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OFFICE OF THE CITY ATTORNEY
CITY OF ANN ARBOR

VIA E-MAIL AND REGULAR MAIL

Kevin S. McDonald
Senior Assistant City Attorney
Ann Arbor City Attorney's Office
301 E. Huron Street
Ann Arbor, Michigan 48104

Re: Trinitas Development, LLC, The Cottages at Barton Green Site Plan and
Wetland Use Permit, Project N0. SP-17-14

Dear Mr. McDonald:

As you are aware our Firm represents Trinitas Development, LLC ("Trinitas") with regard to its pending site plan and wetland use permit application ("Applications") for The Cottages at Barton Green ("Barton Green") and has authorized our Firm to submit this letter to the City of Ann Arbor to be included in the record as the Mayor and City Council considers the May 1, 2018 recommendation of the Planning Commission which in a manner contrary to the Zoning Ordinance recommended denial of the Application for a "permitted by right use" .

The formal minutes of the Planning Commission dated May 1, 2018 reflect two motions with regard to the Application. The first motion pertained to the Barton Green site plan and development agreement and the second motion pertained to the Barton Green wetland permit. Both motions were made in the affirmative, recommending approval of the Applications following Planning Staff comment and public comment.

As the record to date reflects, the City Planning and Development Services Staff Reports dated March 6, 2018, April 17, 2018 and May 1, 2018 recommended approval of the Applications. ("Staff Reports")

The Staff Reports all contained the following statement and recommendation:

"Staff recommends that the petition be approved because it complies with all applicable, local, state, and federal ordinances, standards and regulations; it will not cause a public or private nuisance; and it will not

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have a detrimental effect on public health, safety or welfare.”

Staff also recommends approval of the wetland use permit because it limits disturbance to the minimum necessary to reasonably accomplish the permitted use.”

While the minutes of the May 1, 2018 Planning Commission meeting reflect that the Planning Staff recommended approval of the Applications, the minutes do not reflect that the Planning Staff orally restated the above statements and recommendations at the commencement of the public hearing.

Following public comment, the Planning Commission commenced deliberation of the stated motions to approve the Applications. The Commissioner comments which are contained in the May 1, 2018 minutes and Trinitas response to those comments are as follows:

Commissioner Mills comments: Commissioner Mills objected to the Applications and Barton Green site plan based upon excessive parking and City standards regarding impacts on natural features.

Trinitas Response:

(1) Number of Parking Spaces. **First**, while the Zoning Ordinance does specify the minimum number of parking spaces that are required for this proposed R-4A permitted by right multi-family development, the Zoning Ordinance does **not** specify or limit the number of parking spaces with regard to the proposed use. See Section 5:167. **Second**, considering the express concern of certain residents in the area to the south of Barton Green of the potential for residents of Barton Green parking on the street in their neighborhood, Trinitas based upon their experience in similar developments has appropriately provided parking spaces that exceed the minimum required by the Zoning Ordinance. Third, notwithstanding the foregoing, Trinitas is willing to defer constructing some parking spaces for a period of time yet to be determined after Barton Green is occupied, to ascertain the actual parking need by its future residents as determined by Trinitas. We will advise you and/or Planning Staff in advance of the City Council meeting as to the location and number spaces Trinitas would be willing to defer when Barton Green is initially developed.

(2) Impact on natural features. **First**, Commissioner Mill’s finding appears to ignore the fact that Trinitas is donating a 9.86 acres of land to the City as parkland. In commenting on this donation to the City, Planning Staff in their report of October 17, 2017 stated the following: **“The proposed parkland**

includes high quality forest fragment, a wetland and woodland. The petitioner has agreed to devote three years to helping restore the natural area to the natural state, which includes the removal of invasive plant species and the planting of native trees. The site plan includes a description of this woodland restoration plan. The park will provide access to low impact trail system that may someday head toward Huron River. Members of the public will be able to access the park through an access easement the developer is providing near Skydale Dr.” **Second**, Commissioner Mills does not identify what natural feature is being impacted by the proposed parking and which City standard(s) with regard to natural features are not satisfied under the Zoning Ordinance. Section 5.51 of the Zoning Ordinance defines and regulates “natural feature(s)”. Section 5:51 (3) defines “natural feature” to mean a wetland as defined by Chapter 60 of the Code and/or a watercourse as defined in the Land Regulations. To the extent such “natural features” are found to exist on property, Section 5:51 (4) set forth the required “open space standards” with regard to the “natural feature”. While it is acknowledged that there is municipally regulated wetland on the property of 2,200 square feet which is being impacted, as noted by Planning Staff in their October 17, 2017 Staff Report, Trinitas is mitigating said impact by creating and monitoring a 4,080 square foot wetland. As noted above, Planning Staff recommended approval of the wetland permit and found that all criteria in relationship to said permit had been satisfied. **Third**, while not defined as a “natural feature” in Section in 5:51 of the Zoning Ordinance, Planning Staff noted that their report of October 17, 2017 that Trinitas is mitigating the removal of 33 landmark trees and 44 woodland trees with 225 trees. In total the site plan confirms that Trinitas will be planting 383 trees on site of which 222 are deciduous and 161 are conifers. **Fourth**, the finding of Commissioner Mills ignores the fact that 75.9% of the property will remain open space as confirmed by Planning Staff in the October 17, 2017 Staff Report.

Commissioner Ackerman comments: It is not clear from the Planning Commission minutes the basis for Commissioner Ackerman’s objection to Barton Green, other than he does not support the project.

