

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of April 17, 2018

**SUBJECT: The Cottages at Barton Green Site Plan and Wetland Use Permit.
(West side of Pontiac Trail, south of Dhu Varren Road)
Project No. SP17-014**

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve The Cottages at Barton Green Site Plan and Development Agreement.

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Cottages at Barton Green Wetland Use Permit to allow filling and mitigation of 2,200 square feet of wetland and on-site mitigation.

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

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

STAFF REPORT

On October 17, 2017, Planning Commission postponed this petition to provide the petitioner an opportunity to address staff comments related to traffic impacts, utility easements, and landscaping.

On March 6, 2018, Planning Commission postponed this petition to provide the petitioner an opportunity to address Planning Commission comments related to parking, housing choices, the proposed shuttle, and sustainability elements.

Below is a summary of the major issues Planning Commissioners raised at the March 6, 2018 meeting. Below each issue is the petitioner's response in italics.

Additionally, Public Services staff is evaluating improvements to the Pontiac Trail/Barton Drive intersection that can increase safety for non-motorized individuals while increasing capacity to accommodate increasing volumes of vehicular traffic. The petitioner's traffic engineer (MCI) has provided the City with recommendations for making incremental improvements to this intersection.

Deferred Parking – Planning Commissioners asked the petitioner to consider showing some parking on-site as being deferred.

Trinitas has considered deferring parking, which would be a cost savings to Trinitas, but has determined based upon experience, that 559 spaces are required. The number of spaces is 78% of the total bedroom count for the Project which Trinitas believes is a more accurate measure for needed parking as opposed to simply unit count. We also believe this will alleviate the Planning Commission's concern with the potential for adjacent neighborhood parking.

Housing Choices – Commissioners asked the petitioner to consider expanding the continuum of housing choices by adding some single-family units.

The Project, which is consistent with the Zoning Ordinance and supported by the Master Plan, has a community design focused on multi-family units. To the extent there are single family homes immediately adjacent to the Project, the presence of the same along with the multi-family units in the Project fulfills the objective of a mixture of multi-family units and single family units in this planning sector of the City. The Zoning Ordinance does not require the combination of both single family and multi-family within the same development, recognizing that such requirement is not necessary to satisfy the planning objectives of the Master Plan.

Covered Bicycle Parking – Commissioners asked the petitioner to consider providing additional covered bicycle parking spaces.

The Zoning Ordinance requires 23 Class A spaces and 22 Class C spaces. Trinitas well exceeds this requirement by providing 24 Class A spaces and 220 Class C spaces. Trinitas's commitment to bike spaces will encourage residents to use bikes as a viable form of transit as encouraged by the Master Plan. We are willing to work with staff during the construction plan review to identify some potential Class B locations in lieu of Class C locations through the use of shelters or by utilizing existing areas of shelter.

Sustainability Elements – Commissioners asked the petitioner to consider providing sustainability elements such as solar panels on the clubhouse, pervious pavement, and green building design elements.

Trinitas Permit Applications inclusive of the site plan demonstrate compliance with this objective as 75.9% of the Project is open space thereby reducing impervious surface while retaining and enhancing the natural environment. Additionally, the Project incorporates the use of energy efficient mechanical systems and appliances. At the request of the Planning Commission, Trinitas reviewed the use of pervious pavement with civil engineers and it has been advised that the such pavement does not work well in Michigan. Trinitas is currently evaluating further building design elements at the clubhouse that will potentially contribute toward sustainable design elements. These items will be identified during the building plan review and vetted by staff for code compliance. Trinitas's commitment to sustainability and the environment in the development of this project is confirmed by its proposed dedication of 9.96 acres of its land to the City in the form of a City park thereby preserving and sustaining high quality woodlands for public.

Private Shuttle – Commissioners asked the petitioner to reconsider the hours of operation of the shuttle, potential weekend hours, and to consider a greater reliance on AAATA services during available service hours.

