



January 23, 2008

Mr. Ted Shekell
Director of Planning and Zoning
City of O'Fallon
255 South Lincoln
O'Fallon, IL 62269

**RE: Southview Plaza Commercial Center and McDonald's Restaurant,
Request for Waiver of the City of O'Fallon, Ordinance No. 3319 (the
"Ordinance"), Section 3.5(11) of the Development Manual
(installation of 8" water main) on behalf of Southview Development,
L.L.C. and McDonald's USA, L.L.C. (collectively, the "Developers")**

Dear Ted:

As you know, the City of O'Fallon (the "City") is requiring an 8" water main to be installed along Whitehall Drive as part of the redevelopment of Southview Plaza Commercial Center and the construction of the new McDonald's restaurant. The City is relying on the Ordinance in connection with the minor subdivision of Southview Plaza into three parcels (the "Development"). On behalf of Southview Development, L.L.C., the owner of Southview Plaza Shopping Center, and McDonald's USA, L.L.C., I am requesting that the City's Community Development Committee recommend to the City Council a waiver of Section 3.5(11) of the Development Manual of the Ordinance to the Development so that we may retain the existing 6" water main in lieu of installing a new 8" water main.

In a letter dated October 12, 2007, the City commented on the construction plans submitted by McDonald's and requested replacement of the existing 6" water main along the west side of Whitehall Drive (also known as the east sides of the McDonald's and Southview Plaza lots) with a new 8" PVC water main and a fire hydrant. This new water main would extend from Highway 50 to Crest Street just south of Ace Hardware. The City reiterated this comment in a letter dated December 13, 2007, upon final review of the McDonald's construction plans and initial review of the Southview Plaza construction plans for the parking lot improvements.

Last week on Thursday, January 17, 2008, I attended the City's staff meeting to discuss the water main, along with Bob Watson from Hoelscher Engineering for McDonald's, Cliff Huelsmann from Netemeyer Engineering for Southview Development, and Rich Marti from Walpert Properties for Southview Development. We were told by the City staff that (1) the City wants to update its water main systems, (2) the trigger for the Ordinance is the minor subdivision of Southview Plaza, (3) the Development Manual in the Ordinance requires commercial developments to be served by at least an 8" water main, and (4) any decision otherwise requires City Council approval.

Section 6 of the Ordinance provides the City Council authority to grant a developer an exception or deviation from a provision in the Ordinance and the Development Manual if the provision causes the developer unnecessary hardship if strictly adhered to. The City Council may grant an exception or deviation if, based on the conditions particular to the site, the departure won't destroy the general intent and spirit of the Ordinance. Section 1.3 of the Ordinance sets forth the intent and purpose of the Ordinance:

“to provide adequate service and utilities . . . through good subdivision and development design, and utilizing development standards directed toward reasonable costs for initial development and continuing maintenance . . . [including] the functional adequacy of such utility services . . .”

The particular site conditions of our Development are as follows:

1. **The 6” water main is fully functional** – it is not in disrepair, and it adequately supplies the Southview Plaza retail center, the Ace Hardware, and the neighboring homes.
2. **The Ordinance is applicable solely because of the minor subdivision changing legal boundary lines of the lots** – not due to changes to physical structures or uses of the lots.
3. **There will be less usage on the 6” water main than previously** – (1) McDonald’s will tie into the 10” water main along Highway 50, not Whitehall Drive, (2) McDonald’s will not have a wet fire suppression system, and (3) we tore down the liquor store and gas station buildings that used to tie into Whitehall Drive.
4. **The 6” water main functions adequately for fire suppression** – the 8” water main was not at the request of the Fire Marshall.
5. **The cost to install the 8” water main is estimated at \$50,000** – the cost to install just the water line is \$35,000, not including engineering, service line transfer work, tap fees, and permits. We would also have to replace the pavement, rebuild the landscaping island and plantings. We have obtained a bid for this work and would provide a copy upon request.

Therefore, we formally request that the City’s Community Development Committee recommend to the City Council, and the City Council approve, a waiver of the installation of a new 8” water main and the retention of the 6” water main along Whitehall Drive because (1) the existing 6” water line adequately serves the Development and preserves the spirit and intent of the Ordinance, and (2) the installation of a new 8” water main would cause the Developers unnecessary hardship without any added functional benefit – in short, the installation of an 8” water main under these circumstances is unnecessary and causes an excessive cost to the Developers.

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We are going to great lengths to improve the community by adding a new Ace Hardware, a new McDonald's restaurant, a new pylon sign, and parking lot improvements, in addition to eliminating old buildings and old signage that have long been an eyesore. This redevelopment is expensive and has all been privately funded by Southview Development, McDonald's, and Ace Hardware.

We are excited about these new developments for O'Fallon and hope that this water main issue may be resolved so that the project can progress to completion.

Please forward this letter to the parties you think are necessary to review this request, or advise me if I need to send additional letters to other City officials.

As always, should you have any questions, please do not hesitate to call me at (314) 567-1221.

Kindest regards,

WALPERT PROPERTIES, INC.

A handwritten signature in black ink, appearing to read "Loren I. Ettinger", written over a horizontal line.

Loren I. Ettinger