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Sent: Tuesday, September 16, 2014 1:02 PM

To: Planning

Subject: A2NE Neighborhood Alliance: Position Paper on Nixon Farms Development

To the Full Planning Commission:

The Ann Arbor Northeast Neighborhood Alliance (A2NE) is comprised of citizens in the Traver Lakes community that have come together to express concern over the Toll Brother's development of the Nixon Farms parcels. We are not anti-development but we are raising several issues that we feel directly impact the very lifestyle we willingly pay premium rate taxes to enjoy in Ann Arbor.

We encourage you to consider using the tools you have available to you to shape this development in a manner consistent with the long-term vision and priorities of the community, as described in our Master Plan and reflected in our zoning ordinances, including: maximizing the protection of high-quality natural features, creek corridor, and wetlands, and the valuable water quality and wildlife habitat they provide; protecting the open space and viewshed currently provided by the property; and minimizing the impact of the development on the surrounding area, including traffic congestion, noise, and lights.

Thank you in advance for your review of our concerns.

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**Ann Arbor Northeast Neighborhood Alliance
Position Paper:
Proposed Toll Brothers Development**

INTRODUCTION

The City of Ann Arbor offers citizens an extremely high quality of life and is a very desirable place to live, work and play. This unique lifestyle is highly dependent on the preservation of and respect for open spaces, farmlands, and the high-quality natural features. These priorities and values have been repeatedly identified and affirmed by our residents and elected representatives in the City's Master Plan, Sustainability Framework, Natural Features Master Plan, and the Parks and Recreation Open Space Plan.

The A2NE Neighborhood Alliance opposes Toll Brother's proposed high-density residential development of the two plots of land located on the NW and SW corners of Nixon and Dhu Varren Roads.

A2NE recognizes that this land is privately owned by the Nixon family and they have a right to sell and make reasonable economic use of this property. On the other hand, A2NE also recognizes that, like any property owner, the Toll Brothers purchase of this land is subject to reasonable regulation by local and state governments, and is contingent on:

- The parcels being annexed into the City of Ann Arbor
- Rezoning of the property from agricultural to high density residential development
- The City's approval of the site plan, based on its determination that the development meets the Zoning Ordinance requirements, limits disturbance of natural features to the minimum necessary, and will not have a detrimental effect on the public health, safety, and welfare
- The City and the state issuing wetlands permits, based on their determination that the development meets the statutory and ordinance requirements to consider its effect on the wetland, environmental values of the property, and the availability of feasible and prudent alternatives that would have less of an impact on the wetlands

In each of these steps, the City has not only the authority but also a duty to ensure that the development meets the standards in our local ordinances that reflect our community values and priorities to regulate land use in a manner that protects our open space and natural features.

As neighbors, we understand that in addition to safeguarding our community's identified priorities of protecting the environment and our wetlands, the City is also striving to provide high-quality services to its residents, and this property could be perceived as providing increased tax base to help offset the costs of those services. However, this offset comes with significant obligation from the City for investment in infrastructure to support this new development, as well as others that are planned and already in progress in the NE corridor. The conversion of farmland, open space and wetlands to residential uses based on the land's greater market value as residential development property or for the generation of property taxes, is made at the expense of a critical community resource being permanently lost to community residents. Moreover, there are long- and short-term costs to providing services and infrastructure for development, and to compensating for harm and damage resulting from the loss of wetlands and wildlife habitat.

We respectfully urge our City officials to think carefully about the real long-term costs of the development when balancing its priorities. We are not “anti-development,” but rather typical Ann Arbor-ites that willingly pay premium tax rates because we care deeply about maintaining the highest standards for land use. We have great respect for the benefits that responsible land use and careful planning brings to our families, our neighborhoods and our environment.