The City's traffic engineer, after extended deliberations and review, approved Trinitas's traffic impact study and proposed remediation. Notwithstanding that the Project's contribution to existing traffic is very low at 8% of the volume at Barton and Pontiac Trail, and that the traffic issues which are of concern to the City are preexisting conditions, Trinitas has agreed to remit \$346,000 to the City. While we respect the City's diligence, preexisting conditions are not a legal basis to withhold approval of this otherwise lawful project. In addition to the previously approved traffic remediation plan and financial contribution, in effort to minimize traffic impacts, Trinitas will provide a shuttle service for its residents and 244 bike spaces which well exceeds the Zoning criteria. These amenities along with the bus stop will reduce traffic impacts. It should be noted that at the request of the Huron Highlands community, Trinitas weighted the traffic study to reflect less bike use. To the extent that traffic study errs in its reliance on individual vehicle use as compared to bike, shuttle and public transit use as is implied from the Planning Commission inquiry, then in such case the traffic impact will be reduced from that projected in the traffic study. As stated in the Plan Commission meeting, shuttle service hours, routes, times, and capacity are open to adjustments based on demand and can be modified to mitigate areas of need once in operation.

Traffic Analysis – Commissioners asked the petition to revisit the mode share analysis to determine if residents would be more likely to ride bikes, walk, and take transit than the traffic study projected.

Please see response #5 above.

Parking in Nearby Neighborhoods – Commissioners asked the petitioner to evaluate methods to discourage their residents from parking on nearby neighborhood streets.

Each of our projects are unique and require a different level of service related to parking. Considering the self-contained nature of the Project, the number of on-site parking spaces being provided, and the lack of access from single family residential streets to the Project, simply stated neighborhood parking will not be an issue.

Target Market Demographics – Commissioners asked the petitioner to provide more information on target market demographics.

Considering that the Master Plan approved by the Planning Commission already evaluated demographics for this parcel and recommended 7 to 10 units an acre and that the City previously approved a project on the property with a greater unit count, it is unclear as to why the Planning Commission would want additional information when the unit count proposed by Trinitas is on the low end of the Master Plan unit count which is 10 units per acres. It does not appear that demographic information is a criteria for approval where the use as in this case is a principal permitted use. Our project will help relieve some of the pressure on existing core neighborhood areas and non-owner occupied homes based on the local 5% rent growth occurring annually as well as increased enrollment at the University. Trinitas will not discriminate on the basis of race, color, religion, national origin, sexuality/gender, orientation/identity, disability, or familial status.

Meet with the Neighbors – Commissioners asked the petitioner to meet with the neighbors again to provide another opportunity for a face-to-face dialogue.

Trinitas has met with the surrounding neighborhood on two separate occasions in the winter of 2017 and the fall of 2017. Trinitas listened to the recommendations of the surrounding neighborhoods and incorporated neighborhood recommendations into the Project which included, but are limited to, building design, unit mix, building locations, access, amenities, sound barriers and landscaping. The site plan has gone through significant modifications over the past year in an effort to meet the zoning and master plan requirements, respond to the community, and work with the City planning staff to create the best project for all.

Prepared by Jeff Kahan
Reviewed by Brett Lenart
4/12/18

Attachments: [Site Plan](#)
[Traffic Study](#)
Development Agreement

c: Petitioner: Trinitas Development, LLC
201 Main Street, Suite 1000
Lafayette, IN 47901

Petitioner's Agents: Scott Betzoldt
Midwestern Consulting, LLC
3815 Plaza Drive
Ann Arbor, MI 48108

Systems Planning
Project Management
Project No. SP17-014

THE COTTAGES AT BARTON GREEN DEVELOPMENT AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 20___, by and between the City of Ann Arbor, a Michigan municipal corporation, with principal address at 301 East Huron Street, Ann Arbor, Michigan 48107, hereinafter called the CITY; and Trinitas Development, LLC, an Indiana limited liability company, with principal address at 201 Main Street, Suite 201, Lafayette, Indiana, 47901, hereinafter called the PROPRIETOR, witnesses that:

WHEREAS, the PROPRIETOR owns certain land in the City of Ann Arbor, described below and site planned as The Cottages at Barton Green, and

WHEREAS, the PROPRIETOR has caused certain land in the City of Ann Arbor, described below to be surveyed, mapped and site planned as The Cottages at Barton Green, and desires site plan and development agreement approval thereof, and

WHEREAS, the PROPRIETOR desires to build or use certain improvements with and without the necessity of special assessments by the CITY, and

WHEREAS, the CITY desires to insure that all of the improvements required by pertinent CITY ordinances and regulations be properly made, and that the PROPRIETOR will install these improvements prior to any permits being issued.

