put street-level activity back on East Liberty Street where there is now an enclosed, below-grade, unused retail area and a vacant bank. It will bring more people to the downtown area by providing office space and retail destinations. A PUD zoning district and customized supplemental regulations for the proposed district enable for continued growth of a non-conforming site due to an unusual public-private partnership.

Staff believe, however, that the proposed development could be further enhanced by the addition of residential uses, green infrastructure and, most importantly, maintaining an open pedestrian mid-block connection between Washington and Liberty. The site is well positioned midway between campus and Main Street and could be attractive to a broad range of future residents. There are few existing sites in the downtown that can offer a location as close to the heart of downtown and campus as well as convenient long-term permit parking for personal vehicles.

As currently designed, the proposed building will have a flat roof that would be ideal for a green roof. Since it is a relatively low building compared to the parking structure and other nearby buildings, a green roof would be both a visual and an environmental amenity. Also, as not all of the existing vehicular use area will be developed, the site has a unique opportunity for on-site plantings and storm water infiltration. A pocket park could be developed for the benefit to site users and all of downtown, and could be used to collect storm water beyond the minimum code

requirements. It also may be possible to use the remaining vehicular use area for geothermal heating and cooling system lines.

The existing vehicular use area along the west side of the site is not a public alley but does offer pedestrians a similar benefit. This area was initially associated with the original bank's teller window. When the Ann Arbor Tally Hall development was proposed, it was important to adjacent property owners that this open space be maintained and was echoed by the City Council. While it has always been designed for vehicular use, it is frequently used by pedestrians as a cut-through for one of the longest downtown blocks. Preserving an open pedestrian connection, even as a covered arcade, would be a much-desired public benefit and is consistent with the preliminary guidelines of the A2D2 architectural design committee, scheduled for City Council action in October and which are likely to be adopted prior to City Council action on this petition. Parks and recreation staff and consultants to the A2D2 process join staff in recommending an open mid-block pedestrian connection be preserved across this site.

Prepared by Alexis DiLeo
Reviewed by Mark Lloyd
jsj/9/13/07

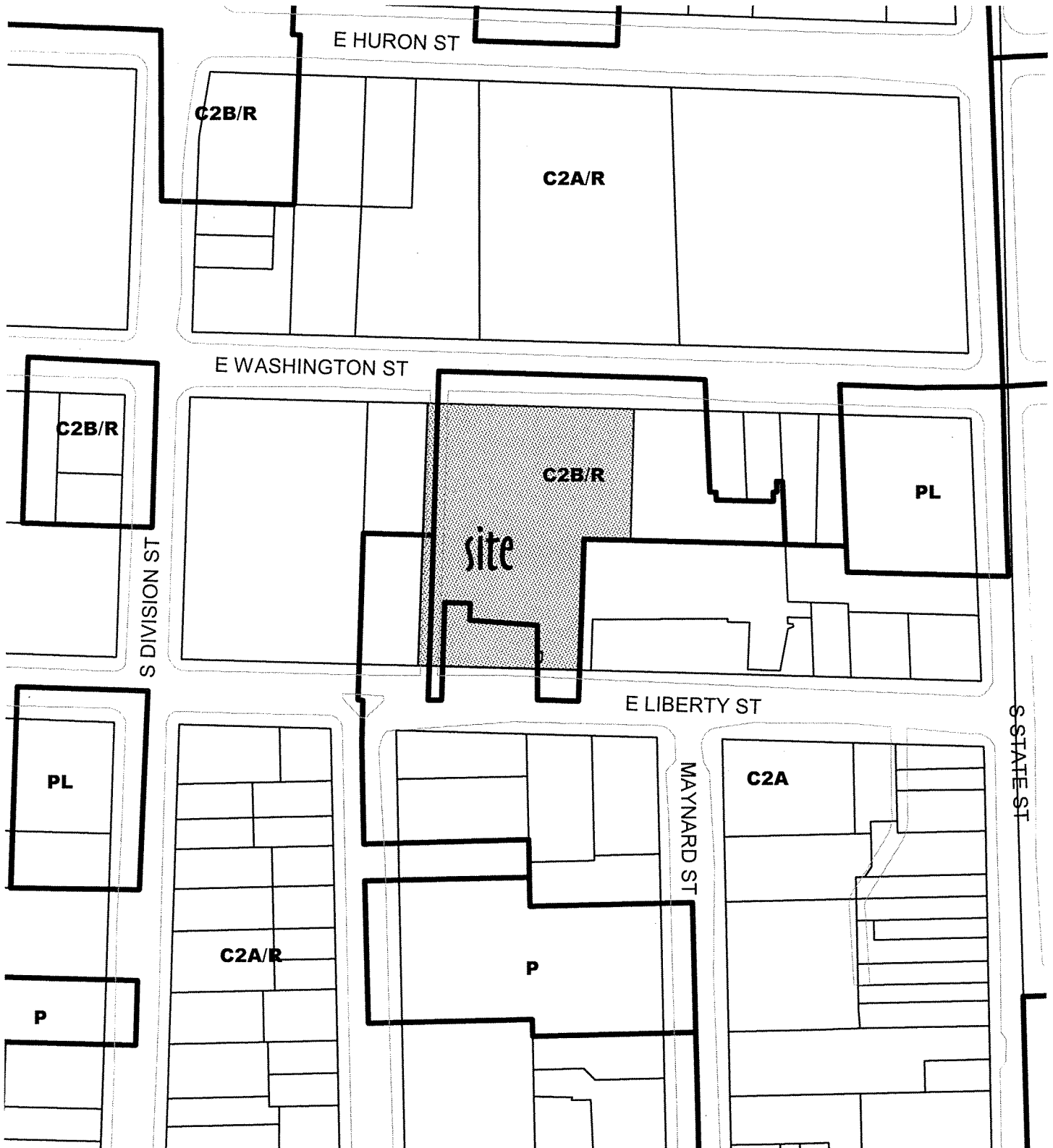
Attachments: Parcel/Zoning Map
Aerial Photo
Site Plan
Elevations
PUD Petition
9/12/07 Supplemental Regulations
9/13/07 Development Agreement