Rampant conversion of open space and farm land to residential development adversely affects the quality of life in Ann Arbor and leads to:

- Fragmented open space
- Loss of wildlife habitat resulting in loss of wildlife and plants in adjoining neighborhoods
- Loss of productive farmland and forestland
- Destruction of rural beauty which is part of the natural historic character of the Ann Arbor community, including the loss of open space and viewsheds
- Decline in water quality and the loss of wetlands, resulting in harm to wildlife and water quality on neighboring properties
- Increased traffic congestion, noise, lights, and air pollution
- Excessive public costs for roads and utility infrastructure
- Decreased property values for adjoining properties

A2NE respectfully requests that the Planning Commission and the City Council utilize the tools it has available to ensure that this property is developed in a manner consistent with the long-term vision and priorities of the community, as described in our Master Plan and reflected in our zoning ordinances, including: maximizing the protection of high-quality natural features, creek corridor, and wetlands, and the valuable water quality and wildlife habitat they provide; protecting the open space and viewshed currently provided by the property; and minimizing the impact of the development on the surrounding area, including traffic congestion, noise, and lights.

WHO WE ARE

The Ann Arbor Northeast (A2NE) Neighborhood Alliance is comprised of concerned neighbors in the Traver Lakes community that have come together to ensure our collective voice is heard by the Planning Commission, City Council and Toll Brothers. A2NE has joined together with neighboring communities, including Northbury Condominiums, Orchard Hills, Foxfire and Chapel Hills.

As neighbors, we understand that the City, in addition to protecting our community’s identified priorities of protecting the environment and our wetlands, is also striving to provide high-quality services. We respectfully request that adequate analysis is undertaken to assure the project is congruous with both the existing neighborhoods and the long-term health of the northeast Ann Arbor corridor.

OUR CONCERNS

Natural Features Inventory: Michigan Natural Features Inventory (MNFI) conducts field surveys to locate and identify threatened and endangered species and communities throughout the state and provides biological expertise to the Department of Natural Resources (DNR).

A2NE requested data from the MNFI in July 2014. MNFI confirmed that they have not surveyed Nixon Farms but have done a survey on land adjacent to the parcels. In that case, they documented numerous avian, mammalian and amphibious species and the following rare plant and frog species

| <u>Rare Plant Species</u> | <u>Rare Frog Species</u> |
|---------------------------|--------------------------|
| Wild Black Currants | Wood Frogs |
| Great Blue Lobelia | Spring Peepers |
| James Sedge | Grey Tree Frogs |
| Swamp Milkweed | Northern Leopard Frogs* |

*Northern Leopard Frogs are in decline & in “great conservation need” according to the DNR

The updated Site Plan submitted by Toll Brothers on 9-10-2014 references a rare species review from MNFI. Such a review is generated from information found in MNFI’s Natural Heritage Database and is based solely on what has been documented in a geographic area, and not on any actual surveys of the land. Nevertheless, the review details **11 protected plant species and 3 protected animal species**. In addition, it also details a list of endangered, proposed endangered, threatened and candidate species requiring protection found in the table below:

| <u>Endangered Species</u> | <u>Proposed Endangered Species</u> |
|---------------------------|------------------------------------|
| Indiana Bat | Northern Long Eared bat |
| Snuffbox | Powesiak Skipperling |
| Mitchells Satyr Butterfly | |

| <u>Threatened Species</u> | <u>Candidate Species</u> |
|--------------------------------|--------------------------|
| Eastern Prairie Fringed Orchid | Eastern Massasauga |

As neighbors, we frequently see and enjoy the wildlife and plants supported by the habitat provided of the wetlands, and they are essential to how we use and enjoy our neighborhood and properties. Based on the biodiversity already identified by MNFI, we respectfully request a more comprehensive study and inventory be conducted on the land to locate and identify protected, rare, threatened and endangered species and other natural features before these resources are forever lost.