THE PROPRIETOR(S) HEREBY AGREE(S):

(P-1) To prepare and submit to the CITY for approval plans and specifications ("the Plans") prepared by a registered professional engineer for construction of public water and sanitary sewer mains, private storm water management systems, public sidewalks (including the sidewalk along Pontiac Trail to the existing sidewalk at Skydale Drive), public streets, and streetlights ("the Improvements") provided that no work on said Improvements shall be commenced until the Plans have been approved by the City Administrator or designee, and until such other relevant information to CITY service areas as shall be reasonably required has been provided.

(P-2) To construct all Improvements set forth in Paragraph P-1 of this Agreement in accordance with the approved Plans and to repair all defects in the improvements that occur within one year from the date of acceptance of the Improvements by the CITY, commencing on the latest date of the acceptance of any Improvements by the CITY. If the PROPRIETOR fails to construct the Improvements, the CITY may send notice via first class mail to the PROPRIETOR at the address listed above requiring it to commence and complete the

Improvements in the notice within the time set forth in the notice. The CITY may cause the work to be completed at the expense of the PROPRIETOR, if the PROPRIETOR does not complete the work within the time set forth in the notice.

(P-3) To furnish, within 30 days of completion, an engineer's certificate that the construction of the public improvements set forth in Paragraph P-1 above have been completed in accordance with the specifications of the CITY in accordance with the approved plans. The engineer's certificate will cover only those items the PROPRIETOR'S engineer inspects.

(P-4) Prior to the issuance of building permits and recording the master deed, to deposit with a mutually acceptable escrow agent fully executed documents in a form acceptable to the CITY, which will convey, upon delivery to the CITY, easements for the construction and maintenance of public utilities and public streets. The escrow agreement shall provide for delivery of the documents to the CITY solely upon the condition that the CITY has accepted the public improvement to be conveyed by the easement.

(P-5) To provide, prior to the issuance of building permits, a signing plan to the Fire Department and install all street name signs according to CITY specifications and to provide and install such temporary warning signs during the construction period as are appropriate to protect the health, safety and welfare of the public.

(P-6) To install all water mains, storm sewers, sanitary sewers, through the first course of asphalt, pursuant to CITY approved plans and specifications, necessary to connect the site with existing CITY systems adjacent to the site prior to the issuance of any building permits for each phase of the development as shown on the approved site plan or at a later time as determined by the CITY Public Services Area. The final course of asphalt paving shall be completed prior to the issuance of the final certificate of occupancy for the first completed residential building.

(P-7) To be included in a future special assessment district, along with other benefiting property, for the construction of additional improvements to Pontiac Trail and St Regis Way, such as street widening, storm sewers, curb and gutter, sidewalks, bike paths, street lights, and the planting of trees along Pontiac Trail and St. Regis Way frontage when such improvements are determined by the CITY to be necessary.

(P-8) To convey to the CITY, prior to the issuance of building permits and subject to acceptance by the Ann Arbor City Council, an access easement of 50 feet in width from Skydale Drive to the proposed park dedication on the east side of the site as shown on the approved site plan.

(P-9) To indemnify, defend and hold the CITY harmless from any claims, losses, liabilities, damages or expenses (including reasonable attorney fees) suffered or incurred by the CITY based upon or resulting from any acts or omissions of the PROPRIETOR, its employees, agents, subcontractors, invitees, or licensees in the design, construction, maintenance or repair of any of the Improvements required under this Agreement and the approved site plan.