c: Owner: McKinley, Inc.
320 North Main Street, Suite 200
Ann Arbor, MI 48104
Attention: Frances Todoro-Hargreaves

City Attorney
Systems Planning
File Nos. 9291A19.03 and .05

McKinley Towne Centre Liberty Retail PUD Zoning District and PUD Site Plan

Parcel and Zoning Map

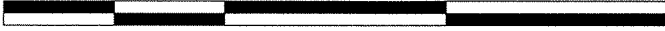


McKinley Towne Centre Liberty Retail PUD Zoning District and PUD Site Plan

Aerial Photo



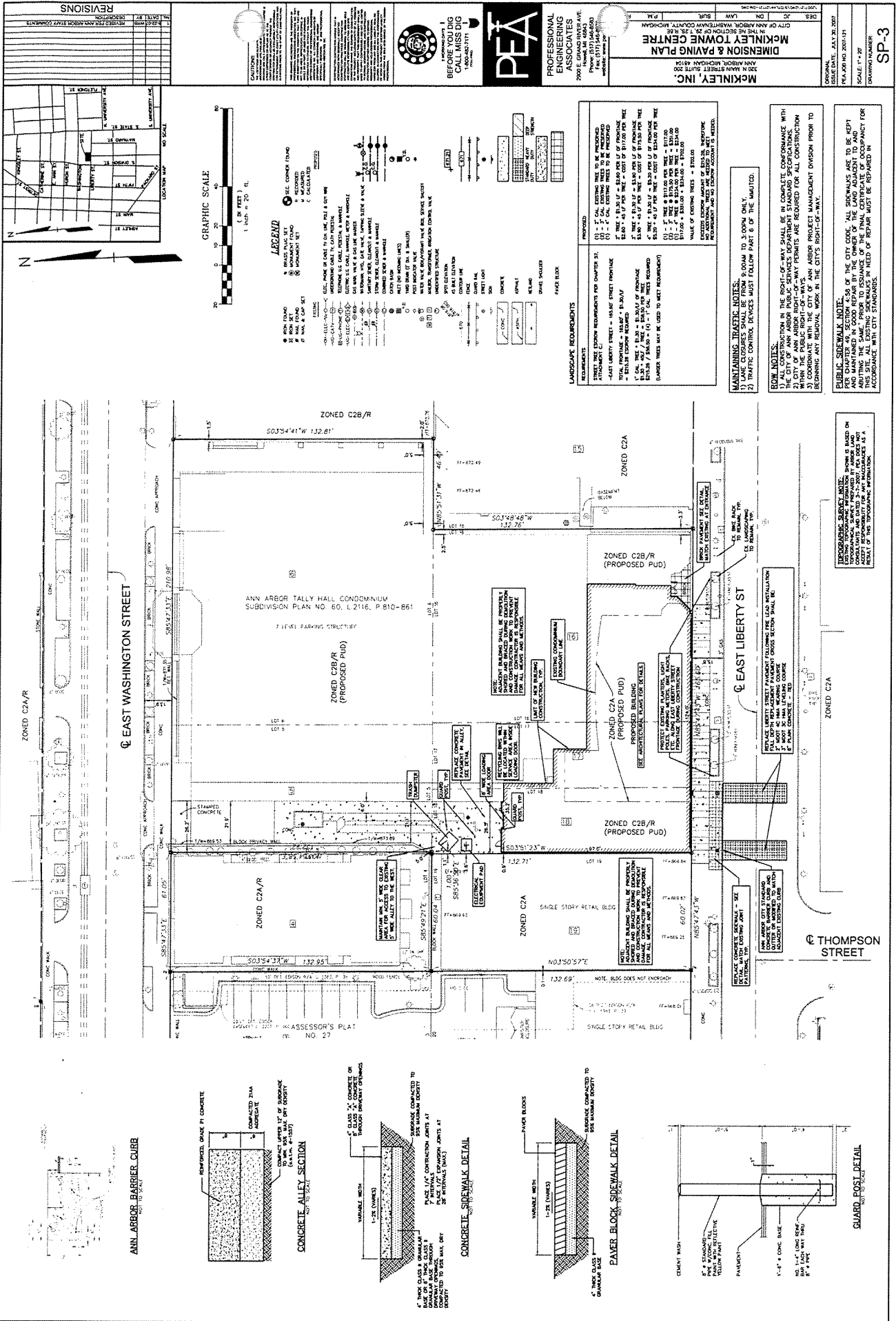
100 0 100 200 Feet



2002 Aerial Photo



MCKINLEY TOWNE CENTRE-LIBERTY RETAIL PUD - SITE PLAN



REVISIONS

NO.	DATE	BY	DESCRIPTION
1	07/20/2017
2	07/20/2017

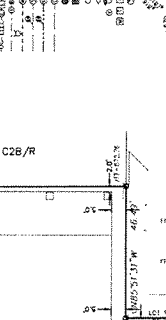
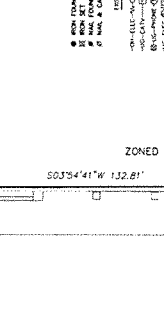
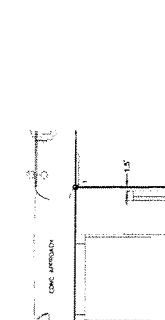
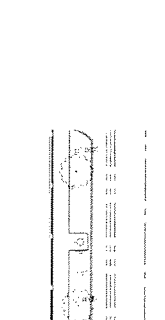
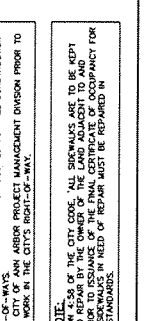
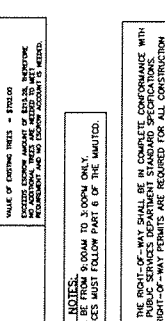
