

CITY OF MILWAUKEE

Form CA-43

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March 12, 2004

To the Honorable Committee on
Zoning, Neighborhoods & Development
Room 205 – City Hall

Re: File Nos. 031239 and 031370—Protest Petitions relating to: (1) Third Amendment to the General Planned Development (GPD) Known as Milwaukee Metro Center, on land located South of West Good Hope Road between West Fond du Lac Avenue and U.S. Hwys. 41/45, and (2) A Change in Land Uses Permitted by a Plan for Milwaukee's Northwest Side: 1987-1992 for the Metro Center General Planned Development located generally South of Good Hope Road and West of 107th Street (2nd Opinion)

Dear Committee Members:

You have requested the opinion of this office concerning the form and validity of additional protest petitions that have been submitted in conjunction with the zoning amendments reflected in the above-referenced resolutions, both of which relate to a development on the northwest side of the City of Milwaukee. The above-referenced files incorporate the following ordinances:

1. File No. 031239 incorporates an ordinance denoted as "Substitute 1," with a drafting date of February 4, 2004, and which incorporates an amendment to the City's zoning map and a revision to § 295-907(2)(a).0009.
2. File No. 031370, denoted as the "Original" incorporates a resolution that amends a document entitled "A Plan for Milwaukee's Northwest Side: 1987-

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1992,” which amendment is designed to expand the range of permissible uses within the “Metro Center General Planned Development,” as described therein.

The “objection to substitute ordinance and request to postpone recommendation” and the various petitions that were circulated and executed under oath by Mr. Timothy W. Hale, 7043 North 107 Street, Milwaukee, Wisconsin 53224, are acceptable as to format and form of acknowledgment in conformance with the requirements of Wis. Stat. § 62.23(7)(d)2m.a. and § 295-307-5 of the Milwaukee Code of Ordinances, the statutory and ordinance provisions governing the form and validity of zoning amendment protest petitions. We note, however, that these submissions are problematic in a difference sense in that they do not identify whether their signatories own land within the geographic area specified by the foregoing statute and ordinance as pertinent to the determination of their validity. A zoning amendment protest petition may be deemed valid and effective only if it is “duly signed and acknowledged by the owners of 20% or more of the areas of the land included in the proposed change, or by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of the opposite land. . .” Save only for the last signed page of the various petitions circulated and subscribed to by Mr. Hale, none of the documents submitted for our review identify whether the signatories thereof own land within this described area in the vicinity of the development in question. The “objection” (one page) does not identify where the address of the objectors is located in relation to the address of the objected-to development. All but one of the petition sheets identify the signatories as “homeowners near” that development, without reference to the precise distance between their homes and the development. Only the last page of petition signatures attest that the signatories “live within 100 feet adjacent or across from and within 100 feet adjacent to” the development in question. Six signatures appear on that page.

As noted in our previous opinion concerning objections and protests relating to this development dated March 8, 2004, we have no opinion as to whether the documents submitted to us for review would meet the 20% requirement incorporated within the

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applicable statutory and ordinance provisions and which are generally applicable to all protest petitions of this type. The Department of City Development should be consulted for advice on that item, and should be advised that, excepting only the one page containing protest signatures discussed above, the various objections and protest petitions that have been offered with respect to this development do not denote whether the signatories thereof live within the geographic area in proximity to this development that would be relevant for determining their validity.

If you have any further questions concerning this item, please contact this office.

Very truly yours,



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