Wetlands: Wetlands are complex natural systems that provide valuable benefits: flood control, plant and wildlife habitat; stream bank and shoreline stabilization and filtration of pollutants before they enter waterways. According to the Washtenaw Conservation District, more than 60% of the wetlands in southeast Michigan have been filled, drained, ditched or built over. Without wetlands to help absorb and slow down the increased runoff; polluted stormwater drains directly into our waterways, where it causes erosion and flooding, destroys habitat and decreases water quality. As neighbors, we appreciate the many ways that the nearby wetlands contribute to the neighborhood quality, including providing water quality and flooding protection, as well as habitat for the wildlife and plants we enjoy seeing in our neighborhood and backyards.

Toll Brothers has applied for permits to “use” wetlands on both parcels. A2NE requests that the City employ the utmost scrutiny in its decision to grant a permit for such activities. If any destruction is

allowed, we request that mitigation measures are strongly enforced, even in small areas less than 5 acres. The neighborhood requests that the City identify an expert from a local conservancy to evaluate all mitigation plans and monitor all progress on behalf of the community. We further request that the actual mitigation sites be constructed simultaneously with the permitted project to reduce non-compliance.

Successful establishment of new wetlands requires time and ongoing monitoring and maintenance. It can take 15 years for a carefully created forested wetland to begin to achieve canopy closure, and to begin to look and function like a natural forested system, and decades before it approximates the structure and function of the habitat that it was intended to duplicate (Craft et al. 1988, D'Avanzo 1990). We ask that Toll Brothers demonstrate they have a comprehensive management program as well as long term maintenance provisions, including a bond or other financial instrument to cover ongoing expenses over a 15 year period. The developer should also be required to present contingency plans in the event the mitigation fails.

Trees: Ann Arbor's urban forest — a defining characteristic of Tree Town — is made up of the trees, shrubs and woody vegetation growing along city streets, in city parks, on industrial and private property throughout the city. Ann Arbor's urban and community forest is a prominent feature of the city valued by its citizens for the positive contributions it makes to the quality of life and character of the community. The urban and community forest is a vital part of the city's green infrastructure system. According to Ann Arbor's newly adopted Urban & Community Forest Management Plan (June 2014), the city's trees provide more than \$4.6 million in benefits to the community each year, including reducing stormwater runoff, saving energy, improving air and water quality, and beautifying the city. The City's overarching goal is to sustainably protect, preserve, maintain and expand Ann Arbor's tree canopy and urban and community forest.

A2NE members were involved in the community meetings prior to the approval of the development of First Martin's 224 apartments on Traverwood next to the library. The developer graciously donated 2.2 acres of woodland to the City and assured concerned citizens that they would only remove trees critical to the new development. To the contrary, the area has been clear cut and is stripped bare of virtually all vegetation. The displaced wildlife are found standing on enormous dirt mounds with their young, some limping, and others standing in the middle of the street. The Alliance is deeply concerned about the Toll Brothers development because of the size and scope of the project, which puts additional very significant amounts of trees and wildlife habitat at risk.

Storm Water: Stormwater is runoff from rain or snowmelt that flows from streets, rooftops, and lawns into storm drains, then directly into streams, lakes and rivers. Unlike wastewater, stormwater receives no treatment before discharge. In Ann Arbor, all stormwater (and any pollutants) are discharged to the Huron River and its tributaries. The pollutants carried degrade the quality of our waterways, making them unhealthy for people, aquatic life, and wildlife. Stormwater from the initial half inch of rain tends to carry the most pollution as it washes fertilizers, automotive fluids, animal waste, deicers, and dirt from the land surface into the storm drains.

Runoff from construction sites can have a significant impact on water quality. Construction activities alter natural landscapes. During construction, earth is compacted, excavated and displaced, and vegetation is removed. These activities increase runoff and erosion, thus increasing sediment transported to receiving waters. In addition to sediment, as storm water flows over a construction site, it can pick up other pollutants such as debris, pesticides, petroleum products, and chemicals that also contribute to water quality problems.