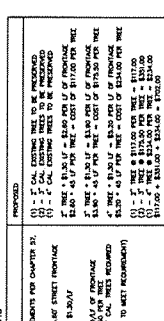
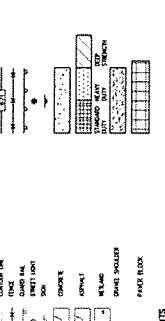
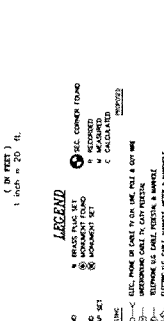
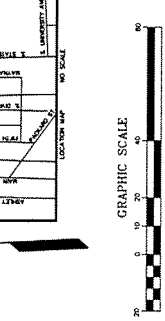
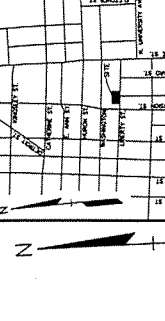
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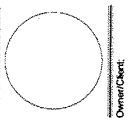
CITY OF ANN ARBOR
 200 N. MAIN STREET, SUITE 200
 ANN ARBOR, MICHIGAN 48104
 PHONE: (313) 761-1100
 FAX: (313) 761-1101

DATE: JULY 20, 2017
PROJECT NO.: 2017-001
SCALE: 1" = 20'
DRAWING NUMBER: SP-3



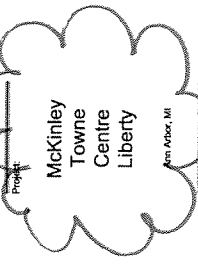
NOTE: ELEVATIONS ARE
PRELIMINARY FOR SITE PLAN
SUBMITTAL ONLY. NOT FOR
CONSTRUCTION.

340 N. Main St
Ann Arbor, MI 48106
734.663.7560 Fax 734.663.1190



McKinley

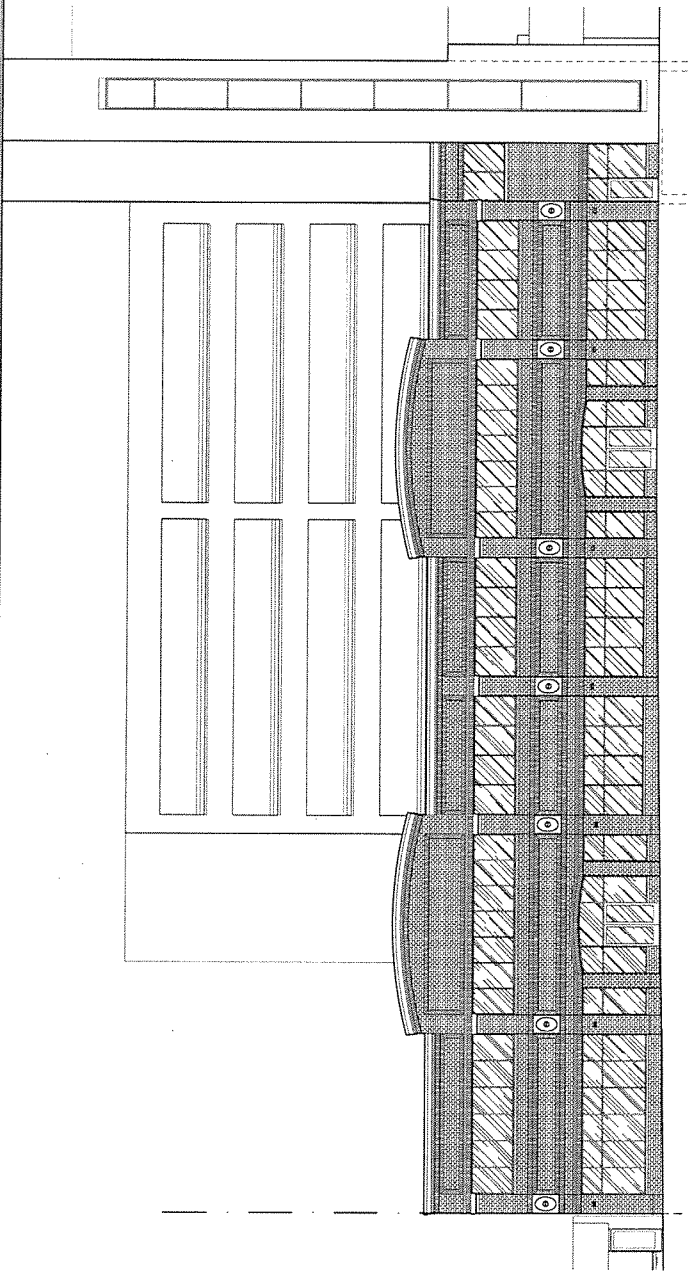
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Ann Arbor, MI 48106
Project No. 200734



