

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
LINDA ULISS BURKE
VINCENT D. MOSCHELLA
Deputy City Attorneys



THOMAS O. GARTNER
BRUCE D. SCHRIMPF
ROXANE L. CRAWFORD
SUSAN D. BICKERT
STUART S. MUKAMAL
THOMAS J. BEAMISH
MAURITA F. HOUREN
JOHN J. HEINEN
MICHAEL G. TOBIN
DAVID J. STANOSZ
SUSAN E. LAPPEN
JAN A. SMOKOWICZ
PATRICIA A. FRICKER
HEIDI WICK SPOERL
KURT A. BEHLING
GREGG C. HAGOPIAN
ELLEN H. TANGEN
MELANIE R. SWANK
JAY A. UNORA
DONALD L. SCHRIEFER
EDWARD M. EHRlich
LEONARD A. TOKUS
VINCENT J. BOBOT
MIRIAM R. HORWITZ
MARYNELL REGAN
G. O'SULLIVAN-CROWLEY
KATHRYN M. ZALEWSKI
MEGAN T. CRUMP
ELOISA DE LEÓN
ADAM B. STEPHENS
KEVIN P. SULLIVAN
BETH CONRADSON CLEARY
THOMAS D. MILLER
Assistant City Attorneys

February 9, 2007

Honorable Common Council
of the City of Milwaukee
Room 205 – City Hall

Re: CCFN 061158 – an ordinance relating to the
zoning code technical committee

Dear Council Members:

We have reviewed the provisions of the above-referenced proposed ordinance, which modifies certain provisions of § 295-307-7, Milwaukee Code of Ordinances (“MCO”), pertaining to the authority of the Zoning Code Technical Committee (“Committee”). The proposed ordinance is legal and enforceable, because the Committee is entirely a creature of city ordinance, and therefore the Common Council is free to amend its role and functions. Nonetheless, we believe that its adoption would result in certain practical difficulties concerning the manner by which text amendments to the Zoning Code (ch. 295, MCO) are considered and reviewed prior to their submission to the Common Council. These issues should be considered by the Common Council in conjunction with their deliberations upon this proposed ordinance.

First, proposed new § 295-307-7-c entitled “City Plan Commission” removes the requirement embodied in current § 295-307-7-a that the City Plan Commission first obtain a report from the Committee prior to conducting its hearings with respect to text amendments to the Zoning Code. Under the proposed ordinance, prior receipt of the Committee’s report by the City Plan Commission would be optional. This revision would deprive the City Plan Commission in those instances where they do not have the benefit of a Committee report of the findings of the Committee as to legality and enforceability, administrative efficiency, and consistency with the Zoning Code prior to its consideration of a text amendment. This could, in turn, result in unnecessary effort by the City Plan Commission with respect to problematic text amendments, particularly those of questionable legality or enforceability. The current procedure whereby the City Plan Commission routinely receives Committee reports prior to its consideration of text amendments

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assures that any problems associated with a proposed amendment will be known in advance.

Second, proposed new § 295-307-7-d empowers the Zoning, Neighborhoods and Development Committee to vote upon and recommend its position with respect to a proposed text amendment to the full Common Council without receipt of a report from the Committee if the 30-day deadline contained in current § 295-307-7-a has lapsed. Our concern is that this may result in action by the Zoning, Neighborhoods and Development Committee with respect to text amendments that are problematic as to legality and enforceability, administrative efficiency, and/or consistency with the Zoning Code without the benefit of Committee input. Addressing these issues at the end of the process could in many cases delay the enactment of the amendments.

Again, we reiterate that the proposed new ordinance is legal and enforceable, but believe that you should be aware of our concerns in the course of your deliberations upon this measure.

Very truly yours,



GRANT F. LANGLEY
City Attorney



STUART S. MUKAMAL
Assistant City Attorney

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