Once land is urbanized, very little water is able to infiltrate into the ground, and instead is rapidly conveyed via runoff to the nearest water resource. High volumes of stormwater runoff causes flooding, erosion, and property damage. This results in significant changes in stream flow and wetland hydrology, which can cause stream bank erosion and loss of aquatic habitat.

Toll Brothers Track Record: Toll Brothers has a long and well-documented history of disregarding laws, regulations, and permit conditions applicable to their development. The US Environmental Protection Agency (EPA) and the US Department of Justice found Toll Brothers in violation of the Clean Water Act, resulting from the discharge of pollutants in stormwater from construction sites. There were **over 600 violations, covering 370 construction sites in 23 states, including Michigan** and Chesapeake Bay, North America's largest and most biologically diverse estuary. The majority of the violations involved Toll Brothers' repeated failures to comply with permit requirements at its construction sites, including requirements to install and maintain adequate stormwater pollution controls, which ultimately resulted in the discharge of construction pollutants through stormwater runoff. Given the scope, severity and repeated nature of Toll Brothers violations and their rampant disregard for established regulations and environmental impacts of their development, A2NE implores the City to ensure that money is placed in escrow to allow the City to closely monitor any development and construction processes and to hold money in reserve in case mitigation is needed.

Traffic and Pedestrian Safety: Traffic congestion in northeast Ann Arbor has become a serious concern for all residents, and we regularly experience the effects of traffic congestion and are concerned about safety to drivers, pedestrians and cyclists. Toll Brothers' proposed high-density development will add an additional 491 residences, in addition to the 294 apartments on Nixon Road (closer to M-14), and another 224 on Traverwood Blvd. The more than 1,000 new residences will easily add up to another 2,000 cars trying to get out of the area in the morning and returning home in the evening. As has been publicly reported, University of Michigan's North Campus is also targeted for future expansion and will add to the congestion.

Currently, north bound traffic on Nixon is routinely backed up from the intersection at Dhu Varren past Bluett. Residents who live east of Nixon struggle to make left turns onto southbound Nixon during rush hour. Resolving the issue of the misaligned intersection at Nixon, Dhu Warren and Green will help but is not the silver bullet that City officials claim it will be, and will not alter the fact that significantly more people will be using either Green Rd or Nixon Rd. to access Plymouth Rd.

Traver Lakes residents fear increased traffic will interfere with Logan Elementary and Clague Middle School students during drop-off and pick-up, thereby creating a safety issue for the children. With motorists from surrounding areas using Traver Blvd. as a cut-through to Plymouth Rd., speeding through the Traver Lakes community has become an issue as well. Traver Blvd. is currently posted at 25mph, but the limit is routinely violated by cars and AATA busses.

Added density without better planning and more infrastructure will dramatically increase driver frustration, leading to further disregard of safety measures and posted speed limits. Explosive development that is out of pace with infrastructure development is a mistake and increases the opportunity for a tragedy of the worst kind to occur in our neighborhoods.

High Density Development on the Western Border of the South Parcel: The western borders of the proposed development on both the North and South parcels are adjacent to communities with single family homes. There is a significant woodland buffer on the northern parcel of land that separates the Fox Fire community from the proposed development of single story condominiums. As residents, we moved to this area in part because we wanted a quiet and natural setting in which to live. We enjoy sitting in peaceful quiet on back porches, watching wildlife wander across our

backyards. Toll's plan for the north parcel offers a generous offset and building designs that do not threaten or even impose on the character of the bordering Foxfire community of single family homes.

A2NE requests that the plan for the southern parcel be consistent with the northern parcel, leaving the western border free of development with a more generous buffer between Traver Lakes and the development. We further request that all residential buildings on the western most border of the development be limited to two stories so they are consistent with the single family homes in the bordering communities and do not obstruct existing viewshed. The western border should be reserved for recreational purposes consistent with the protection of the wetlands and treeline over time from unintended spoiling, which is an accidental consequence of densely populated areas bordering these green spaces.

