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August 15, 2022

Case Manager
Louisville Metro Division of Planning & Design Services
Develop Louisville
444 S. Fifth Street, 3rd Floor
Louisville, Kentucky 40202

Re: Waiver of application of LDC 1.1.9.B and 7.2.20.D.5's expiration of subdivision plans at Greenridge Estates, 9551 Brooks Bend Road due to the applicant's acquisition of vested rights in the approved plans in Docket #09-048-96 and #10-32-92.

Dear Case Manager:

After discussions with Joe Reverman, DPDS Assistant Director, and Laura Ferguson, Assistant County Attorney, the latest of which occurred on July 29, 2022, we are herewith requesting that you waive application of LDC 1.1.9.B and 7.2.20.D.5's expiration of subdivision plans on the above-referenced address and Docket #09-048-96 and #10-32-92.

LDC 1.1.9.B provides that applicants with approved preliminary subdivision plans must obtain a building permit and/or obtain a clearing and grading permit within two years of final approval date. "Prior to the expiration of the two year time limit, an applicant may request a two-year extension, which may be approved by the Planning Director or designee. Any additional requests for extension shall require review and approval by the Planning Commission or designated committee thereof. The applicant must show good cause why tasks could not reasonably be completed within the allotted time frame." Additionally, if an applicant fails to meet the above requirements within two years from the date of final approval or during an allowed extension period, "no development activity may take place on the subject property until a new development plan is approved.

LDC 7.2.20.D.5 provides that when subdivisions are being developed by sections, "for the period within five years of original approval of the preliminary plan, extensions of approval shall be automatic for all sections so long as construction is in progress in any section. Beyond this five year period, an extension in accordance with Section 7.7.15 shall be required."

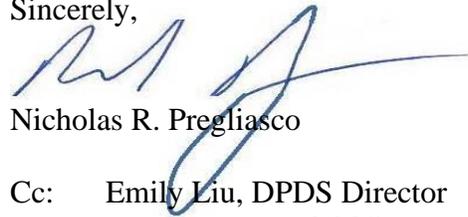
Jagoe, the applicant here, has vested rights in the previously-approved, preliminary subdivision plan that it has been developing since 1994. To date, Greenridge Estates has developed over 300 lots and incurred numerous expenditures, all of which constitute a constitutionally-protected, investment-backed expectation in the original subdivision plan. *Darlington v. Board of Councilmen*, 140 S.W.2d 392 (Ky. 1940). See also *Legrand v. Ewbank*, 284 S.W.3d 142 (Ky. App. 2008); *Conley v. Anchorage*, 806 S.W.2d 404 (Ky. App. 1990); and *Petty v. Barrentine*, 594 S.W.2d 903 (Ky. App. 1980).

In light of the constitutionally-protected vested rights in the subdivision plan, application of any expiration date on the subdivision plan creates a continuing, new, daily violation of the same vested rights unless and until the previously-approved subdivision plan is accepted as valid. Additionally, as the attached decisions indicate, Jagoe was directed to hold off on filing its BOZA appeal until a July 29, 2022 final decision was made, and this appeal is timely filed within 30 days of the July 29, 2022 final decision. Accordingly, this appeal is timely made.

Please let us know if we can schedule this for the earliest BOZA hearing.

Many thanks.

Sincerely,

A handwritten signature in blue ink, appearing to read 'N. Pregliasco', with a long horizontal flourish extending to the right.

Nicholas R. Pregliasco

Cc: Emily Liu, DPDS Director
Joe Reverman, DPDS Assistant Director
Laura Ferguson, Assistant County Attorney
Joel Dock, Planner II, Case Manager