



The City Of Kenmore

P.O. Box 82607 • Kenmore, Washington 98028-0607

June 26, 2002

Mr. Jack McCullough
Phillips, McCullough, Wilson Hill & Fikso
2025 First Avenue, Suite 1130
Seattle, WA 98121-2100

Re: Request for Six-month Extension for the LakePointe Project

Dear Mr. McCullough:

The City of Kenmore acknowledges receipt of your request (dated May 30, 2002) to provide the LakePointe project with a six month extension for filing the first building permit for Phase One of your project. The City agrees with your assertion that per the "tolling" provisions of the phasing plan, the date of master plan approval is August 14, 2001, which coincides with the date of entry of the Department of Ecology's consent decree for the site.

The CSDP requires (section 3(b)(3) of the phasing plan) that a building permit application for some portion of Phase 1 be submitted within one year of the master plan approval (August 14, 2001). Section 4 of the phasing plan, however, allows for an extension of the time required to submit the initial building permit application, provided that the request must be submitted in writing "no less than thirty days prior to expiration of the otherwise applicable deadline." Your request was received more than thirty days prior to the August 14, 2002 deadline. **The City of Kenmore has considered your request and hereby grants a six-month extension (to February 14, 2003) of the deadline for submittal of a building permit application for some portion of Phase 1 of the LakePointe project.**

The City looks forward to working with you to bring the LakePointe project to a successful conclusion. Should you have any questions, I can be reached at 425-398-8900.

Sincerely,

Bob Sokol, AICP
Community Development Director

C: Steve Anderson
Mike Kenyon

**PHILLIPS
McCULLOUGH
WILSON
HILL &
FIKSO**
A PROFESSIONAL
SERVICE CORPORATION

LAW OFFICES

MARKET PLACE TOWER
SUITE 1150
2025 FIRST AVENUE
SEATTLE, WASHINGTON
98121-2100
(206)448-1818
FAX: (206)448-3444

May 30, 2002

Bob Sokol
Director, Department of Community Development
City of Kenmore
6524 NE 181st Street
Kenmore, Washington 98028-0607

Re: LakePointe Project
Request for Six-Month Extension

Dear Mr. Sokol:

We are writing on behalf of Pioneer Towing Company, the developer of the LakePointe project (File Nos. B96cs005 and A95PO105), to request a six-month extension of the time for filing the first building permit for Phase One of the project.

The Commercial Site Development Permit (CSDP) for the project includes a phasing plan. Section 3(b)(3) of the phasing plan provides that a building permit application for some portion of Phase 1 must be filed within one year of the date of approval of the master plan for the project. As a result of the application of the tolling provisions of Section 3(b)(4) of the phasing plan, the date of master plan approval was the date of entry of the Ecology consent decree for the site on August 14, 2001.

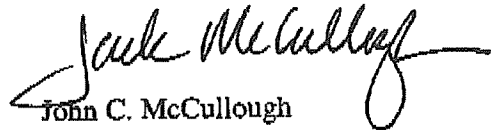
Section 4 of the phasing plan provides that this one-year period may be extended by up to six months "if the applicant is proceeding diligently and if the modification is acceptable to [the City of Kenmore]." In the last several years, the applicant has expended thousands of dollars in preparation of detailed design plans for the development of the project. As a result of the unexpected events of September 11, 2001, however, the financing and development markets have significantly contracted. These adverse market changes resulted in the withdrawal of First Wellington earlier this year as project developer. The applicant has been actively working with a number of other developers in the last several months to identify a new partner to move forward with the building phase of the project. Of course, the persistent problems in the development financing market continue to complicate this

Bob Sokol
May 30, 2002
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effort. We anticipate that that at least six additional months will be required to meet the requirement of Section 3(b)(3) of the phasing plan. The applicant will continue to work diligently toward satisfaction of this condition and development of the project.

Therefore, please confirm the six-month extension requested herein. We appreciate your attention to this request.

Very truly yours,


John C. McCullough

JCM:sch

cc: Pioneer Towing Co.
Mike Kenyon

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MCCULLOUGH
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FAX COVER SHEET

March 15, 2002

<u>TO</u>	<u>COMPANY</u>	<u>FAX NUMBER</u>
Michael Kenyon		425-392-7071
Gary Sergeant	Pioneer Towing	525-0473
Bob Sokol	City of Kenmore	425-481-3236

FROM: John C. McCullough

CLIENT NO: _____

NUMBER OF PAGES INCLUDING COVER SHEET: 3

COMMENTS:

PLEASE CALL IF YOU DO NOT RECEIVE ALL PAGES

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MEMORANDUM

TO: Bob Sokol
Mike Kenyon

FROM: Jack McCullough

DATE: March 15, 2002

RE: CSDP Permit Extension

Here are two possible approaches to the permit extension issue:

Extension by Director

Proposed revisions are shown in redline/strikeout.

21A.41.100. Limitation of permit approval. A. A commercial site development permit approved without a phasing plan shall be null and void if the applicant fails to file a complete building permit application(s) for all buildings within three years of the approval date, or by a date specified by the director, and fails to have all valid building permits issued within four years of the commercial site development permit approval date; or

B. A commercial site development permit approved with a phasing plan shall be null and void if the applicant fails to meet the conditions and time schedules specified in the approved phasing plan.

C. The Director may grant one or more extensions of these time limits, each of a duration determined by the Director, if the following findings are made:

a. Initial building permits have not been submitted or the project has not been completed due to causes beyond the applicant's control, including litigation, acts of God, or adverse economic market conditions;

b. The applicant has shown a good faith effort to commence or complete the project within the time previously allotted;

c. The project can be built under the Kenmore Municipal Code in effect at the time of the extension request without significant changes in the originally approved design.

d. Additional conditions based on

Modification of Base Term by City Council

Proposed revisions are shown in redline/strikeout.

21A.41.100. Limitation of permit approval. A. A commercial site development permit approved without a phasing plan shall be null and void if the applicant fails to file a complete building permit application(s) for all buildings within three years of the approval date, or by a date specified by the director, and fails to have all valid building permits issued within four years of the commercial site development permit approval date.; or

B. A commercial site development permit approved with a phasing plan shall be null and void if the applicant fails to meet the conditions and time schedules specified in the approved phasing plan; or

C. A commercial site development permit approved for a project area of 30 acres or greater shall be null and void if the applicant fails to file a complete building permit application for the first building in the project within five (5) years of the date of approval, and complete building permit application(s) for all buildings within eight (8) years of the approval date. [Need to add retroactivity language to adopting ordinance.]