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July 29, 2011

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SENT BY E-MAIL

Dear Alderpersons:

Re: LZ Ventures Proposal

In anticipation of the August 2 public hearing on the proposed rezoning of 1001 University Avenue to PUD status, and the appeal of the denial of a demolition permit for a building located on that property (both of which we understand might be referred to September 6), I am enclosing a Position Statement which my client, Luther Memorial Church, has prepared. This Position Statement covers many of the issues which Luther Memorial Church has discussed in front of the Landmark's Commission, the Urban Design Commission and the Plan Commission. It sets forth many of the reasons why Luther Memorial Church is so vehemently opposed to the proposed development at 1001 University Avenue.

At the August 2nd Council Meeting (or September 6, if the matter is referred), Luther Memorial Church will present testimony which will further address its concerns. At this time, however, we wanted to review for you how we have reached this point.

When deciding on issues such as rezoning and the granting of demolition permits, the Common Council relies heavily on the actions of the committees that advise it. In this case, the Landmarks Commission, the Urban Design Commission and the Plan Commission have all been involved. At its May 9th meeting, the Landmarks Commission, after discussing the situation, stated as follows:

"While the Landmarks Commission has no jurisdiction over this proposal at this time, the Commission has concerns that given jurisdiction, it would not grant a Certificate of Appropriateness for the new development proposal adjacent to a landmark unless the following concerns were address: (1) the development on the adjacent site shall not adversely affect the natural light that reaches the sanctuary of Luther

Memorial Church, (2) the development on the adjacent site shall not adversely affect the enjoyment of the Luther Memorial Church site with increased noise and privacy issues."

The Urban Design Commission considered the project at both its May 11th and May 25th meetings. Many of the same concerns that were reflected in the Landmarks Commission discussion also arose during the Urban Design Commission's discussion. At its May 11th meeting, the Urban Design Commission urged the developer to come back with a more appropriately-sized project. Two weeks later, on May 25th, the developer again appeared in front of the Commission, but with exactly the same project. Although the Urban Design Commission, on a split 4-3 vote, reluctantly granted initial approval to the project, it requested that the Plan Commission, before sending the project back to the UDC, address the issue of whether the project was too large for the site and expressed "its concerns about retaining the religious corridor."

The Plan Commission also considered this proposal at two meetings. At its first meeting on June 20, the Plan Commission referred the matter to a further meeting to give the developers a chance to eliminate the shading impact on Luther Memorial's stained-glass sanctuary windows. On July 11th, the developers again presented the exact same proposal as they had presented at all of the previous meetings. They also indicated that they could not modify their proposal and maintain the economic feasibility of the project.

At the July 11th meeting, Plan Commission members carefully reviewed the Madison General Ordinance standards relating to zoning text amendments, planned unit development rezonings and issuances of demolition permits. Reviewing the video tape of the Plan Commission discussion reveals how carefully and thoughtfully the Plan Commission considered this project in light of those standards. After a thorough vetting of the issues, the Plan Commission, on a 5-3 vote, rejected the motion to approve the project and issue a demolition permit.

The Madison ordinances set forth a clear and logical procedure for approval of development in the City. In particular, the ordinances reflect the realization that separate commissions who have special expertise in their designated areas are to consider projects within their jurisdiction and decide how to best either issue permits, as in the case of the demolition standards, or recommend approval or disapproval to the Common Council, as in the case of zoning petitions.

Alderspersons
July 29, 2011
Page 3

In this particular instance, Luther Memorial Church has filed a protest petition, requiring a 3/4s Common Council vote to adopt the proposed zoning amendment. This super majority vote is based on the Wisconsin Statutes recognizing how critical a zoning change is to adjoining landowners.

Our situation presents a textbook case of the process working properly. The Landmarks, Urban Design and Plan Commissions have all carefully reviewed the developers' proposal and have all agreed that the project does not fit the site. The adjoining neighbor, Luther Memorial Church, has brought this issue to the fore for that very reason. Because of the importance to the neighbor, the Wisconsin Statutes provide for the super majority vote.

We sincerely hope that the Common Council will listen to the advice of the three commissions that have provided input and will reject the petition to rezone and the request for the demolition permit.

We appreciate your hard work on this project and all of the great work which you so generously do on behalf of the City.

Yours very truly,

REINHART BOERNER VAN DEUREN s.c.