(P-10) To cause to be maintained General Liability Insurance and Property Damage Insurance in the minimum amount of \$1,000,000 per occurrence and naming the CITY as additional insured to protect and indemnify the CITY against any claims for damage due to public use of the public improvement(s) in the development prior to final written acceptance of the public improvement(s) by the CITY. Evidence of such insurance shall be produced prior to

any construction of improvement and a copy filed with the City Clerk's Office and shall remain in full force and effect during construction of the public improvement(s) and until notice of acceptance by the CITY of the Improvements.

(P-11) Existing woodland, landmark, and street trees shown on the site plan as trees to be saved shall be maintained by the PROPRIETOR in good condition for a minimum of three years after acceptance of the public improvements by the CITY or granting of Certificate of Occupancy for the final unit. Existing woodland, landmark, or street trees that are determined by the CITY to be dead, dying or severely damaged due to construction activity within three years after acceptance of the public improvements or granting of Certificate of Occupancy for the final unit, shall be replaced by the PROPRIETOR as provided by Chapter 57 of the Ann Arbor City Code.

(P-12) To convey to the CITY, within 90 days from the date of this agreement listed above, subject to acceptance by the Ann Arbor City Council, land of approximately 9.86 acres for a public park as shown on an approved site plan. The PROPRIETOR shall record the deed and its conveyance to the CITY as public parkland. A park identification sign shall be provided per CITY specifications before issuance of any certificate of occupancy.

(P-13) To deposit, prior to any building permits being issued, a street tree planting escrow account with the Parks and Recreation Services Unit in the form of a check payable to the City of Ann Arbor. The escrow amount shall be based on the CITY policy in effect at that time and is to include all on-site public streets. The City Administrator may authorize the PROPRIETOR to install the street trees if planted in accordance with CITY standards and specifications. If the street trees are found to be acceptable by the CITY, the escrow amount will be returned to the PROPRIETOR one year after the date of acceptance by the CITY.

(P-14) To construct, repair and/or adequately maintain on-site storm water management system. If the PROPRIETOR fails to construct, repair and/or maintain the private storm water management system, the CITY may send notice via first class mail to the PROPRIETOR at the address listed above, requiring it to commence and complete the items stated in the notice within the time set forth in the notice. The CITY may cause the work to be completed at the expense of the PROPRIETOR if the PROPRIETOR does not complete the work within the time set forth in the notice.

(P-15) After construction of the private on-site storm water management system, to commission an annual inspection of the system by a registered professional engineer evaluating its operation and stating required maintenance or repairs, and to provide a written copy of this evaluation to the CITY Public Services Area.

(P-16) To ensure that no construction traffic or staging of construction equipment or material takes place on neighborhood streets in neighborhoods adjacent to the site.

(P-17) That traffic mitigation measures for Pontiac Trail will be beneficial to the PROPRIETOR'S property and, therefore, to install a center-left turn lane within Pontiac Trail to facilitate access to The Cottages at Barton Green community prior to the request for and issuance of any certificate of occupancy and to install a pedestrian crosswalk and associated treatment across Pontiac Trail as contemplated on the approved site plan prior to the request for and issuance of any certificate of occupancy. Additionally, to contribute \$346,000 toward the cost of an intersection improvement at Pontiac Trail and Barton Drive prior to the issuance of a grading permit.

(P-18) To design, construct, repair and maintain this development in accordance with the provisions of Chapter 119 (Noise Control) to ensure that any noise emanating from said development will not impact nearby residents or businesses. In addition, PROPRIETOR shall review existing noise sources surrounding said development and incorporate necessary design and construction techniques to ensure that future tenants will not be exposed to noise sources in violation of Chapter 119.

(P-19) To include the elevation drawings, as submitted to City Council, as part of the approved site plan and to construct all buildings consistent with said elevation drawings. If the PROPRIETOR proposes any substantive changes to the approved building elevations, setbacks, aesthetics, or materials, that those changes be brought back to the City Council for consideration. The PROPRIETOR is required to submit signed and sealed drawings to staff reflecting the elevations, setbacks, aesthetics, materials and site plan approved by City Council.

(P-20) To remove all discarded building materials and rubbish from the development at least once each month during construction of the development improvements, and within one month after completion or abandonment of construction.

