

To: ZTS YPC

MURPHY DESMOND S.C.

L A W Y E R S

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15 September 2005

VIA HAND DELIVERY and EMAIL district3@cityofmadison.com

Alderman Lauren Cnare
Madison Common Council Office
City-County Building, Room 417
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703

Re: Our Client: Stone Fence Development, LLC (Tom Ellefson)
Property: 6321 Town Center Drive
Lot 10, Metro Tech Plat, City of Madison

Dear Ms. Cnare:

We are the attorneys for Stone Fence Development, LLC, the owner of 6321 Town Center Drive, Lot 10, Metro Tech Plat, City of Madison. The principal of Stone Fence Development, LLC is Tom Ellefson. The subject property is in aldermanic district 3.

We are writing to you in your capacity as the alderperson for aldermanic district 3 as well as your position as a plan commissioner on the City of Madison Plan Commission.

The subject property is zoned PUD-GDP-SIP.

Under section 28.07(6)(h) Construction Required, Madison General Ordinances, "Within thirty (30) months of Common Council approval of the general development plan or within eighteen (18) months of the recording of the specific implementation plan, whichever is less, the basic right of use for the areas, when in conformity with the approved specific implementation plan, shall lapse and be null and void unless the project, as approved, is commenced by the issuance of a building permit. If a new building permit is required pursuant to section 29.06(4), Madison General Ordinances, a new petition and approval process shall be required to obtain specific implementation plan approval."

While standard zoning classifications do not have a lapse date, a lapse date has been incorporated into PUD's as a way to ensure that they do not become "stale" by way of changed circumstances regarding the surrounding lands or development concepts.

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The lapse date on the Stone Fence Development, LLC project is December 2, 2005.

While Stone Fence Development, LLC could pull a building permit before December 2, 2005 (which building permit would have its own shelf life), it would rather delay construction of this project for a period of time given the now glut of multi-family rental housing and the depressed rental market. Stone Fence Development, LLC, through its architect, Randy Bruce of Knothe & Bruce Architects, has requested an alteration to an approved and recorded specific implementation plan providing for an 18 month extension on the deadline for pulling a building permit.

It is our understanding from Mr. Bruce that in fact you approved such a minor alteration and that Pete Olson of the Department of Planning and Development was prepared to recommend approval of that minor alteration to Brad Murphy, Planning Unit Director. However, Mr. Murphy, in meeting with Kathy Voeck of the Zoning Unit, has opined that section 28.07(6)(g), Madison General Ordinances, does not provide for an extension provision by way of minor alteration.

It is our understanding from Mr. Bruce that Mr. Murphy and Ms. Voeck have no objection to providing for such an extension period and that Ms. Voeck intends to request that the staff ordinance committee consider the preparation of such an ordinance amendment. Given that the zoning text staff committee works at a glacial pace, that will not be of any benefit to Stone Fence Development, LLC.

We are, therefore, requesting your sponsorship of an ordinance amendment to provide for an extension by way of minor alteration. Specifically, we would request that you sponsor an ordinance amendment amending section 28.07(6)(h), Madison General Ordinances, as follows:

Construction Required. Within thirty (30) months of Common Council approval of the general development plan or within eighteen (18) months of the recording of the specific implementation plan, whichever is less, the basic right of use for the areas, when in conformity with the approved specific implementation plan, shall lapse and be null and void unless the project, as approved, is commenced by the issuance of a building permit. If a new building permit is required pursuant to section 29.06(4), Madison General Ordinances, a new petition and approval process shall be required to obtain specific implementation plan approval. **The Director of Planning and Development may, after consultation with the Alderperson of the District, approve an extension according to Section 28.12(11)(h)2. for up to twenty-four (24) months from the expiration date. (Bold area is the new sentence.)**

Section 15

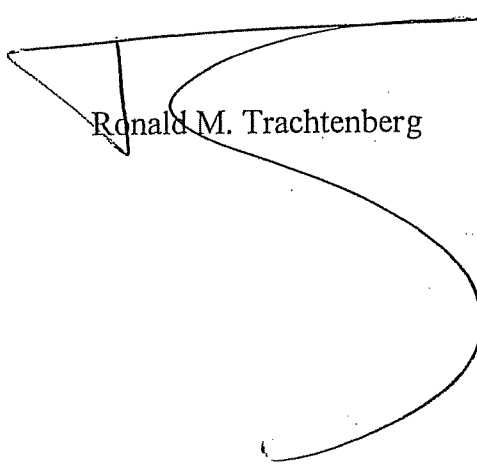
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The requested ordinance amendment is essentially identical to the provision that allows for an extension in recording a PUD-SIP from the lapse date when the parcel has been previously zoned PUD-GDP. In that case, there is an explicit extension provision.

Would you please contact us at your first opportunity in order that we can discuss whether or not you would be willing to sponsor the ordinance amendment and, if you are, what we would need to do to arrange for the ordinance amendment to be prepared. If possible, we would like to have an ordinance amendment in place before December 2, 2005, but if it is in the works, Stone Fence Development, LLC, can always pull a building permit and use that building permit as a place holder until the ordinance amendment is in place and an extension has been granted.

