

MEMORANDUM

TO: Mayor and Council

FROM: Sumedh Bahl, Interim Community Services Administrator

DATE: April 5, 2010

SUBJECT: Council Caucus Question

Agenda Item #DB-1 – Resolution to Approve The Moravian PUD Site Plan and Development Agreement

Question – Please provide supportive information, including facts, circumstances, and underlying conditions, that distinguish the Moravian PUD proposal from the others cited in Mr. Webster's letter, and also provide fully the basis for the planning staff recommendation for approval of it. (*Councilmember Derezhinski*)

Answer – The chart provided by Mr. Webster compares the proposed Moravian PUD to three approved but undeveloped PUDs. It appears to imply the Moravian is asking for 36% of the increase in height compared to the average additional height already approved for Kingsley Lane PUD, The Gallery PUD and Glen Ann Place PUD, among others. However, it is not helpful to compare PUDs to one another. Each PUD is considered independently and compared to the characteristics of the specific site and its underlying zoning designation and/or future land use recommendation for that particular site. At no time during the PUD review did staff compare the Moravian PUD to another PUD, and the staff recommendation was based solely on the information, facts and circumstances associated with the Moravian PUD proposal.

Some background information, underlying conditions and noteworthy circumstances about the other PUD projects cited in Mr. Webster's letter are provided below.

Kingsley Lane PUD – This PUD district includes 16,400 square feet and was previously zoned C2B/R (Business Service/Residential District). The C2B/R district allowed a 300% floor area ratio (FAR) normally and up to 600% with premiums, and had no maximum height limit. However, residential uses in the C2B/R district were to comply with the area, height and density standards of the R4C district. This discouraged residential uses consistent with downtown densities. Kingsley Lane PUD district allows up to 365% FAR and a maximum height of 105 feet for the East Loft Building (40 feet/4 stories for the West Loft Building).

The Kingsley Land PUD allows only slightly more FAR than the normal C2B/R floor area ratio (+65%), and is below the maximum FAR allowed with premiums in the C2B/R district (-135%). Today, the underlying zoning district would be D2 (Downtown

Interface). Kingsley Lane is still below the maximum FAR allowed with premiums in the D2 district (-35%).

Unlike the site of the proposed Moravian, the Kingsley Lane site's underlying zoning allowed for relatively intense development. Kingsley Lane is ultimately less dense, and about as tall as what could reasonably be expected, compared to a non-residential use developed in the C2B/R district using premiums. The Moravian is denser and taller, compared to development conforming to the R4C standards.

The Kingsley Lane site is also different from the Moravian site in that it contained a nonresidential building, an 18-space surface parking lot and a vacant area. Those existing conditions gave the Kingsley Lane site a much different context than the Moravian site, which presently contains 7 converted single-family dwellings, and an automotive repair garage converted into apartments.

The Gallery PUD – This PUD district includes 32,888 square feet and was previously zoned C2B/R. As provided above, residential uses were effectively discouraged in the C2B/R district. The Gallery PUD allows up to 607% FAR and a maximum height of 185 feet/11 stories for the building facing Main St (68 ft/4 stories for the building facing Fourth Ave).

The Gallery PUD allows slightly more FAR than what would have been allowed in the C2B/R district with premiums (+7) and is about as tall as what could be reasonably be expected in the C2B/R district for developments using premiums. Again as noted above, the Moravian is denser and taller than what could be expected when compared to its underlying zoning district.

The Gallery site contained a vacant church and surface parking lots. As with the Kingsley Lane site, these nonresidential uses gave the Gallery site a much different context than what is found on and surrounding the Moravian site.

