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August 26, 2016

Via First Class Mail

City of Ann Arbor
Attn: City Council
P.O. Box 8647
Ann Arbor, Michigan 48107

Lisha Turner-Tolbert
City of Ann Arbor
Construction and Building Department
301 East Huron Street
Lincoln City Hall, Ann Arbor, MI 48107

Re: 611 E. University, Ann Arbor, Michigan (the "Project")

Dear Honorable Members of City Council:

I represent the owner of Zaragon Place, a 10-story occupied residential project located at 619 E. University. Zaragon Place is adjacent to a proposed new 13 story building located at 611 E. University (the "Project"), which was recently granted site plan approval by the Council. The Project is proposed to be located directly on the north property line adjacent to Zaragon Place with no setback whatsoever. At the public hearing before the Planning Commission on the request for site plan approval, I expressed our concerns about the dangers of this zero lot line construction adjacent to an occupied residential structure. We questioned whether the Project could be constructed or maintained in the future without trespassing on, over or under Zaragon's property. We further expressed our serious concerns about damage to the foundations of Zaragon's existing residential building and/or storm water structures that were located near the north property line at issue. And, most important, we raised concerns about the risk of injury to the occupants of Zaragon Place who have direct outside access to the side yard maintained on the Zaragon Place property that would abut up to the Project. This side yard space is available for recreational and other activities and has tables and chairs available for use by the residents.

At the public hearing before the Planning Commission, a representative of the Project's developer assured the Planning Commission that the Project could be constructed and maintained without trespassing on or over the Zaragon Place property. This representation was based solely on a hearsay report of what the developer's unidentified contractor, who was not at the public hearing, allegedly told the developer's representative. As an experienced developer of high rise



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buildings, and based on what it knows about zero lot line construction, however, my client does not believe that such a structure can be constructed and maintained without trespassing on its property. Moreover, if anything were to fall, whether from a crane, or as a result of damaged precast, it would likely fall onto the Zaragon Place property at a location that is accessible to tenants for outdoor activities. But because no detailed construction plans have yet been submitted for the Project by the Developer, we have not been able to analyze the constructability and actual impact of the Project on the Zaragon Place property.

The Project, however, presents an unusual and dangerous situation. It is one thing to have zero lot line high rise buildings adjacent to each other, but an entirely different scenario and set of risks are presented when a zero lot line building abuts another building with a setback. Under those circumstances, all of the health and safety reasons supporting building setback requirements in every zoning ordinance become applicable and should not be ignored. And, we believe it is clear that those health and safety objectives are not met by a setback of only 9 feet between two high rise residential structures. Indeed, just because the zoning allows a zero lot line does not mean it is proper in all cases. For example, as you aware, Zaragon also abuts another high rise residential structure on the east side of the Zaragon Property, known as Arbor Blu. And, despite the fact that the zoning permits zero lot line construction, each building is set back from the property lines creating a setback in excess of 25 feet between these buildings.

All of the concerns raised above are also highlighted in a letter from Traveler's Insurance Company enclosed herewith. Traveler's is the insurer for the Zaragon Place property. Traveler's suggests the creation of a "safety zone" to protect the Zaragon property and residents from property damage and personal injury. This "safety zone" concept is identical to the setback concept in zoning law. Traveler's also suggests that protocols be established for the construction of the Project to assure that no trespass or harm occurs to Zaragon's property.

Zaragon is not opposed to the Project itself, but we urge the City Building and Engineering Department to carefully evaluate the constructability of the Project when it is reviewing the detailed construction plans for the Project to make sure that the health and safety of the residents at Zaragon Place is protected and that the project can be constructed and maintained without trespassing on, over or under the Zaragon Place property. And, if you conclude, as we have concluded, that the building cannot reasonably be constructed without trespassing on Zaragon Place or endangering the safety of residents, that you require that the Project be moved off the property line to create a proper setback between these two high rise structures.

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We appreciate your consideration of these matters.

DYKEMA GOSSETT PLLC



Alan M. Greene

Enclosure

Cc: Brandt Stiles, Collegiate Development Group
Rick Perlman, Zaragon Place

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611 East University Apartments

The administrative Amendment for 611 East University Apartments contains modification to the originally approved site plan including the following elements:

Site Related

1. The west half of the building along the south property line adjacent to The Zaragon has been revised to be set back from the property line 3 feet. Previously this part of the building had no setback from the property line. This revision affects minor changes in the elevator and stair location as well as the trash room and bike storage areas.
2. One additional street tree on Church Street and one additional street tree on E. University as well as a light pole on Church Street that were previously designated as retained have been labeled as to be removed and replaced. Construction professionals have determined they will certainly be damaged if left in place. Appropriate mitigation is proposed.
3. The storm water management system has been revised in geometry as a result of basement design consideration. Additionally drainage structures have been added to the discharge pipe of the detention chamber to avoid having parallel storm sewers running in different directions in the north alley. The detention chamber has been enlarged to account for this discharge of un-detained runoff.
4. The ground floor level has been revised to remove dedicated parking spaces and now shows the areas to be for loading and unloading. Additional spaces have been added on levels 2 and 3 to allow the parking space count to remain at 56.
5. The arrangement of the basement functions has been revised for design preference.
6. The level 13 amenity area has been reduced and 2 additional dwelling units have been added. The total number of units has been revised from 90 to 92.
7. South elevation changes associated with the revision from amenity area to dwelling unit have required façade material changes on this floor.
8. On the south elevation, level 4 exterior patios have been eliminated.
9. Louvers are added to the north elevation of level 2 and 3 for garage intake and exhaust.