Case 5660B-14

ENTREPARTNER

Michael J. Meirgens

November 5, 2014

Jen Desrude, PE
Bloomington Development Coordinator
City of Bloomington
1700 W 98th St.
Bloomington, MN 55431

VIA EMAIL ONLY

RE: 10701 Hampshire Avenue South (the "Property")

Ms. Desrude:

This firm is legal counsel for Jennifer Development Company, Inc. ("JDC"). I am writing regarding your request that the existing sidewalks on the Property be replaced as part of the current proposal to remodel and expand the existing building on the Property (the "Proposed Project"). As I understand the City's position, the basis to call for the sidewalk replacement is Section 21.301.04(b)(1) of the Bloomington City Code ("Code"), which states, "All new development or significant redevelopment must construct public sidewalks and provide sidewalk easements conforming to the standards of this Section . . ." For the reasons stated below, I do not agree that this provision applies to the Proposed Project or that there is a basis to require replacement of the existing sidewalks.

Under the plain language of the above-quoted provision, the triggering threshold for the sidewalk requirement is either (1) new development; or (2) "significant redevelopment". It is indisputable that the proposed Project is not new development. Thus, the question is whether the Proposed Project is a "significant redevelopment." The Code defines significant redevelopment as "either a full redevelopment of a site or an addition that would increase floor area on a site by 25 percent or more." Code § 21.301.04(b)(3). Floor area is defined as the "sum of the gross horizontal areas of the several floors of such building or buildings exclusive or cellars or basements . . . measured from the exterior faces of the exterior walls or from the centerline of party walls separating two buildings." Code § 19.03.

Here, the Proposed Project involves the remodeling and addition of an existing building. Therefore, it is not a "full redevelopment." Turning to the second provision of the definition, the Proposed Plan increases the floor area by a mere eight percent (8%). Specifically, as stated on the submitted plans, the existing floor area on the Property is 153,472 square feet. The Proposed Project increases the floor area to 165,696 square feet, which is a 12,224 square feet increase; an eight percent (8%) increase over the existing floor area. Since the Proposed Project only increases the existing floor area by eight percent (8%), it is not by definition a "significant redevelopment." Therefore, the Proposed Project does not trigger Code § 21.301.04(b)(1) and new sidewalks are not required.

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I would be happy to discuss our position further if you believe there are additional considerations. I would also note, though, that the City previously approved nearly the identical project without any obligation to replace the existing sidewalks or discussion that the Section 21.301.04(b) was applicable.

JDC is excited to move forward with the Proposed Project and is hopeful that the City will once again approve the planned remodeling and expansion. But replacement of the sidewalks will add significant costs of more than $50,000 to the project. This is a cost that my client should not be forced to incur and we respectfully request that the City approve the Proposed Project with the existing sidewalks remaining as they are.

Regards,

Michael J. Mergens for
ENTREPARTNER LAW FIRM, PLLC

cc: Traci Tomas

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