Glen Ann Place PUD – This PUD includes 23,522 square feet and was previously zoned R4C, C1 (Local Business District), and P (Parking District). In 2001, the Glen Ann Place PUD included 201, 213 and 215 Glen Avenue (a gas station and two vacant single family dwellings, respectively). The gas station was zoned C1 and the two dwellings were zoned R4C. The 2001 Glen Ann Place PUD development allowed a five-story mixed use structure with retail, office, 28 dwelling units and 33 parking spaces. In 2004, the Glen Ann Place PUD was expanded to include 217 Glen Avenue (a surface parking lot) and 1025 Ann Street (a pizzeria restaurant). The Glen Ann Place PUD allows up to 810% FAR and a maximum height of 135 feet/10 stories. It allows residential uses but contains no minimum or maximum dwelling unit or bedroom limitations. However, affordable housing must be provided as specified in the Zoning Ordinance PUD standards (10 to 15% depending on whether the development is within or exceeds the underlying residential density recommendation by 25%).

The Glen Ann Place PUD allows significantly more FAR (+770%) compared to what would be allowed if the underlying zoning was entirely C1. It is difficult to analyze how much more density the Glen Ann Place PUD allows compared to what would be allowed if the underlying zoning were entirely R4C since there is no maximum number of dwelling units specified in the supplemental regulations.

The Glen Ann Place site shares many physical characteristics with the Moravian site: both are located at the end of a block; both are near, but outside, of the downtown core and interface areas; and both have residential uses uphill and nonresidential uses across from them. However, the Glen Ann Place site is separated from the converted single-family dwellings on Ann and Catherine Streets by commercial uses, a mid-rise apartment building and attached townhouses. Across the street from Glen Ann Place is the University of Michigan hospitals, which is much more substantial than the Fingerle Lumberyard across the street from the Moravian site. These contextual differences distinguish the Glen Ann Place from the Moravian site even though both have similar physical attributes.

The Moravian PUD, proposed – This proposed PUD district includes 37,201 square feet and is currently zoned R4C and M1 (Limited Industrial District). Staff has maintained that any analysis of the Moravian assumes that the underlying zoning designation is solely R4C, not split between R4C and M1. Rezoning the M1 portion of the site is clearly supported by the Future Land Use Element of the Master Plan.

Assuming the underlying zoning district is entirely R4C, the proposed development is about twice as tall as what would normally be allowed and has about three times as many dwelling units as what is normally allowed. Units in the R4C district may be occupied by up to six unrelated persons, depending on the size of the unit and housing code restrictions. The Moravian has proposed to limit the number of total bedrooms in the development to 150, about 30% more than the potential maximum allowed for the site. The occupancy impact of The Moravian's 62 units will be closer to a new, 25-unit six-bedroom student apartment building. Staff has recognized the proposed limitation on the total number of bedrooms as a beneficial effect.

Planning's staff recommendation is articulated in the Planning Commission staff report dated January 5, 2010.

Prepared by:	Wendy Rampson, Planning Manager
Reviewed by:	Sumedh Bahl, Interim Community Services Administrator
Approved by:	Roger W. Fraser, City Administrator



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March 29, 2010

Via eMail

Mr. Steve Postema
City of Ann Arbor
100 N. Fifth Avenue
P.O. Box 8647
Ann Arbor, MI 48107-8647

Re: Moravian PUD Development Proposal

Dear Mr. Postema:

I write to you on behalf of the Moravian Companies, LLC ("Moravian" or "Developer") regarding the Moravian Planned Unit Development ("Moravian PUD") application now pending before the City of Ann Arbor (the "City") and its City Council. I wish to urge the City Council to approve the Moravian PUD and relate the following:

- The Moravian meets and exceeds the PUD standards of the ordinance and the standard that has been established by prior PUD approvals. There is no legitimate reason not to approve the PUD. When the Developer initially approached the City as part of its due diligence in preparing the Moravian PUD proposal, the City and its Planning Department specifically directed the Developer to look at the prior PUDs approved by the City as the standard by which the City would review their approval and that if they met the standards applied to the prior developments approved by the City, that they too would be approved. The PUD standards under the City of Ann Arbor Zoning Ordinance have been applied to a number of other planned unit developments which have been approved and the ordinance standards have not been changed to be more stringent since that time. We have conducted an extensive study of the City's approval of prior PUDs and the standards they were held to. Every previously approved PUD for which the City had records was reviewed. Hours were spent pouring over development plans, hard copy documents and micro-fiche of meeting minutes and staff reports, and each physical location was visited to ensure we had a comprehensive understanding of the location, its context and relationship to its surroundings and the City's administration of, and perspective on, the acceptable balance of the type and level of benefit provided versus variance permitted from the underlying zoning requirements as part of the PUD standard and approval. A summary chart is attached at Tab A for easy comparison of some salient characteristics for the most comparable approved PUDs.

