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October 12, 2021

Mayor Kurt Bradburn
Sandy City
10000 S Centennial Parkway
Sandy, UT 84070

Re: Sandy City Zoning Code Amendment

Dear Honorable Mayor:

This firm represents South Town Owner PR, LLC, a Delaware limited liability company (the “**Applicant**”), the owner of the retail development known as The Shops at South Town (formerly known as the South Towne Center Mall) located in Sandy City (“**City**”), Salt Lake County, Utah (the “**Property**”).¹ The Property is a portion of that certain South Towne Center Mall Subdivision (the “**Subdivision**”). As set forth more fully below, this letter shall constitute Applicant’s written petition accompanying Applicant’s application requesting a text amendment to the City Code (as defined below). This request is being properly made pursuant to City Code § 21-5-2, as adopted.

By way of background, the Applicant is in the preliminary stages of attempting to amend the existing Subdivision to create lots where the existing buildings currently are, as similar property owners have done recently. The underlying purpose of amending the Subdivision, to create these lots, is to provide additional business opportunities and flexibility for the future development and revitalization of The Shops at South Town property and buildings. Brick and mortar retail stores, like those found at The Shops at South Town center are facing a new economic reality that is very different from when the stores were originally built in the 1990s. According to a case study done by the National Association of REALTORS Research Group², from 2001 to 2019, e-commerce had an increase of retail sales of 2,200%. Brick and mortar retail stores continue to lose customers to e-commerce. This has resulted in a decrease in retail brick and mortar jobs

¹ The Property consists of all or some portions of the following Parcel Nos. 27-13-227-022-0000, 27-13-227-019-4001, 27-13-227-019-4002, 27-13-227-021-0000.

² <https://www.nar.realtor/sites/default/files/documents/2020-case-studies-on-repurposing-vacant-retail-malls-05-08-2020.pdf>

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and stores. Since January 2017, there have been half a million (500,000) non-farm retail jobs lost according to the Bureau of Labor Statistics³ and there were 9,350 retail stores closed in 2019 alone according to the REALTORS Research Group study. This new reality is not only impacting large mall owners but the communities they operate in as well. Throughout the country, communities and mall owners are working to find new or creative ways to retain existing stores, attract new stores and utilize the property for the highest and best use.

Given this new reality, the Applicant seeks to amend the Development Code of Sandy City 2008 (the “**City Code**”) to permit more flexibility with the setback requirements in the Commercial–Central Business District (the “**CCBD**”). See Sandy City Code § 21-23-3(4)(d) (Table of Minimum Building Setbacks and accompanying notes). The proposed text amendment to the City Code is enclosed with this letter (the “**Text Amendment**”) in accordance with City Code § 21-5-2. In sum, the Text Amendment (i) amends the Table of Minimum Building Setbacks to clarify that all of the setbacks are subject to Note 6, and (ii) amends Note 6 to (A) include existing developments for being eligible for the modification of setback requirements, and (B) clarify and permit the Planning Commission to modify the front, side, and/or rear setbacks to zero (0) under certain circumstances.

The proposed Text Amendment would further promote the objectives and purposes for the City Code and City’s General Plan. The purpose statement of the CCBD provides:

(1) Central Business District (CBD). This district is established to stimulate economic development by providing a unique planning environment for large scale regional commercial, office development, and mixed use development including residential adjacent to Interstate 15. This district encourages creative development and site design for regional commercial and office uses within planned commercial centers which will serve the south valley area.

See City Code § 21-4-11.