Ann Arbor, MI

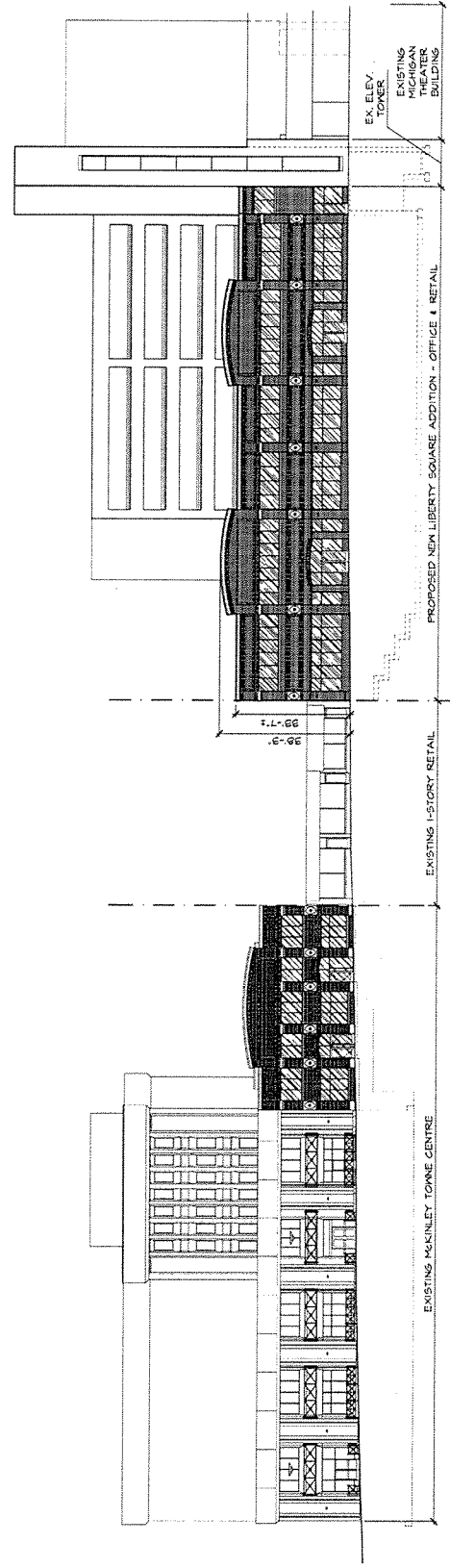
Revision: _____
Owner Refs: 8/2/10/7

Date: 7/26/07
Drawn: DJE
Project No.: 200734
Scale: AS SHOWN
Approved: AS SHOWN
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Drawing Title:



PROPOSED SOUTH ELEVATION

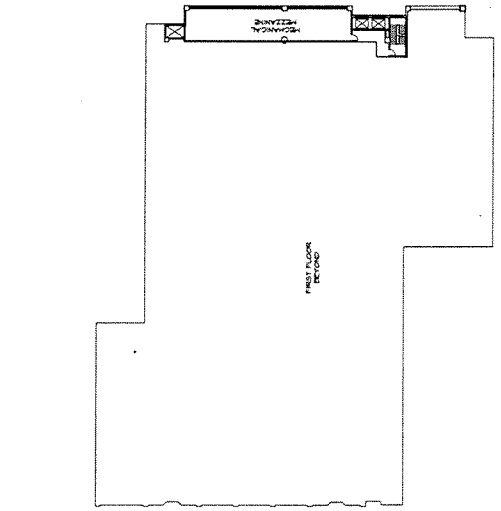
1/4" = 1'-0"



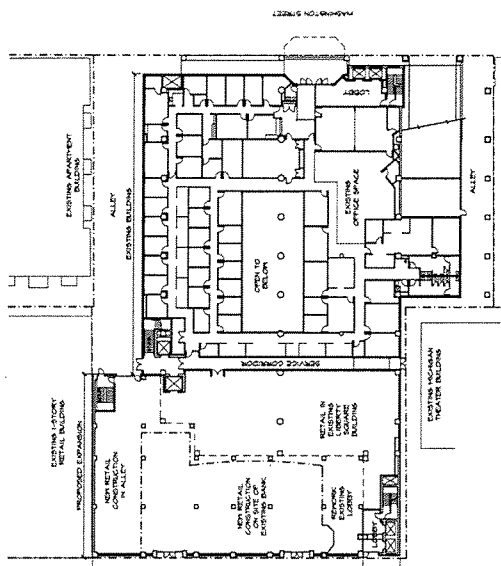
COMPOSITE SOUTH ELEVATION

1/4" = 1'-0"

