

TO: City Council
FROM: Kevin S. McDonald, Deputy City Attorney
DATE: June 28, 2019
SUBJECT: Trinitas Development, LLC v. City of Ann Arbor Consent Judgment Revisions

Attached are minor corrections to the Consent Judgment in the above-referenced case.

Revisions include:

- Page 2, Paragraph A - The property owner, MW Land, LLC, is a Florida limited liability company, not a Michigan limited liability company.
- Page 15, Paragraph 29 – The property owner, MW Land, LLC, will now provide written notice to the City, along with Trinitas, if the agreement for Trinitas to purchase the property has been terminated.
- Page 17, Signature Page – Adds signatures for the property owner and their attorney.

Please modify the Council resolution to approve the Consent Judgment attached to the resolution as revised.

CONSENT JUDGMENT

At a session of said Court held in the City of
Ann Arbor, County of Washtenaw. State of Michigan, on;

PRESENT: HONORABLE TIMOTHY P. CONNORS
Circuit Court Judge

Upon the stipulation and consent of the Parties, by and through their respective attorneys,
the Court finds:

A. MW Land, LLC, ~~Michigan~~Florida limited liability company ("MW") is the owner of 31.93 acres of real property located at 2601 Pontiac Trail, City of Ann Arbor, County of Washtenaw, State of Michigan (the "Property") which is more specifically described in the attached **Exhibit A**, which is incorporated into this Consent Judgment.

B. Appellant, Trinitas Development LLC, an Indiana limited liability company ("Trinitas"), has entered into a purchase agreement with MW to purchase the Property.

C. Appellees, City of Ann Arbor is a Michigan municipality located in Washtenaw County as established by the laws of the State of Michigan, and the City of Ann Arbor City Council is the City's governing body (collectively the "City").

D. The City has adopted a zoning ordinance known as the Unified Development Code ("UDC") which has been amended from time to time. Pursuant to the UDC, the Property is zoned R4A Multiple-Family ("R4A").

E. On or about May 17, 2017, Trinitas with the consent of MW submitted an application to the City for (1) site plan approval of a multi-family development, and (2) for a wetland permit (collectively "Site Plan/Wetland Application").

Development Agreement, the terms of the Consent Judgment shall apply and govern the Parties. To the extent that the Consent Judgment is silent on issues regulated by the UDC and applicable codes and ordinances and the Development Agreement, the City UDC, codes and ordinances and Development Agreement shall control, provided that in no event shall any application of the UDC and/or any code and/or ordinance and/or the Development Agreement require and/or cause a reduction in the number of (1) occupants, (2) dwelling units and (3) bedrooms set forth in the Consent Judgment and Site Plan and/or the use and occupancy of the Property as a R4A multiple dwelling project as authorized by this Consent Judgment.

28. Good Faith Cooperation. The parties and their respective successors and assigns shall treat each other in good faith and shall not take any action which is contrary to or interferes with the spirit of this Consent Judgment, or fail to take any action which is necessary or consistent with the spirit and intent of this Consent Judgment. Time is of the essence.

29. Effective Date of this Consent Judgment. The Consent Judgment shall become null and void in the event Trinitas does not purchase the Property within five (5) years from the date of the Consent Judgment or Trinitas and MW, at an earlier date deliver written notice, and provide written notice to the City Administrator that the agreement for Trinitas to purchase the Property has been terminated and Trinitas will not be purchasing the Property, that it has purchased the Property within five (5) years from the date the Consent Judgment. Trinitas shall provide written notice to the City Administrator within thirty (30) days from the date it has purchased the Property.

**THIS CONSENT JUDGMENT RESOLVES ALL PENDING CLAIMS
AND CLOSES THIS CASE**

SIGNATURE PAGES ARE THE NEXT PAGES

SIGNATURE PAGE FOR THE CONSENT JUDGMENT

Approved:

Trinitas Development, LLC

By: _____

(Print)
(Print)

Its: **Managing Member**

Dated: _____

And By Its Attorneys:

Dickinson Wright, PLLC

By: _____
Timothy A. Stoepker (P31297)
200 Ottawa Avenue, NW, Ste. 1000
Grand Rapids, Michigan 49503
(616) 458-1300

Circuit Court Judge

City of Ann Arbor

By: _____
Christopher Taylor

Its: **Mayor**

Dated: _____

By: _____
Jacqueline Beaudry

Its: **City Clerk**

Dated: _____

Office of the City Attorney

By: _____
Stephen K. Postema (P38871)
301 E. Huron Street, P.O. Box 8647
Ann Arbor, Michigan 48108
(734) 794-6170

**Rosati, Schultz, Joppich
& Amtsbuechler, PC**

By: _____
Carol A. Rosati (P32288)
Timothy S. Wilhelm (P67675)
Matthew J. Zalewski (P72207)
Attorneys for Appellee
27555 Executive Drive, Suite 250
Farmington Hills, MI 48331-3550
(248) 489-4100

SIGNATURE PAGE FOR CONSENT JUDGMENT

MW Land, LLC

By: _____

Satosh Mehra

Its: Managing Member

Dated: _____

And By Its Attorneys:

Hooper Hathaway Price Beuche & Wallace

By: _____ (P_____)

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Ann Arbor, Michigan 48104
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