C o u n s e l o r s A t L a w

DETROIT NASHVILLE WASHINGTON, D.C. TORONTO PHOENIX
BLOOMFIELD HILLS ANN ARBOR LANSING GRAND RAPIDS

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- That analysis shows that the Moravian PUD proposal compares favorably in a substantial or overwhelming fashion, to the prior PUD approvals given by the City. The degree of variances and the overwhelming benefit of the Moravian PUD show that it meets the City's PUD ordinance requirements. It is important to note that the PUD standards are objective criteria and cannot change with the personal opinions and whims of individual city council members. The personal opinions of city council members may come and go, but the applicable PUD standard which must be met for approval essentially remains the same.
- The Moravian is compatible with the "Neighborhood" as that term is objectively defined in the City's planning documents. The Neighborhood in which the Moravian is located is identified and established by City Ordinance and is an objective definition which is not subject to interpretation, depending on the eye of the beholder or an evolving view of what a neighborhood is. The Neighborhood is identified as Neighborhood No. 022 - South-Central in the City's own zoning map, attached at Tab B. The area is bordered by Williams Street, Main Street, State Street and Stadium Street and encompasses a wide range of uses, including but not limited to the University of Michigan Football Stadium, rail road tracks, commercial development, convenience stores, gas stations, professional offices, and University of Michigan administration buildings. The immediate area includes rental housing, the Fingerle lumberyard, Industrially zoned land currently employed for office uses and other residential units. Any attempt to define the "Neighborhood" as being limited to a "single family residential" aspect to the north and northeast of the Moravian is at variance with the City's own ordinances and planning documents. It is impossible to conclude this project is in any way inconsistent with the neighborhood.
- The Moravian meets the PUD standards. The City's own planning experts have reviewed extensively the proposal and confirmed that the Moravian's use of the property meets all of the standards of the PUD ordinance. The Planning Staff has reviewed the Moravian extensively and concluded in its various reports that the Moravian meets all of the PUD requirements. The Planning Commission overwhelmingly approved the PUD development plan. The only dissenting vote acknowledged that while the PUD met all of the standards, she opposed the plan solely based upon objections from some residents who live in the area to the north and east of the Moravian. These persons clearly have a competing financial interest because they rent out their buildings and the Moravian is perceived by them to be competition. Interestingly, in the residential aspect to the north and to the east of the Moravian, ninety percent of those building are rental housing. The area is zoned multiple family, and single family homes are non-conforming. The

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Moravian is consistent with the City Zoning Ordinances, the Downtown Plan, Downtown Development Strategies Report, Downtown Residential Taskforce Study and the Central Area Plan. It is fair and equitable that the City Council approve the Moravian PUD because the record associated with the plans for development of the property shows that the Developer complied with every request of the City as part of the review process.

- Denial of the PUD would preclude conforming development of the parcels that make up the Moravian site plan. Not a single parcel in the Moravian site plan (eight parcels (four zoned M1 and four zoned R4C)) could be developed in a conforming fashion (without variances) based on the underlying zoning. This incompatibility of the underlying zoning is precisely one of the reasons why the PUD approach is needed in this instance. Such zoning and land use restriction, coupled with a denial of the PUD singles out the Developer's property and would be without a logical or legitimate reason. Moreover, such wrongful action would virtually destroy the net worth value of the property and preclude conforming use of the property as zoned. Lastly, if the PUD were denied, the economic impact and the extent of the City's land use regulation would interfere with the Developer's reasonable investment-backed expectations and are the functional equivalent of the City's taking of the property. This is particularly true if the City, through inconsistent application of the PUD standards, decides to effectively change the PUD standard (which would be the case if it denied the requested Moravian PUD) without a corresponding and prior ordinance amendment.