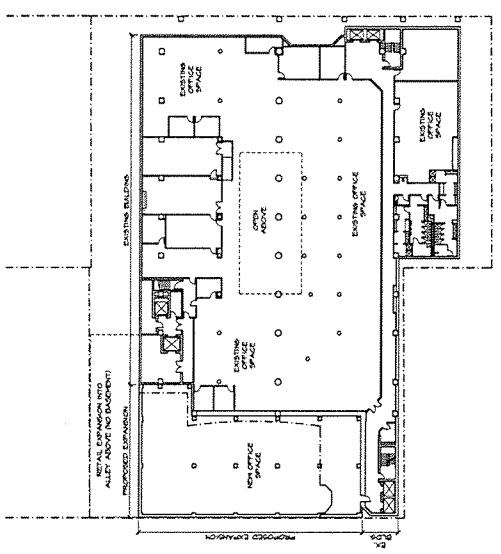
South
Elevation



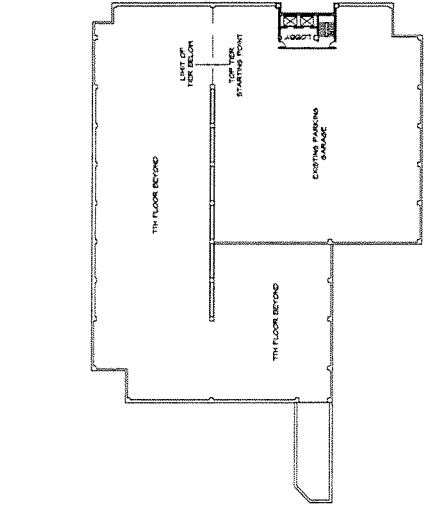
MEZZANINE PLAN
1" = 30'-0"



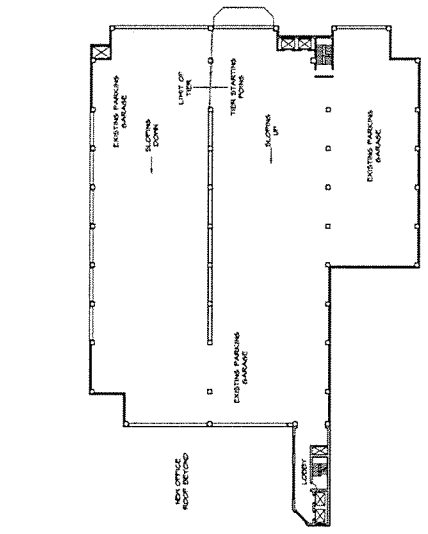
FIRST FLOOR PLAN
1" = 30'-0"



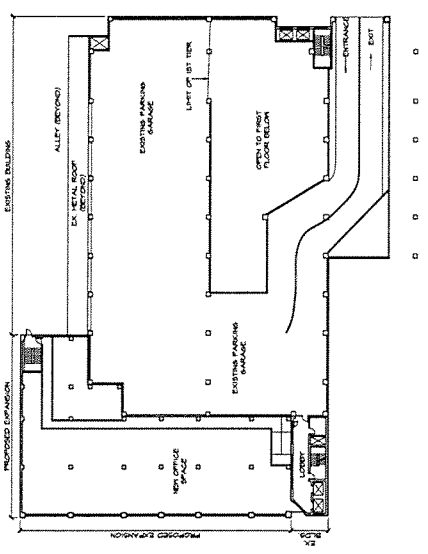
BASEMENT PLAN
1" = 30'-0"



8TH FLOOR PLAN
TOP PARKING TIER (PARTIAL)
1" = 30'-0"



3RD-7TH FLOOR PLAN
TYPICAL PARKING TIER
1" = 30'-0"



SECOND FLOOR PLAN
PARKING TIER 1
1" = 30'-0"

**PETITION FOR ESTABLISHMENT OF OR CHANGES TO
PLANNED UNIT DEVELOPMENT (PUD) ZONING DISTRICT**

**TO: The Honorable Mayor and City Council
City of Ann Arbor, Michigan**

We, the undersigned, respectfully petition the Honorable Council of the City of Ann Arbor to amend the Zoning Map as it relates to the property described below:

Please refer to the proposed McKinley Towne Centre Liberty Square PUD Site Plan.

Petitioner's name, address and telephone number. Include fax number and email address if available.

McKinley, 320 North Main Street, Suite 200, Ann Arbor, Michigan 48104. Contact Frances Todoro-Hargreaves.

Interest in land (i.e. owner, land contract holder, option to purchase, etc.):

Owner

Name, address, telephone number, and interest in the land of all others with a legal or equitable interest in the property. Provide written authorization of the owner(s) to seek the PUD Zoning [Section 5:80(4)(a)].

City of Ann Arbor, co-owner of Tally Hall Condominium

The petitioner requests that the Official Zoning Map be amended to rezone this property from C2B/R and C2A to PUD (Planned Unit Development) to permit the use(s) described in the PUD Supplemental Regulations, which are attached.

The mandatory pre-petition conference with the Planning Commission was held on July 10, 2007.

PUD Development Program, Section 5:80(4)(d):

- 1. List, describe and explain the objectives, purposes and beneficial effect(s) proposed to be achieved by the PUD zoning district. Refer to 5:80(6)(a).**

Background: In 2005, McKinley purchased an effectively vacant office building at 401 E. Liberty. The building was owned by TCF Bank, the largest downtown employer in the CBD (excluding the City and the University of Michigan). TCF relocated its regional headquarters to Livonia in late 2006 and took with it all 500+ jobs out of the CBD. Over the last 2 years McKinley has been redeveloping the Division and Liberty area in an effort to reactivate and revitalize the downtown core by connecting "town" and "gown" at the nexus that had been severely neglected for many years. The McKinley Towne Centre project has successfully reteneanted its vacancy with both national and local tenants. The office tenants include Google Adwords, Bodman Law Firm, and Ann Arbor Spark. The retail includes Bar Louie

Restaurant, TCF Retail Bank, AT&T Mobility and Salsarita's Fresh Cantina. The releasing effort has been extremely successful and just 5,000sf of the 125,000sf is available.