THE CITY'S TOOL BOX

The City of Ann Arbor's Master Plan was developed with significant community involvement to reflect community values and priorities and provide a guide for public and private decision-makers regarding the future physical development of the City. The master plan is composed of elements that cover the City's major geographical areas and its essential citywide facilities. These plans provide a framework for preserving the City's unique character, ensuring its diversity, supporting investment and promoting desired change.

The A2NE Alliance requests that the City consider its Master Plan for this land and adhere at least to the intent of its guidance and its respect for the land and the bordering communities. The plan for these parcels specifies a mix of housing products including single family homes and clearly delineates the importance of preserving the wetlands and other natural features on these parcels.

Ann Arbors Master Plan for the South Parcel (pg 103) specifically states that:

- **Single-family detached homes are recommended on the southern and central portions of the site.** Toll Brothers claims there is no market data to support single family homes. The A2NE challenges this and requests a study of inventories and demand. With 500+ other multi-family residences also in play, there will quickly be a shortage of single family homes.

The Master Plan further states (pg 104):

- **Development should be sited away from the wetland system in the southwest portion of the site.**
- **The land between the wetlands and the south property line would be suitable for recreational uses as described in the 2006-2011 Parks & Recreation Open Space Plan, since development opportunities are limited due to open space and building setback requirements.**
- **The creek corridor in the west/central portion of the site should be preserved to enhance water quality and expand the open space linkage to Foxfire South Park.**

Consistent with these priorities, in November 2003, the residents of Ann Arbor voted overwhelmingly in favor of the ***Open Space and Parkland Preservation Millage, commonly referred to as the Greenbelt Millage***. The Greenbelt Millage is a 30-year, 0.5 mil tax levy. A portion of the money is used to purchase new City parkland and a portion is used to protect agricultural and open space

land outside of the City, within the Greenbelt District. The purpose of the Greenbelt Program is to protect working farmland and natural areas, as well as, protecting land along the Huron River. Approximately 1/3 of the money is designated for inside the city.

Consistent with the Master Plan, the City has adopted zoning ordinances, such as the wetlands protection ordinance and the natural features protection provisions that are designed to protect these priorities. Under these ordinances, the City has both the authority and the duty to ensure this property is developed in a manner that maximizes the protection of high-quality natural features, creek corridor, and wetlands, and the valuable water quality and wildlife habitat they provide; protects the open space and viewshed currently provided by the property; and minimizes the impact of the development on the surrounding area, including traffic congestion, noise, and lights. A2NE respectfully urges the City to use these powers and tools along with rigorous monitoring and enforcement to hold the developer accountable to our community standards.

IN CLOSING

As more is learned about the planned development, A2NE will continue to work to provide the City with specific suggestions and feedback on how these tools could be used to address our concerns and protect the community priorities. In the meantime, however, A2NE urges City leaders to strive to ensure everything is done to ensure the development complies with the applicable ordinances in order to protect these priorities, including:

- Conducting independent and vigorous reviews and inventories of the natural features on the property, including an inventory of wildlife and an independent wetland delineation; and the likely potential effects of the development on the natural features and open space
- Considering preservation of parts of the area permanently as natural areas, including potential utilization of greenbelt funds, including land on the Western border of both parcels. We ask that Toll Brothers contribute land and infrastructure and work together with the City of Ann Arbor to utilize its greenbelt millage funds designated for inside the city to preserve this magnificent wetland and woodland area for the use of residents for recreational purposes and nature trails. This offers the existing neighborhoods and the new developments the type of lifestyle experience worthy of Ann Arbor's premium tax rates and keeping with its reputation as Tree Town.
- In light of Toll Brothers history of disregarding the applicable rules and conditions of permits, requiring Toll Brothers to place funds in escrow to enable the City to strictly monitor construction and development, and to mitigate any potential violation of permit conditions.



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