The Text Amendment supports the CCBD’s purposes as, if approved, it will facilitate the creation of lots with existing buildings on them, that will stimulate economic development by providing increased financial opportunities and additional property owners, businesses, and partners for the City to work with. The owners of these lots will likely be further invested in the City and more likely to reinvest into the South Towne Mall property, thereby revitalizing an important segment of the City. Additionally, the Text Amendment encourages creative development and site design by providing Planning Commission with additional discretion in the

³ <https://www.bls.gov/ces/data/employment-situation-table-download.htm>

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design review process. Furthermore, the Text Amendment would ensure that existing developments could subdivide without creating “non-conforming” parcels or buildings. Additionally, the amendment does not guarantee any approval, or substantively expand any power of the Planning Commission. Rather, this proposal just clarifies the situations when the Planning Commission can already consider and approve, when appropriate, the setbacks of the CCBD.

Applicant requests the opportunity to present the Text Amendment to the Planning Commission and further respectfully requests that a favorable recommendation be provided to the City Council for the Text Amendment’s ultimate approval. City staff has been very helpful in assisting us navigate a path forward that does benefit the City as well as the Subdivision. We look forward to continuing working with the City in the future.

If you have any questions or concerns, please feel free to reach out to the undersigned.

Very truly yours,
SNELL & WILMER



Elizabeth Evensen, P.C.

cc: Darin Grigg
Mike Jorgenson

Enclosures: Text Amendment of City Code § 21-23-3

UPDATED 10-13-2021

[Any new text is underlined, while removed language is in strikethrough text.]

Sec. 21-23-3. - General Commercial and Industrial Development Standards.

...

(4) *General Building Locations and Setbacks.* In addition to the specific building setback requirements listed in each individual district, the following general standards shall apply:

...

d. Table of Minimum Building Setbacks. All measurements are in feet and all front setbacks are measured from the top back of curb.

District	Front Standard Setback	Side, Shared Party Walls Allowed	Side, No Shared Walls	Side, Abut Residential	Rear, Standard	Rear, Abut Residential District
...						
CBD-District	25 ⁶	Y	10 <u>10</u> ⁶	30 <u>30</u> ⁶	20 ⁶	30 <u>30</u> ⁶
...						

* Except as modified by the Storefront Conservation Floating Zone, a minimum of 15 feet from the back of sidewalk shall be maintained for all buildings regardless of the minimum setback shown in the table, except where a zero-foot setback is allowed and used.

** Exception: For commercial developments with a dedicated open space area (canal, trail, etc.), between the proposed development and an adjacent residential district, the setback can be reduced to a minimum of ten feet from the commercial developments property line rather than the typical 30 feet.

Notes:

...

6. *CBD Districts.*

a. *CBD and CBD-O.*

1. Building and parking setbacks along Interstate 15 shall be a minimum of 50 feet or an average of 50 feet with no point closer than 40 feet.

2. For new or existing developments in the CBD Zoning District over ten acres in size the Planning Commission may be allowed to modify the setbacks for the lots and parcels within such developments, including approval of a zero front, side, and/or rear yard setback for such lots and parcels, after considering the following factors:
- (i) Overall Master Plan layout for new or expanded development or a site plan of the existing development of the project, if available, or a site plan of the project.
 - (ii) Relationship and impact to other existing and proposed buildings on-site and adjoining properties (present and future), and for existing developments, whether such setback modification is compatible with the scale and design of said the existing buildings in the development.
 - (iii) Physical features such as rail lines, canals, and controlled ingress and egress.
 - (iv) Location of any public utility easements.
 - (v) Applicable building and fire code requirements related to modified setbacks, from the currently adopted codes.
- ~~2.~~ 3. Side and Rear Yard for CBD. The Planning Commission may approve, during site plan review, a zero side and/or rear yard setback for parking structures that are placed underneath or behind the main building, or for manufacturing uses, if they determine there would not be a negative impact on adjacent properties, after considering the following factors:
- (i) Height and configuration of parking structure or manufacturing use.
 - (ii) Relation and impact to other buildings on-site and adjoining properties (present and future).
 - (iii) Natural land features such as slopes and vegetation.
 - (iv) Physical features such as rail lines, canals, and controlled ingress and egress.
 - (v) Location of any public utility easements.
 - (vi) Visibility from vehicular approaches.

...