In addition to the offices, retailers on the first floor of McKinley Towne Centre have added to the vitality and "activation" of Liberty Street, especially the intersection of Liberty and Division. The success of Bar Louie has made the second busiest intersection downtown a destination place.

With the TCF Bank purchase, McKinley owns the largest contiguous parcel within the CBD, and we are systematically redeveloping two vacant parcels with uses that are complimentary with the fabric of downtown Ann Arbor. First, the Freed parcel at the northeast corner of Washington and Division will become 96 residential units "for lease" with on-site parking. Second, the Ann Arbor Hotel, at the southwest corner of Washington and Division, will provide 120 hotel rooms and create 20 to 40 new jobs in the downtown. Both parcels that had been used mostly as surface parking, are now being placed into productive use.

In an effort to continue the phenomenal success of McKinley Towne Centre and the revitalization of the downtown core, McKinley purchased the 68,000sf Liberty Square (formerly Tally Hall) development in early 2007. The addition of this property to McKinley Towne Centre further enhances the scale and positive impact of the multi-site mixed use development in the CBD.

We want to be clear that this PUD request would not be required had our property not been attached to a city parking structure. Exceeding the FAR caused by the parking structure is the only legal reason that has required us to proceed with a PUD. However, given the facts herein, we have worked diligently to achieve a very positive outcome for the community in this PUD process.

The objective of this PUD project:

- Continue the process of revitalizing the Liberty Street corridor, the main connection between State and Main Streets.
- Reinvigorate the retail and pedestrian activity in downtown.
- Enhance the community impact of the multi-site mixed used development known as McKinley Towne Centre.

The purpose of the PUD project:

- Revitalize an eyesore that has sat vacant since Borders moved out of downtown over 9 years ago.
- Retenant Liberty Square which was vacant for over 9 years. McKinley has successfully leased 18,000sf of the Washington Street frontage to the University of Michigan for their English Language Institute. This 5 year lease with options is a positive step in the redevelopment and reactivation of the vacant site.
- Increase the economic vitality of the downtown.
 - McKinley Towne Centre is now an anchor of positive development on the busiest east/west corridor in downtown. Liberty Square becomes the next logical redevelopment effort, and further strengthens the "nexus" between town and gown that we have created.
 - McKinley also has a contractual option to purchase the building between McKinley Towne Centre and Liberty Square, the former Lamplighter building. We are looking forward to being able to exercise this option and continue the

new found energy that has been brought to Liberty Street. McKinley Towne Centre, the Lamplighter building and Liberty Square will allow for 405 linear feet of newly developed retail along Liberty. The pace of redevelopment and synergies that have been created bode well for downtown Ann Arbor, for Washtenaw County and for the State of Michigan.

The beneficial effects of the PUD:

- The reactivation of this site will provide added jobs and economic vitality to the area. The retail provided will be complimentary to the needs of the residents in the State Street Area and to the existing businesses. The reuse of the bank building to a retail use will provide the energy needed to fill the vacancy gap in the storefronts.
- The development site currently does not have adequate storm water management. By redeveloping this site, we will provide first flush for the entire site and also provide \$125,000 to the storm water management fund for any necessary improvements in the area. As a note, McKinley would be contributing the entire \$125,000 for the fee parcel and condo parcel. The City of Ann Arbor as the other condo owner and the Tally Hall Condo Association are not burdened with any contribution whatsoever, therefore, McKinley's work and contribution resolves the matter for both The City of Ann Arbor and McKinley, a major community benefit.
- As part of this site plan project McKinley will redevelop the Liberty Street Lobby for the Liberty Square Parking Structure. Again, at no cost to the development's other condo owner, The City of Ann Arbor or the Tally Hall Condo Association. The redesign of this lobby will discourage loitering and increase the safety of customers using the parking structure. We currently are beginning work on the Washington Street lobby and are looking forward to having this lobby remodeled and completed in October. These improvements constitute major upgrades of public spaces, and a major community benefit.
- The architecture of the new façade will also contribute to the established character of the neighborhood as opposed to the existing outdated architecture of the site. The design of the structure will be consistent with the architecture and design of the new building developed at McKinley Towne Centre, (containing Salsarita's and AT&T) and also compliments the surrounding size and heights of the Liberty Street storefronts. The architectural façade upgrades constitute a major community benefit via the redevelopment of this eyesore (that has sat vacant for years).
- We will engineer and construct the new building in a manner that will permit the future expansion of additional floors that will join with the parking structure.

2. Explain why the beneficial effect cannot be achieved under any other zoning designation. Refer to 5:80(6)(b).

- The beneficial effect cannot be achieved due to the City owned parking structure currently being calculated into the FAR of the site. The current FAR of the site is 596%, however, under the current C2B/R zoning only 300% is permitted.
- The current FAR permitted on the former bank parcel is 400% under its current zoning of C2/A. The existing building is at 184% FAR.
- By redeveloping and combing the two parcels, the new FAR for the site would be 582%. This is a net reduction in the FAR of 14%, while also permitting the redevelopment of the site.

- The benefit we are receiving from the PUD is not added density, as we are decreasing density, but rather the ability to redevelop a vacant and outdated building.