Approval of the Moravian PUD is not about one person's concerns of architecture, aesthetics or attractiveness. We recognize that the PUD standard is more subjective than consideration of a use by right in a typical zoning ordinance; however, when comparing the characteristics of the Moravian against characteristics of other PUDs approved by the City, it is clear that the Moravian PUD meets the standards for approving a PUD proposal. Approval of the Moravian PUD will add to the body of work established by previously approved PUDs and contribute to the standard to which future PUDs will be measured. Reasonable minds cannot differ on this account and we

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respectfully request application of the PUD standards to the Moravian in a manner consistent with their well established application to prior PUDs. Thank you for your consideration of these matters.

Very truly yours,



Peter H. Webster

PHW/mal

cc: via email

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City Councilperson Sabra Briere, sbriere@a2gov.org
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Tab A

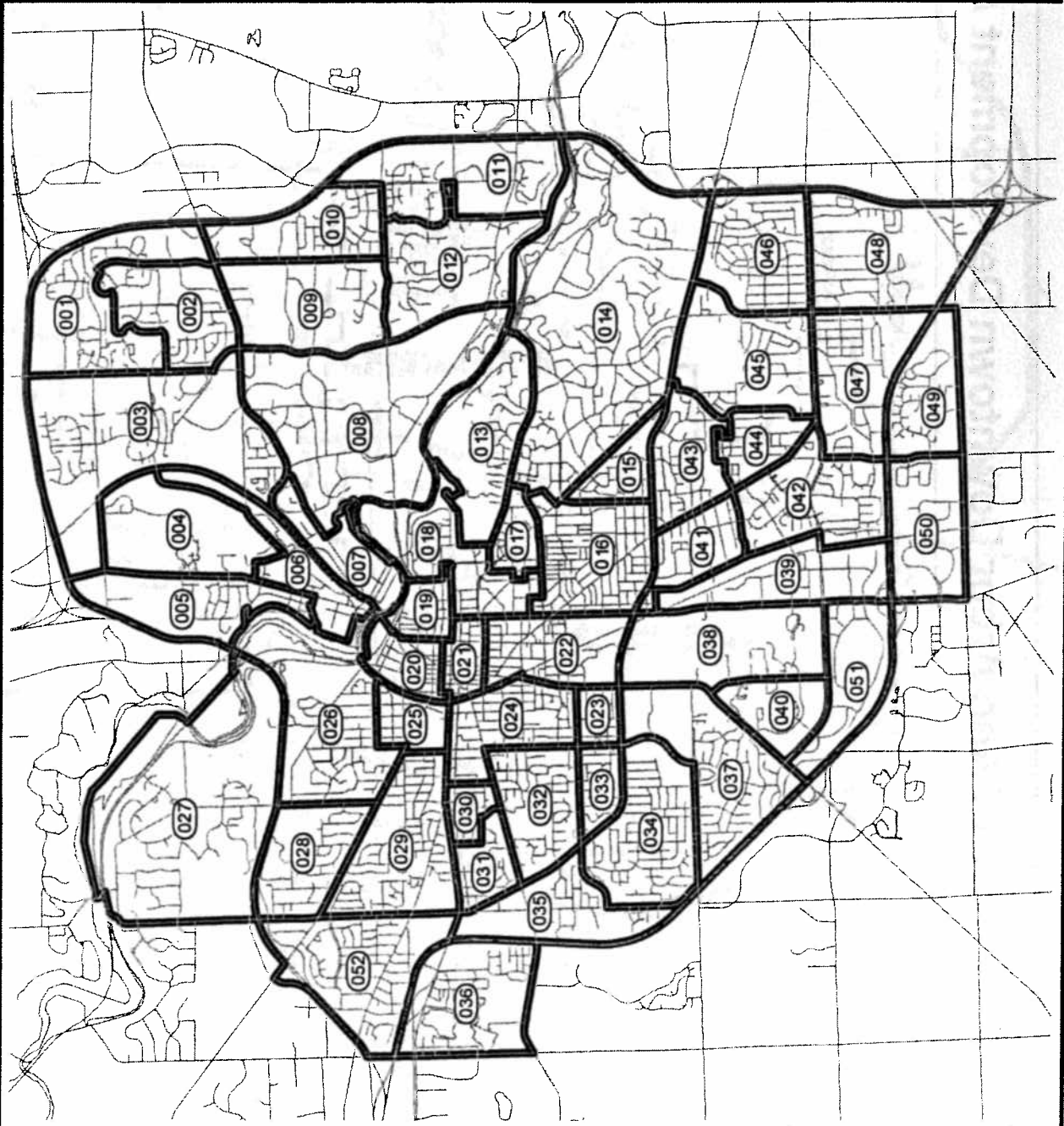
Moravian Comparison to Similar PUDs Deemed To Have Met The Standard For Public Benefit Provided vs Variance Requested