(P-21) PROPRIETOR agrees to maintain pathways on private property that connect the residential area to the proposed City park on the west side of the site as shown on the approved site plan. Maintenance includes removing weeds, periodically installing wood chips, and removing barriers to the path.

(P-22) Prior to the request for building permits, to dedicate a public access easement from Skydale Drive to the public park on the west side of the site as shown on the approved site plan. DEVELOPER shall submit a legal description and survey drawing for the easement prior to the request for and issuance of building permits, and the easement shall be granted to the CITY in a form reasonably acceptable to the DEVELOPER and CITY attorney. The easement must be accepted by City Council prior to the request for and issuance of any temporary or final certificate of occupancy.

(P-23) To maintain the gated entrance at the southwest corner of the site to Skydale Drive so that it is permanently gated and that nothing blocks emergency access to the site.

(P-24) To provide construction access from Pontiac Trail only and to stage construction equipment and material on the site. No construction access or staging of construction equipment or material is allowed from or on adjoining streets. Utility connections can be made within the Skydale Drive right-of-way as shown on the approved site plan.

(P-25) To complete the Woodlands Restoration Plan for the 1.95 acre woodland on the west side of the site as described and shown on the approved site plan for a total of three years or until the stated restoration efforts have been completed. The first year of restoration must be completed prior to the issuance of any building permit. The second year of restoration must be completed prior to the issuance of the final certificate of occupancy. Documentation of payment for the third year of restoration must be provided prior to the issuance of the final certificate of occupancy.

(P-26) PROPRIETOR is the sole title holder in fee simple of the land described below except for any mortgage, easements and deed restrictions of record and that the person(s)

signing below on behalf of PROPRIETOR has legal authority and capacity to enter into this Agreement for PROPRIETOR.

(P-27) Failure to construct, repair and/or maintain the site pursuant to the approved site plan and/or failure to comply with any of this approved development agreement's terms and conditions shall constitute a material breach of the Agreement and the CITY shall have all remedies in law and/or in equity necessary to ensure that the PROPRIETOR complies with the approved site plan and/or the terms and conditions of the approved Agreement. The PROPRIETOR shall be responsible for all costs and expenses including reasonable attorney fees incurred by the CITY in enforcing the terms and conditions of the approved site plan and/or Agreement.

(P-28) In addition to any other remedy set forth in this Agreement or in law or equity, if PROPRIETOR fails to make a timely or full payments to the CITY as set forth elsewhere in the Agreement to the CITY in the agreed upon manner, any unpaid amount(s) shall become a lien, as provided under Ann Arbor City Code and recorded with the Washtenaw County Register of Deeds, against the land described below and may be placed on the CITY tax roll as a single lot assessment, or if the development is converted to condominium ownership, every owner of a portion of the property shall pay a pro-rata share of the amount of the payments attributable to each condominium unit. If the unpaid amount(s), in whole or in part, has been recorded as a lien on the CITY'S tax roll and with the Washtenaw County Register of Deeds, upon payment of the amount in full along with any penalties and interest, the CITY, upon request, will execute an instrument in recordable form acknowledging full satisfaction of this condition.

(P-29) To pay for the cost of recording this Agreement with the Washtenaw County Register of Deeds, and to pay for the cost of recording all documents granting easements to the CITY.

THE CITY HEREBY AGREES:

(C-1) In consideration of the above undertakings, to approve the Cottages at Barton Green Site Plan.

(C-2) To use the \$346,000 *as stated above* contribution for traffic mitigation measures at the Pontiac Trail/Barton Drive Intersection Improvements as stated above.

(C-3) To provide timely and reasonable CITY inspections as may be required during construction.

(C-4) To record this Agreement with the Washtenaw County Register of Deeds.

GENERAL TERMS

Both the PROPRIETOR and the CITY agree as follows:

(T-1) This Agreement is not intended to create a contractual right for third parties.

(T-2) This Agreement and any of its terms, conditions, or provisions cannot be modified, amended, or waived unless in writing and unless executed by both parties to this

Agreement. Any representations or statements, whether oral or in writing, not contained in this Agreement shall not be binding on either party.