3. Explain why the uses will not have a detrimental effect on public utilities or surrounding properties. Refer to 5:80(6)(c).

The redevelopment plan is a redesign of the current property and therefore, will not have a detrimental effect on the existing public utilities or the surrounding properties.

4. Explain how the proposed PUD objectives, purposes, beneficial effects and land uses conform to the adopted Master Plan and policies of the City. Refer to 5:80(6)(d).

The project is developed using the currently C2/A guidelines within the zoning ordinance. This zoning criteria is consistent with the Master Plan and the surrounding area.

5. If increased densities are requested in order for the PUD to provide affordable housing, describe the type of housing. Refer to 5:80(6)(e).

Housing will not be provided within this development.

6. Describe how vehicular and pedestrian circulation will be provided and how the proposal will encourage and support alternate methods of transportation. Refer to 5:80(6)(g).

A benefit of this project will be to develop an in-fill building within the existing alley between the fee simple bank building and the former Lamplighter building. The in-fill of this alley will provide pedestrians a comfortable walking environment without the interference of vehicular traffic from the alley. The elimination of the traffic will also permit the traffic signal at Liberty and Thompson to function with less back-up. It also completes the "activation" and continuous pedestrian shopping experience along the north side of Liberty from State to Division.

7. Explain any disturbance of existing natural features. Refer to 5:80(6)(h).

The site currently does not have any natural features.

8. List any modifications of the City Code that are requested. Refer to 5:80(2).

The modification of the existing City Code is to permit the FAR percentage of the site to increase to 600% FAR. This modification will permit the necessary redesign of the Liberty Street side of the office/retail condominium in addition to account for the parking structure condominium. The added FAR is essential for the project to meet its objectives for the reactivation of the area.

McKINLEY TOWNE CENTRE—LIBERTY SUPPLEMENTAL REGULATIONS

Section 1: Purpose

It is the purpose of the City Council in adopting these regulations to provide a reasonable utilization of two parcels, in a manner that will permit the redesign of the existing Tally Hall Condominium so to provide a location that is appealing to businesses seeking to locate on Liberty Street.

These regulations seek to promote development that provides a mix of office and retail and provides a building that will arrange these uses in a manner that is efficient for the surrounding neighborhood, advances the City's land use plans and policies, and contributes to the overall character and excitement of the State Street area.

Section 2: Applicability.

The provisions of these regulations shall apply to the property described as follows:

Lots 5, 6, 16, 17, and 18, Assessor's Plat No. 27 according to the plat thereof as recorded in Liber 9 of Plats, Page 18, Washtenaw County Records. (Including all of Ann Arbor Tally Hall Condominium.)

Further, the provisions of these regulations shall be adopted and incorporated into the McKinley Towne Centre – Liberty Planned Unit Development (PUD) zoning district. These regulations, however, are intended to supplement only those provisions in the City Codes that may be modified as a part of a PUD and shall not be construed to replace or modify other provisions or regulations in the City Codes.

Section 3: Findings

During the public hearings on this Planned Unit Development, the Planning Commission and City Council determined that:

- (A) It is important to redevelop this building and have tenants in a space that has been vacant for more than nine years.
- (B) The surrounding neighborhood and the State Street Area Association are made up of the same uses that are permitted by these regulations. The diversity of two-story buildings and larger buildings and parking structures has long established the character of the area.
- (C) It is in the best interest of the surrounding properties and the City of Ann Arbor that the redesign of the Tally Hall Condominium is permitted so that the reactivation of this section of Liberty Street can become a reality.
- (D) The limitations placed on the FAR will provide for a much needed redesign of the existing building; provide the additional activity to the Liberty Street corridor; permit the redesign and renovation of the Liberty Street Lobby of the Liberty Square Parking Structure, making the lobby safer for parking patrons; and, increase the employment and shopping opportunities in the State Street Area.

- (E) The current design and structure of the Tally Hall Condominium and the existing vacant bank building are not in compliance of the existing zoning regulations. Both are built with zero lot line setbacks and the Condominium is well in excess of the permitted FAR percentages. These conditions make the site un-redevelopable in its current condition. These regulations will permit the redesign of the building so that interested businesses will be provided with the space necessary to be successful in this area. The regulations also provide for an element of mixed use to be added to the current Tally Hall Condominium.
- (F) The parcel described above meets the standards for approval as a Planned Unit Development, and the regulations contained herein do not constitute the granting of special privilege nor deprivation of property rights.

Section 4: PUD Regulations

- (A) Permitted principal uses shall be:

All uses currently permitted pursuant to the C2A (Central Business) zoning district within the downtown area.

- (B) Permitted accessory uses shall be:

All uses currently permitted pursuant to the C2A (Central Business) zoning district within the downtown area.

- (D) Setbacks:

There is no minimum front or side setback requirement in this district.

- (E) Height:

The maximum height permitted in this district is 102.5 feet.

- (F) Lot Size:

The minimum lot size in this district is 50,009 square feet.

- (G) Floor Area Ratio (FAR) and Open Space Requirements:

The maximum FAR in this district is 600 percent.

- (H) Parking:

There is no off-street parking requirement in this district.

- (I) Landscaping, Screening and Buffers:

There is no landscape, screening or buffer requirement in this district.

- (J) Site Access:

Vehicular access to the district is permitted from East Washington Street. No vehicular access is permitted from East Liberty Street.