Attribute	Kingsley Lane	The Gallery	Glen Ann Place		The Moravian	Moravian % of prior average variance
			C1	R4C		
Permitted Height (feet)	30	30	25	30	30	
Approved Height (feet)	105	185	75	75	60	
% Increase in Height	250%	517%	200%	150%	100%	36%
Permitted Density	7.53	15.10	N/A	2.55	17.08	
Approved Density	54	123	N/A	32	62	
% Increase in Density	617%	715%	N/A	1157%	263%	32%
Affordable Units	8	18.5	N/A	6.4	12	
Affordability above min. requirement	0%	0%	N/A	0%	29%	Infinite
Permitted FAR	29,520	59,202	3,670	9,979	66,962	
Approved FAR	59,800	199,642	43,296	28,860	74,408	
% Far	365%	607%	472%	521%	200%	
% Increase in FAR	103%	237%	1080%	189%	11%	3%
Benefits not shared by all projects	\$50K Greenbelt contribution - not specified as a requirement in Sup. Regs. or Dev. Agmt.	None	None	None	<ul style="list-style-type: none"> - Affordable Housing (29% more than required) - LEED Certification - Renewable Energy - Helps achieve City goal of reducing Green House Gas emissions 20% by 2015 - Brownfield Redevelopment - Eliminates Industrial zoning - Floodplain improvements - Creates public park space 	

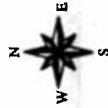
Tab B



City of Ann Arbor Geographic Boundaries of Neighborhoods



- | | |
|----------------------------------|------------------------------|
| 001 Northbury/Chapel Hill | 027 Newport |
| 002 Orchard Hills/Maplewood | 028 Garden Homes/Crescent |
| 003 Traver/Willowtree | 029 Haisley/Veterans Park |
| 004 Leslie Park/Arrowwood | 030 Virginia Park |
| 005 Huron Highlands | 031 Winewood/Thaler |
| 006 Northside | 032 Eberwhite Woods |
| 007 Broadway/Riverside | 033 Pauline/Stadium |
| 008 North Campus | 034 Dicken |
| 009 Northwood V/Vintage Valley | 035 South Maple |
| 010 Glacier Highlands/Greenbrier | 036 Lakewood |
| 011 Earhart/Concordia | 037 Lansdowne |
| 012 Geddes Lakes | 038 Hidden Valley |
| 013 Geddes Arboretum | 039 Boardwalk |
| 014 Bader/Ann Arbor Hills | 040 Cranbrook |
| 015 Ives Woods | 041 Woodbury/Rosewood/Jewett |
| 016 Burns Park | 042 Georgetown/Pine Valley |
| 017 South University | 043 Pattengill/St. Francis |
| 018 Central Campus Medical | 044 Kimberly Hills |
| 019 Old Fourth Ward | 045 Allen School/Buhr Park |
| 020 North Central | 046 Forestbrook/Forestbrook |
| 021 Downtown | 047 Pittsfield Village |
| 022 South Central | 048 Brown Park |
| 023 Almendinger | 049 Scarlett/Mitchell |
| 024 Old West Side | 050 Bryant |
| 025 West Park/Miller | 051 Pheasant Run |
| 026 Mack School/Sunset | 052 Briarwood |
| | 052 Abbott School |



Prepared by the
City of Ann Arbor Planning Department
October, 1989