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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

Mayor John Hieftje, jhieftje@a2gov.org
City Councilperson Sabra Briere, sbriere@a2gov.org
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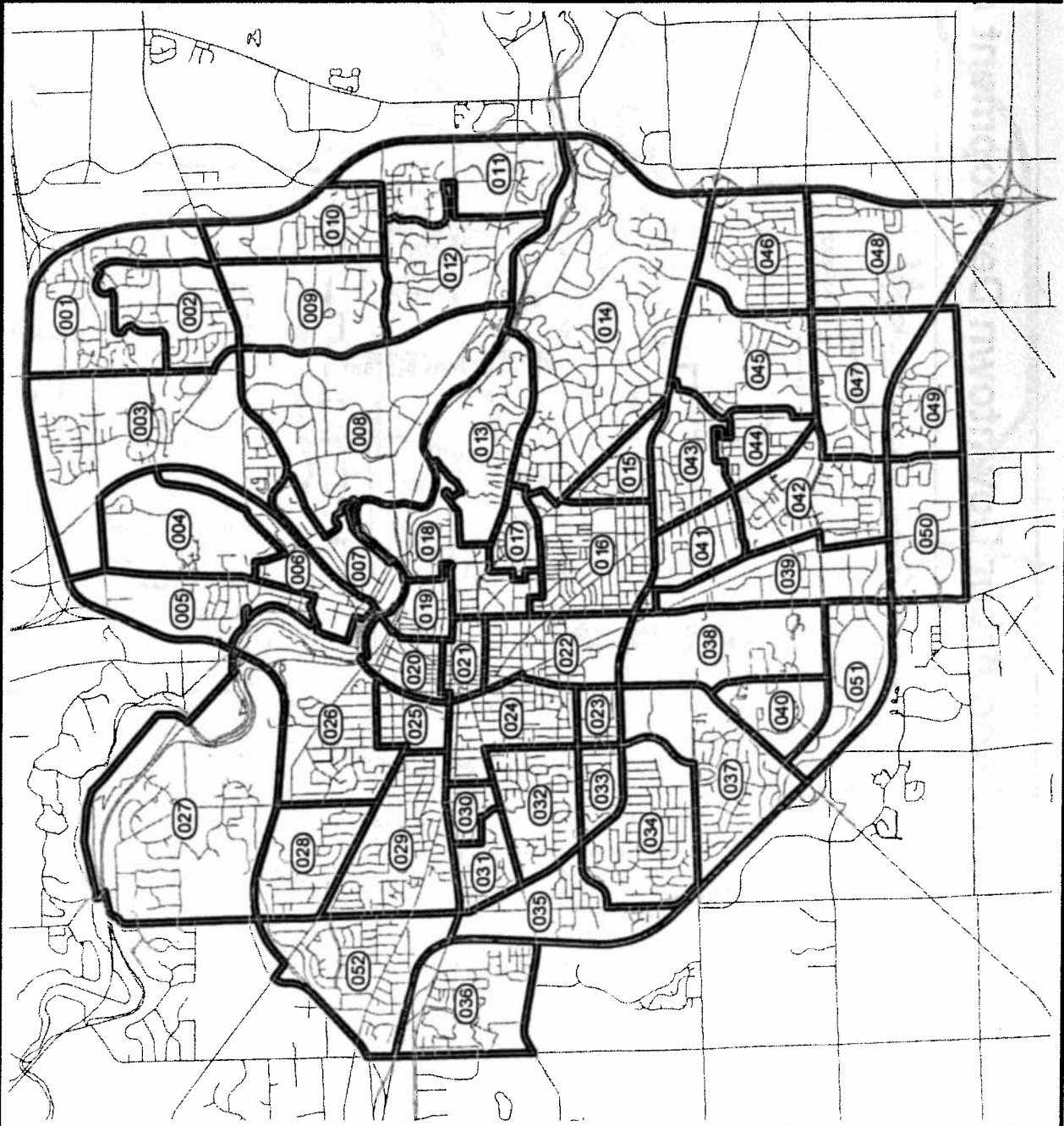
Tab A

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

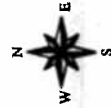
Attribute	Kingsley Lane	The Gallery	Glen Ann Place		The Moravian	Moravian % of prior average variance
			C1	R4C		
Permitted Height (feet)	30	30	25	30	30	
Approved Height (feet)	105	185	75	75	60	
% Increase in Height	250%	517%	200%	150%	100%	36%
Permitted Density	7.53	15.10	N/A	2.55	17.08	
Approved Density	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 Pattergill/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 Research Park/Pheasant Run |
| 026 Mack School/Sunset | 052 Briarwood |
| | 052 Abbott School |



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