We look forward to working with you on this matter.

Very truly yours,



Ronald M. Trachtenberg

RMT:srp
051747

cnare 091505

cc: Stone Fence Development, LLC
c/o Ellefson Construction
Attn.: Mr. Tom Ellefson
Knothe & Bruce Architects, LLC
Attn.: Mr. J. Randy Bruce
Mr. Lewis A. Averill, PE

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MURPHY DESMOND ^{SC}

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26 September 2005

Chairperson and Members
Plan Commission
City of Madison
c/o Dept. of Planning & Development
215 Martin Luther King, Jr. Blvd.
Madison, WI 53703

Re: Our Client: Stone Fence Development, LLC
Proposed Amendment to Section 28.07(6)(h), Madison General Ordinances,
to Allow for an Up to 24 Month Extension
on the Requirement to Obtain a Building Permit

Dear Chairperson and Members of the City of Madison Plan Commission:

We are the attorneys for Stone Fence Development, LLC, the owner of 6321 Town Center Drive, Lot 10, Metro Tech Plat, City of Madison.

The aforementioned property is zoned PUD-GDP-SIP.

Section 28.07(6)(h) Construction Required, M.G.O., provides that:

Within thirty (30) months of Common Council approval of the general development plan or within eighteen (18) months of the recording of the specific implementation plan, whichever is less, the basic right of use for the areas, when in conformity with the approved specific implementation plan, shall lapse and be null and void unless the project, as approved, is commenced by the issuance of a building permit. If a new building permit is required pursuant to section 29.06(4), Madison General Ordinances, a new petition and approval process shall be required to obtain specific implementation plan approval.

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Under the aforementioned ordinance section, Stone Fence Development, LLC has until December 2, 2005, to pull a building permit for its project at the subject property or the approved PUD-GDP-SIP lapses.

The general policy reason for requiring PUD's to lapse if not constructed within a certain period of time is that surrounding conditions may change which could result in an approved PUD becoming inappropriate, either in part or in full.

While Stone Fence Development, LLC could commence construction within the subject time period, it would prefer delaying construction because of existing market conditions, that being, a surplus of rental multi-family being on the market. As such, Stone Fence Development, LLC has requested a minor alteration to its existing PUD-GDP-SIP to extend the construction requirement for a period of 18 months, until June 2, 2007. However, Section 28.07(6)(h), Madison General Ordinances, does not provide for any extension provision (while other sections of the PUD ordinance do provide for various extensions up to 24 months by minor alteration).

Stone Fence Development, LLC is, therefore, requesting that Section 28.07(6)(h), Madison General Ordinances, be amended as follows:

Construction Required. Within thirty (30) months of Common Council approval of the general development plan or within eighteen (18) months of the recording of the specific implementation plan, whichever is less, the basic right of use for the areas, when in conformity with the approved specific implementation plan, shall lapse and be null and void unless the project, as approved, is commenced by the issuance of a building permit. If a new building permit is required pursuant to section 29.06(4), Madison General Ordinances, a new petition and approval process shall be required to obtain specific implementation plan approval. **The Director of Planning and Development may, after consultation with the Alderperson of the District, approve an extension according to Section 28.12(11)(h)2. for up to twenty-four (24) months from the expiration date.** (*Bold area is the proposed amendment.*)

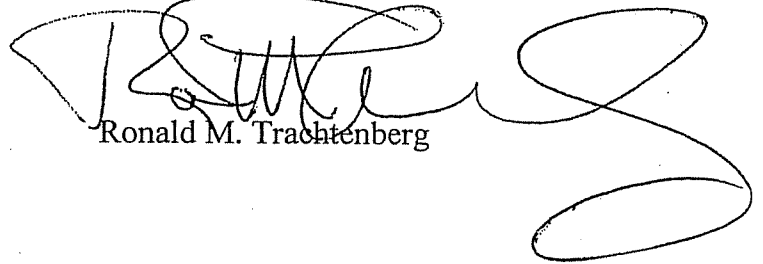
We believe that the requested provision which is permissive but not mandatory would allow for the proper balance of requiring PUD's to be constructed before they became "stale" but allow for some latitude based upon short term market conditions. As with any extension being done by way of minor alteration, there would be required concurrence by professional staff (the Planning Unit Director) and the district alderperson.

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We will attend the Plan Commission meeting of October 10, 2005 to respond to any questions or concerns that you may have.

Very truly yours,

A large, stylized handwritten signature in black ink, consisting of several loops and flourishes, positioned above the printed name.

Ronald M. Trachtenberg

RMT:srp

051747

plan commission 092605

cc: Stone Fence Development, LLC

Attn.: Mr. Tom Ellefson

Knothe & Bruce Architects, LLC

Attn.: Mr. J. Randy Bruce

Mr. Lewis A. Averill, PE

City of Madison Dept. of Planning and Development

Attn.: Mr. Brad Murphy

Alderwoman Lauren Cnare

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