BY


Harvey L. Temkin

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Enc.

cc Brad Murphy
Kevin Firchow
Attorney William White
Attorney Kevin Delorey
Pr. Franklin Wilson
Pr. Brad Pohlman

LUTHER MEMORIAL CHURCH

POSITION STATEMENT ON PROPOSED ST. FRANCIS DEVELOPMENT

July 8, 2011

The purpose of this document is to summarize the position of Luther Memorial Evangelical Lutheran Church of Madison, Wisconsin ("Luther Memorial") on the proposed development of high-rise student housing on the property currently occupied by St. Francis House at 1001 University Avenue, Madison, Wisconsin (the "Development").

1. Luther Memorial opposes the Development because we believe that the Development will threaten the viability of our congregation.

1.1 Luther Memorial is a destination church. It is "Madison's cathedral." Our members come from all over Dane County, and pass other churches on their way here. They come to Luther Memorial for the unique worship experience: the majestic church, the outstanding music, the uplifting light through the stained glass windows, and our consistently excellent pastoral leadership. If any of these elements are compromised, it creates a risk that people will no longer make the extra effort to attend Luther Memorial.

1.2 Our specific concerns include the following, in no particular order:

(a) The Development will block the morning light, preventing the light from hitting our stained glass windows during morning services;

(b) Noise from the Development, coupled with that from Grand Central, will detract not just from morning services but also from special events such as weddings and funerals, which are an important part of our ministry;

(c) Increased congestion, particularly from mopeds, from the Development will make it more difficult for our congregation, particularly the elderly, to attend worship services and other church events;

(d) Vandalism against the church building, which we have experienced from Grand Central, will continue and even increase; and

(e) The likely future development of the Porchlight property on the southeast corner of this block for student housing will isolate Luther Memorial, and create a "mountain range" of student housing on that block that will materially detract from the beauty and majesty of Luther Memorial.

1.3 This is NOT an idle concern. It is not easy to maintain a downtown church. Other churches downtown, and on campus, have lost their congregations, including the

University United Methodist Church at 1127 University Avenue and the St. Francis Episcopalian Church, 1001 University Avenue (other than the student ministry which continues).

1.4 Like many other urban churches, Luther Memorial has lost membership in recent years. The number of contributing members over the years has declined from over 1400 in 1988 to 973 in 2010.

1.5 Our church building is indeed majestic and historic, but it is also expensive to maintain. Those expenses add financial pressures to the congregation. Although some have characterized Luther Memorial as "flush," that unfortunately is not the case. We currently have a mortgage on the church incurred to pay for improvements and maintenance over the years, that we have not been able to retire. Currently, we face additional expenses to pay for roof repairs caused in part by the shadowing on the east roof of the church from the Grand Central development. If our congregation does not survive, who will maintain this glorious church?

2. The northern half of the 1000 block of University Avenue is a jewel that must be preserved as a religious and aesthetic oasis.

2.1 Luther Memorial has applied for Landmark status for its church building. There can be no doubt that the building, built in 1921, is a landmark and will be granted that status.

2.2 St. Francis House, and the chapel that is proposed to be demolished, should also be granted Landmark status in Madison. The St. Francis House was built in 1923 and the chapel addition in 1964. Of course, there is no guarantee that the original St. Francis House will survive the proposed move.

2.3 The green space, the historic buildings, and the exclusive religious use of that block combines with Lathrop Hall and the botanical gardens across University Avenue to create a beautiful and peaceful place for students and visitors.

3. Luther Memorial has offered to work with St. Francis House to come to a mutually acceptable solution.

3.1 Luther Memorial has contacted St. Francis House and has offered to discuss ways that St. Francis House could continue its ministry on that site while maintaining the current buildings.

3.2 Luther Memorial does NOT covet the St. Francis site. Although it is true that we have offered to purchase it, we have done so only as an alternative to the proposed Development. We would much prefer to come to an agreement with St. Francis House that would preserve the site as is and would meet the needs of both ministries.

4. Our acquiescence to the construction of Grand Central does not mean that we have forfeited our right to express our deep concerns about the Development.

4.1 We did not seek the construction of Grand Central; the majority owner of the site pushed that project.

4.2 If we knew then what we know now, we would have opposed that project. The noise, congestion, and vandalism resulting from that project have had a negative impact on Luther Memorial.