(T-3) This Agreement and any of its terms or conditions shall not be assigned or transferred to any other individual or entity unless prior approval of the CITY is received. Such approval shall not be withheld unreasonably.

(T-4) The obligations and conditions on the PROPRIETOR, as set forth above in this Agreement and in the approved site plan, shall be binding on any successors and assigns in ownership of the following described parcel:

Beginning at the West 1/4 corner of Section 16, Town 2 South, Range 6 East; thence North 00 degrees 24 minutes 44 seconds East 267.00 feet along the West line of said Section 16; thence North 89 degrees 42 minutes 29 seconds West 340.00 feet parallel with the East and West 1/4 line of Section 17; thence South 00 degrees 24 minutes 44 seconds West 267.00 feet parallel to the West line of said Section 16; thence North 89 degrees 42 minutes 29 seconds West 75.20 feet along the East and West 1/4 line of said Section 17; thence North 01 degrees 01 minutes 18 seconds East 25.02 feet along the Easterly right of way line of M-14 Highway; thence continuing along said right of way line 717.32 feet in the arc of a circular curve to the right, radius 1660.08 feet, central angle 24 degrees 45 minutes 27 seconds, and chord North 13 degrees 24 minutes 01 seconds East 711.76 feet; thence continuing along said right of way line North 25 degrees 46 minutes 45 seconds East 595.13 feet; thence South 00 degrees 24 minutes 44 seconds West 587.84 feet along the West line of said Section 16; thence North 87 degrees 57 minutes 55 seconds East 1846.70 feet along the South line of the North 1/2 of the South 1/2 of the Northwest 1/4 of said Section 16; thence South 04 degrees 47 minutes 06 seconds West 454.25 feet along the centerline of Pontiac Trail (66.00 feet wide) as monumented; thence South 87 degrees 50 minutes 56 seconds West 290.74 feet; thence South 02 degrees 09 minutes 04 seconds East 212.25 feet; thence South 87 degrees 50 minutes 56 seconds West 1530.95 feet along the East and West 1/4 line of said Section 16 to the Point of Beginning.

(T-5) In addition to any other remedy in law or in equity failure to comply with all of the above paragraphs on the part of the PROPRIETOR, or any part of the approved site plan, in part or in whole, shall give the CITY adequate basis and cause to issue a stop work order for any previously-issued building permits and shall be an adequate basis and cause for the CITY to deny the issuance of any building permits, certificates of occupancy, or any other permits unless and until the CITY has notified the PROPRIETOR in writing that the PROPRIETOR has satisfactorily corrected the item(s) the PROPRIETOR has failed to perform.

(T-6) This Agreement shall be interpreted, enforced and governed under the laws of the State of Michigan and Ann Arbor City Code.

CITY OF ANN ARBOR, MICHIGAN
301 East Huron Street
Ann Arbor, Michigan 48107

By: _____
Christopher Taylor, Mayor

By: _____
Jacqueline Beaudry, City Clerk

Approved as to Substance:

Howard S. Lazarus, City Administrator

Approved as to Form:

Stephen K. Postema, City Attorney

By: _____
Name, Title

STATE OF MICHIGAN)
) ss:
County of Washtenaw)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018 by Christopher Taylor, Mayor and Jacqueline Beaudry, City Clerk of the City of Ann Arbor, a Michigan municipal corporation, on behalf of the corporation.

NOTARY PUBLIC
County of Washtenaw, State of Michigan
My Commission Expires: _____
Acting in the County of Washtenaw

STATE OF MICHIGAN)
) ss:

County of Washtenaw)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018 by _____ of Trinatas Development, LLC, an Indiana limited liability company, on behalf of the company.

NOTARY PUBLIC
County of Washtenaw, State of Michigan
My Commission Expires: _____
Acting in the County of Washtenaw

DRAFTED BY AND AFTER RECORDING RETURN TO:
Ann Arbor Planning & Development Services
ATTN: Brett Lenart
Post Office Box 8647
Ann Arbor, Michigan 48107
(734) 794-6265