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RICHARD L. WAGNER, JR.

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September 2, 2016

Honorable Christopher Taylor  
And Members of the City Council – City of Ann Arbor

**RE: PUBLIC HEARING WOODBURY CLUB APARTMENTS  
ANNEXATION ZONING AND SITE PLAN  
ANNEXATION OF 54 ACRE PARCEL FROM ANN ARBOR TWP.  
REZONING THE PROPERTY R4A**

Dear Mayor Taylor & Honorable Council Members:

I am contacting you again regarding the above items on the agenda for the City Council meeting scheduled for September 6, 2016 concerning the Woodbury Club Apartments Site Plan review and approval and related issues. These items were sent to the City Council after approval by the City Planning Commission.

I had earlier corresponded with the City Clerk on April 29, 2016. Copies of that correspondence are attached. The correspondence was sent on behalf of Arbor Hills Condominium Association and Barclay Park Association, two condominium associations adjacent to the Woodbury Club Apartments proposed site. I am now also writing on behalf of Nathan & Jillian Lada, the owners of Green Things Farm, 3825 Nixon Road Ann Arbor, MI 48105. The Ladas' farm is also adjacent to the proposed Woodbury Club Apartments development and will also be adversely affected by the proposed development of the site.

The public hearing initially held by the Ann Arbor City Planning Commission on October 21, 2014 was objected to in my earlier correspondence. The record showed that not all persons legally entitled to notice of the hearing were given proper notice. The City's failure to provide proper notice constituted a violation of the Michigan Zoning Enabling Act, MCL § 125.3103.

Thereafter, another hearing on the matter was conducted by the Planning Commission on July 12, 2016. The hearing by the Planning Commission on July 12, 2016 was not conducted as a first hearing on the matter even though deficient notice for the meeting on October 21, 2014 rendered that hearing a nullity and required a resetting of the matter on the agenda. The Planning Commission on July 12, 2016 treated the matter as a continuation of the earlier hearing and indicated at the time that if the matter were come before them as a first hearing, they would take the full range of issues into consideration and their determination may have been affected by other factors. The Planning

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Commission stated they were holding the meeting at the request of the developer of the land adjacent to Arbor Hills and they did not state the meeting was scheduled due to deficiency in the notice to affected property owners.

The previous hearing was not conducted properly on account of improper notice and the rescheduled hearing must be a reset of the hearing and not a mere continuation of an improper hearing. Since the Planning Commission rendered its decision without giving due consideration to any newly presented matters, that decision was made in an arbitrary and capricious manner and was improper and unlawful. The City's continuation of the planning process after the initial deficiencies occurred renders any and all decisions and approvals that might result from the process likewise deficient and invalid.

There are a number of serious matters that require full review and a fair "de novo" hearing by the Commission with the views of all persons entitled to legal notice of the proceedings represented. These matters include, but are not limited to, possible revisions to the site design and related considerations, inappropriate multi-family zoning for the "east parcel" designated for purchase as parkland, the impact of the proposals on the watershed (including farming and privately managed association interests), the effect on traffic, the environmental sensitivity of the area (which includes the headwater wetlands for the Traver and Flemming Creek watersheds and legally protected species), and the lack of public transit and accessibility for disabled persons under the Fair Housing Act, the Americans with Disabilities Act, and other such applicable federal laws.

In addition, City ordinances provide that no site plan shall be approved unless it complies with the August 6, 2014 Washtenaw County Water Resources Commissioner, Procedures and Design Criteria for Stormwater Management Systems. See Chapter 63 of the City Code of Ann Arbor, Section 5:654. The proposed site plan is not exempt from these Rules or the City Code. A proper hearing is required so that the City can ascertain whether the proposed site plan complies with these Rules.

It is unfortunate that the planning process was never properly adhered to by the Planning Commission. Not only has the Planning Commission failed to follow the City's ordinances and Michigan's Zoning Enabling Act regarding the conduct of these hearings, the failure to provide for a full hearing in all aspects of the proposal at the July 12, 2016 meeting results in a denial of due process and fair hearing for all affected residents. I ask members of the City Council to hear these concerns and remand this matter to the Planning Commission for a proper "de novo" first hearing, giving full consideration at the outset of the process to all aspects of the proposals and the potential impact resulting therefrom.

Should you have any questions regarding the above matters, please feel free to contact me.

Very truly yours,

ZELMANSKI, DANNER & FIORITTO, PLLC



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Cc: City Attorney Steven Postema  
City Administrator Steve Powers  
City Clerk Jacqueline Beaudry