4.3 The Grand Central site did not consist of two landmark buildings as does the St. Francis site.

5. The proposed Development is inconsistent with the comprehensive zoning plan for the St. Francis site.

5.1 As Brian Ohm has argued, the proposed use of the property as student housing is inconsistent with the comprehensive plan.

5.2 The Development has not met the requirements necessary for the demolition of the 1964 chapel.

6. There are a few sites in Madison that are so special that they deserve special attention.

6.1 By applying for Landmark status, Luther Memorial acknowledges that it is one of those special sites and is willing to commit to limit its future development opportunities on this very valuable site in recognition of the importance of this site, not only for the Congregation but also for the entire city of Madison.

6.2 The special nature of this site dictates that any development allowed to occur on adjacent properties help preserve the importance of this beautiful site. We do not suggest that no developments should occur on the adjacent properties, but such developments need to be sensitive to the Luther Memorial site. Not only does such sensitivity make common sense, it is also required by Madison's Planned Unit Development Ordinance. Certainly a 12 story apartment building fails this sensitivity test.

Murphy, Brad

To: ALL ALDERS; Soglin, Paul; Monks, Anne; White, William F (22246); Harvey L. Temkin; Delorey, Kevin A.
Cc: Firchow, Kevin; Parks, Timothy; Cover, Steven; Witzel-Behl, Maribeth; Noonan, Katherine; May, Michael
Subject: Council Agenda: Leg. File 22443, Rezoning 1001 University Ave, St. Francis House Development
Attachments: stfrancismemotocouncil.pdf

Council Members, others,

On the agenda for the August 2 Common Council meeting are two items related to the proposed residential development at 1001 University Ave, the St. Francis House Development. Item 4 (ID 22443) is the PUD rezoning. Item 7 (ID 23336) is the appeal of the Plan Commission's denial of the Demolition permit for the project.

It came to Planning staff's attention on Wednesday afternoon that the notice the City Clerk's Office published in the Wisconsin State Journal regarding the applicant's appeal of the Plan Commission's July 11, 2011 decision on the demolition permit made references to an appeal of the proposed PUD rezoning for the redevelopment (ID 22443) and not the actual demolition permit appeal filed on July 15 (ID 23336).

As a result, the Planning Division recommends that both items 4 and 7 (ID 22443 and 23336) be referred at the August 2 Common Council meeting to a future meeting to allow a new legal notice for the demolition permit appeal to be published in the WSJ and for the two requests to be heard at the same meeting. Attached again for your information is a memorandum I sent to the Council explaining the two items before the Council and the reasons why the two items need to be considered at the same meeting.

In addition, Council members should know that on Tuesday Ald. Resnick convened a meeting with Ald. Clear, staff, and representatives of St. Francis House, their development team, and Luther Memorial Church. The Development Team presented two alternative design modifications for the project in an attempt to address some of the concerns expressed by Luther Memorial Church. The referral of both the PUD and the Demolition appeal will give some additional time to consider these alternatives. Staff believe it would be desirable for the Plan Commission to review the design changes prior to this matter being considered by the Council. Staff also would request that the Common Council refer the PUD, item 4, back to the Plan Commission for another recommendation on the project. There was discussion by Ald. Resnick about referring the PUD and demolition appeal to the Common Council meeting of September 6 for consideration.

The Common Council should be aware, however, that Item 126 on the Agenda, (ID 22775), designating Luther Memorial Church as a Madison Landmark, also may have an effect on this project and the review schedule. If the Council approves the recommendation to landmark Luther Memorial Church, Section 28.04(3)(n) requires the Landmarks Commission to review the St. Francis House PUD as a development adjacent to a Landmark and to make a recommendation to the Urban Design Commission and the Plan Commission. So in the event that item 126 is approved on Tuesday, it will not be possible (given the submittal deadlines and schedules of the commissions) to get the PUD back to the Common Council with a recommendation on September 6th. In that event the PUD and Demolition appeal should be referred to the Council meeting of September 20, with a referral to the Landmarks Commission, Urban Design Commission and the Plan Commission. If item 126 is not approved on August 2, and is instead referred to a future Council meeting, the PUD could be referred to the September 6th Council meeting with a referral to the Plan Commission. In either case a referral of the PUD will allow adequate time for staff to consider the design alternatives and issue a revised staff report on the project and for the Plan Commission to consider the changes.

Sorry for the long email. If anyone has any questions, please let me know.

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