Trinitas Response: **First**, pursuant to Section 5.10.6(1)(2)(b) Barton Green is a “permitted by right” multi-family use being development on land which is at the “perimeter” of the City and which contains “open space” well beyond the requirements of the Zoning Ordinance. **Second**, the site plan as confirmed by Planning Staff complies with all dimensional requirements, (i.e. setbacks, height, density), landscaping, natural features, parking, engineering and design requirements of the Zoning Ordinance. **Second**, the site plan confirms that Trinitas is providing 219 more bike parking spaces than required by the Zoning Ordinance. **Third**, Barton Green more than satisfies the Master Plan criteria for

this area of the City as articulated on page 100 of the Master Plan as follows: (1) the Master Plan contemplates a density of 7 to 10 residential units per acre. Barton Green will have not more than 7.22 residential units per acre. (2) the site plan incorporates a community design, (3) the unit types and design incorporate the recommended stacking and attached units, (4) the site plan provides 9.86 acres of neighborhood parkland, (5) the landscape plan provides buffering along M-14/US-23 and Pontiac Trail so as to preserve a natural imagine as contemplated by the Master Plan, and(6) the proposed multi-family on the perimeter of the City adjacent to single family homes both existing and proposed creates the contemplated mix of housing types envisioned by the Master Plan.

Commissioner Briggs comments: Commissioner Briggs did not support the project based upon impact to natural features.

Trinitas Response: Trinitas responds by incorporating its comments above made in response to Commissioner Mills comments with regard to natural features.

Commissioner Woods comments: Commissioner Woods did not support the project due to traffic and safety concerns.

Trinitas Response: First, there was no objective studies or information that confirmed or much inferred that the Barton Green development would create any traffic and pedestrian safety concerns. The question of traffic was posed a number of times by the Planning Commission to Planning Staff and was evaluated by Planning Staff, the City's traffic engineers and Trinitas traffic engineers. **Second, unlike the North Sky development recently approved by the City which made no financial contribution to future City traffic improvements, Trinitas is providing \$346,000 for alleged traffic mitigation to be used as determined by the City.** **Third,** Trinitas has agreed to make at its expense all traffic and pedestrian improvements required by the Planning staff and the City's traffic engineers, which improvement include, but are not limited to (a) a center-left turn lane for access to the property, (b) a new cross-walk at Pontiac Trail and St. Regis with a pedestrian activated warning system, (c) the use of 2, 14 passenger shuttle vans operating twice per hour from 7:00 a.m. to 7:00 p.m., (d) the addition of an AAATA bus stop southbound near Skydale Dr. **Fourth,** while no increase in traffic congestion was forecasted by the City traffic engineers arising from Barton Green, to the extent such were to occur, as confirmed by Planning Staff, there is no correlation between increased vehicle counts and the potential for congestion and non-motorized/pedestrian traffic safety. **Fifth,** the increase in the vehicle count through the Pontiac Trail and Barton intersection arising from Barton Green was only 8%.

Commissioner Milshteyn comments: Commissioner Milshteyn, did not support the project due to the lack of infrastructure to support the project. A review of the

public hearing video including the Commissioner's comments reveals that the concern pertained to alleged absence of nearby commercial/retail uses.

Trinitas Response: First, said concern ignores the fact that both the Zoning Ordinance and Master Plan contemplate multi-family development on this property at the perimeter of the City. **Second**, the impact of the distance of multi-family or single family residential units in relationship to supporting retail, is a distinction without any substantive difference. In both instances, residents will consider and use different modes of transportation available in the area which in this case include, public buses, shuttles, bikes and vehicles. **Third**, the Commissioner's concern is not reflective of any Zoning Ordinance criteria or Master Plan criteria and in fact since multi-family units are contemplated for the subject property, would be contrary to the applicable criteria.

Commissioner Trudeau comments: Commissioner Trudeau's did not support the project based upon impacts to natural features.

Trinitas Response: We incorporate Trinitas's response to Commissioner Mill's same comment on alleged natural features impacts as though fully stated herein and by way of restatement, note that such objection clearly ignores the donation of 9.86 high quality wooded parkland and 75.9% retained open space.

Concluding Remarks

At all times throughout the planning process with the City and the adjacent neighborhoods, Trinitas has attempted to be good new neighbor, a responsible developer, and at all times to be open to planning recommendations.

Where prudent and feasible, Trinitas has incorporated said recommendations into the Barton Green site plan even when the recommendations involved items beyond the requirements of the Zoning Ordinance and the Master Plan. The extensive open space, parkland donation, financial contribution to future traffic improvements are but some examples of such proactive cooperation.

While Trinitas recognizes that many of its future neighbors object to Barton Green, it is important to note that the number of people objecting or approving the project is not determinative of whether the project does or does not comply with the objective criteria of the Zoning Ordinance which must be considered by the Mayor and City Council as they review and consider the site plan for this "permitted by right" use.

Speculative and unsupported concerns should not overshadow the record with regard to this Application which as confirmed by Planning Staff in the Planning Reports establishes that all Zoning Ordinance criteria have been fully satisfied and accordingly, the site plan must be approved.

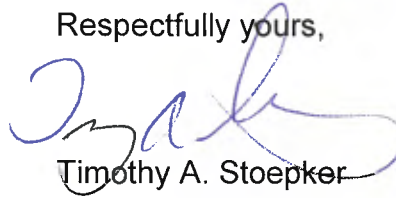
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On behalf of Trinitas, we thank you in advance for placing our letter in the record and having it included the planning packets to be provided to the City Council in advance of the City Council hearing.

Respectfully yours,



Timothy A. Stoepker

cc: Monica Labe, By E-mail only
Christopher Stoker, By E-mail only
Damian VanMatre, By E-mail only

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