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May 27, 2009

Mr. Kevin S. McDonald
Ann Arbor City Attorney's Office
City of Ann Arbor
100 N. 5th Avenue
P.O. Box 8647
Ann Arbor, MI 48107

Mayor John Hieftje and City Council Members
City of Ann Arbor
Guy C. Larcom, Jr. Municipal Building
100 N. Fifth Avenue
Ann Arbor, MI 48104

**Subject: City Place Site Plan / Ann Arbor, Michigan / City File No. SP09-07
Our File Number 1096.000**

Dear Mr. McDonald, Honorable Mayor and Council Members:

Our firm represents Thomas Whitaker, who is President of the Germantown Neighborhood Association. The purpose of this letter is to alert you to a critical defect in the site plan approval process for the City Place project which was the subject of a Planning Commission vote at its meeting on April 21, 2009. A public hearing on the site plan recommendation for the City Place project is on City Council's agenda for its June 1, 2009 meeting.

Section 5:135(2) of Chapter 57 of the Ann Arbor Code provides:

Area plans, site plans, site plans for Planning Commission approval, PUD site plans, preliminary plats and land divisions under review shall be displayed in a location in City Hall open to the public 24 hours per day, 7 days each week, for at least 1 week prior to the City Council and Planning Commission public hearings.

The section quoted above is an important provision to ensure that interested citizens are accurately informed about a project under review.

As described below by Mr. Whitaker, the site plan drawings on display in the City Hall lobby prior to the April 21st Planning Commission public hearing did not include subsequent amendments made by the petitioner that were acted on by the Planning Commission. In a letter to the Mayor, City Council, Planning Commission members and other staff dated May 13, 2009, Mr. Whitaker stated:

Mr. Kevin S. McDonald / Mayor John Hieftje and City Council Members
City Place Project / Ann Arbor, Michigan

May 27, 2009
Page 2

"The drawings on the table in the lobby of City Hall were not, and as of yesterday [5/12/09], *are still not* the actual ones reviewed and acted on by Staff, City Planning Commission, and soon-to-be, by City Council. Because the public cannot access the planning department files after business hours, the public did not have access to these site plans 24 hours per day, one week before the Planning Commission meeting, as required. The drawings in the lobby are original submittals that were changed rather dramatically by the petitioner prior to final Staff review and Planning Commission action. One of the drawings reviewed and included in the CPC packet (showing a newly-added accessory building) was not even completed by the architect until 4/15/09--just six days prior to the hearing--a violation on its face."

This violation of Section 5:135(2) of Chapter 57 of the Ann Arbor Code means that the recommendation of the Planning Commission on April 21st regarding the City Place site plan was not legally made and that any action by City Council on that recommendation would similarly be in violation of the ordinance. The appropriate step for City Council is to require the Planning Commission to hold a new public hearing that complies with the City's ordinances rather than Council proceeding with its own public hearing and action on an invalid recommendation now scheduled for June 1st.

Accordingly, we respectfully request that the City Council determine that the Planning Commission recommendation regarding the City Place site plan made on April 21, 2009 was based on a defective process and that Council remand this matter to the Planning Commission for a new public hearing that complies in all respects with Ann Arbor's ordinances.

Please include this letter as part of the record of the proceedings before City Council at its June 1, 2009 meeting.

Respectfully submitted,
RENTROP & MORRISON, P.C.


Susan E. Morrison

cc: Stephen K. Postema
Thomas Whitaker

****DRAFT 05 28 09 10:08 a****

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FACSIMILE TRANSMITTAL COVER SHEET

Date: May 28, 2009

Transmittal to: Kevin S. McDonald (734) 994-4954
Mayor John Hieftje and City Council Members (734) 994-8296

cc: Stephen K. Postema (734) 994-4954

Destination facsimile number: as above

Transmittal from: Susan E. Morrison

Our client name: Whitaker File No. 1096-000

Matter: City Place Site Plan / Ann Arbor, Michigan / City File No. SP09-07

Number of pages (including cover sheet) 3

Comments: Please see enclosed letter sent via e-mail last evening.

If you have any questions or did not receive a complete copy, please contact the sender at the number listed above. Thank you.

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