- (J) Architectural Design:

All new construction under the proposed PUD shall incorporate the following architectural characteristics:

- Primary exterior façade materials shall be masonry or similar durable construction.
- The design shall use columns, piers, projecting courses, and similar methods to subdivide the overall façade into smaller areas.
- At least 60 percent of the façade (measured horizontally as a percent of the total length of the façade) at the ground floor along streets shall be glazing systems glazed with clear or lightly tinted glass.
- No more than 20 percent of any façade along streets shall be garage doors, vents, screens, or similar materials.
- Awnings, canopies or similar projecting elements are allowed (within limitations established by the building code and/or City ordinances).

Prepared by Alexis DiLeo

**DRAFT
9/13/07**

McKINLEY TOWNE CENTRE—LIBERTY DEVELOPMENT AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2007, by and between the City of Ann Arbor, a Michigan Municipal Corporation, with principal address at 100 North Fifth Avenue, Ann Arbor, Michigan 48107, hereinafter called the CITY; and McKinley, Inc., a _____, with principal address at 320 North Main Street, Suite 200, 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 McKinley Towne Centre—Liberty PUD, and

WHEREAS, the PROPRIETOR has caused certain land in the City of Ann Arbor, described below to be surveyed, mapped and site planned as McKinley Towne Centre—Liberty PUD, and desires planned unit development site plan and development agreement approval thereof, and

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

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

THE PROPRIETOR HEREBY AGREES:

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

(P-2) To construct all improvements set forth in Paragraph P-1 of this Agreement in accordance with the approved Plans and to repair all defects in the improvements that occur within one year from the date of acceptance of the Improvements by the CITY, commencing on the latest date of the acceptance of any Improvements by the CITY. If the PROPRIETOR fails to construct the improvements, the CITY may send notice via first class mail to the

PROPRIETOR at the address listed above requiring it to commence and complete the improvements in the notice within the time set forth in the notice. The CITY may cause the work to be completed at the expense of the PROPRIETOR, if the PROPRIETOR does not complete the work within the time set forth in the notice. Every owner of a portion of the property, including co-owners of condominium units, shall pay a pro-rata share of the cost of the work. That portion of the cost of the work attributable to each condominium unit shall be a lien on that Property and may be collected as a single tax parcel assessment as provided in Chapter 13 of the Ann Arbor City Code.

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

(P-4) To install all Improvements and complete any necessary restoration work, 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 East Liberty and East Washington Streets, such as street widening, storm sewers, curb and gutter, sidewalks, bike paths, street lights, and the planting of trees along the East Liberty Street and East Washington Street frontages 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 East Liberty Street and East Washington Street each unit shall be assessed its pro rata share of the cost of improvements allocable to the Property.)

(P-6) 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-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) To construct, repair and/or adequately maintain on-site storm water management system. If the PROPRIETOR fails to construct, repair and/or maintain the private storm water management system, the CITY may send notice via first class mail to the PROPRIETOR at the address listed above, requiring it to commence and complete the items stated in the notice within the time set forth in the notice. The CITY may cause the work to be completed at the expense of the PROPRIETOR if the PROPRIETOR does not complete the work within the time set forth in the notice.

(P-9) 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-10) 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-11) To include the elevation drawings, as submitted to City Council, as part of the approved site plan and to construct all buildings consistent with said elevation drawings. If the PROPRIETOR proposes any changes to the approved building elevations, setbacks, aesthetics, or materials, that those changes be brought back to the City Council for consideration. The PROPRIETOR is required to submit signed and sealed drawings to staff reflecting the elevations, setbacks, aesthetics, materials and site plan approved by City Council.

(P-12) 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-13) Prior to application for and issuance of certificates of occupancy, to disconnect five footing drains from the same sanitary sewer sub basin as the project. CITY agrees to provide PROPRIETOR with a "certificate of completion" upon PROPRIETOR'S submittal of "Approved and Final Closed Out Permits" to the City of Ann Arbor Water Utilities Department.

(P-14) Prior to issuance of building permits, to contribute \$125,000 to the City of Ann Arbor Public Services Unit for deposit in Fund 0069, the Storm Water System Fund, as a contribution for the express purpose of improving the storm water management system within the same watershed.

(P-15) 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-16) 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-17) 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-18) 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 McKinley Towne Centre—Liberty PUD 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:

Lots 6, 16, 17 and 18, and the west 65.99 feet of Lot 5 of Assessor's Plat No. 27, according to the plat thereof, as recorded in Liber 9 of Plats, Page 18, Washtenaw County Records, Ann Arbor, Michigan. (Assessor's Parcel Nos. 09-29-108-027 and 028)

(T-5) In addition to any other remedy in law or in equity failure to comply with all of the above paragraphs on the part of the PROPRIETOR, or any part of the approved site plan, in

part or in whole, shall give the CITY adequate basis and cause to issue a stop work order for any previously-issued building permits and shall be an adequate basis and cause for the CITY to deny the issuance of any building permits, certificates of occupancy, or any other permits unless and until the CITY has notified the PROPRIETOR in writing that the PROPRIETOR has satisfactorily corrected the item(s) the PROPRIETOR has failed to perform.

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

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

Witnesses:

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

By: _____
John Hieftje, Mayor

By: _____
Jacqueline Beaudry, City Clerk

Approved as to Substance:

Roger W. Fraser, City Administrator

Approved as to Form:

Stephen K. Postema, City Attorney

Witness:

By: _____
Name, Title

STATE OF MICHIGAN)
) ss:
County of Washtenaw)

On this _____ day of _____, 2007, 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 _____, 2007, 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) 994-2800