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THE WATERFRONT: GOOD ZONING MAKES FOR GOOD DEVELOPMENT

By Bernadette L. Puzzuole, Esquire

The Real Estate Department of Rothman Gordon, P.C. is especially proud of its work in assisting in the development of The Waterfront, a mixed-use community located east of Pittsburgh, in the communities of Homestead, West Homestead and Munhall. We were first asked to work on the project by the Park Corporation, then the owner of the property. Formerly owned by US Steel, the site was once home of one of the largest steel mills in the country. Park had demolished the mill and reclaimed the site. When they transferred the property to Continental Real Estate Company out of Columbus, Ohio, we were asked by Continental to stay involved and to continue to work on the development.

That work involved a number of issues. One of the most important was to develop a good zoning plan that would allow the property to be developed for maximum usage. That meant that all three municipalities had to adopt the same, or nearly the same zoning restrictions for The Waterfront property. Getting that kind of inter-municipal cooperation was a challenging task, but one we are proud to say was accomplished.

Imagine having over 200 acres of open space to be developed for commercial, office and residential uses. As you began the development, you would have no idea who your tenants would be, and thus no idea what size lots and what types of uses you would need to have available. With that much space, the first tenants would want to pick and choose among the municipalities to find the one that would allow them to develop exactly as they wanted, at minimum cost. If one municipality adopted a developer friendly zoning ordinance, while the other two adopted more restrictive ordinances, tenants would all want to locate in the developer friendly municipality. This would allow one-third of The Waterfront to be fully developed, but could hinder full development of the remainder of the property. So consistency in zoning ordinances among the three municipalities was key to the success of the development.

The first business to locate at The Waterfront was Loews Theatre. A theatre such as the one planned by Loews was a destination point – people would come to The Waterfront to see a movie at this state-of-the-art facility. But, for The Waterfront to be successful, people had to come and spend additional time – not just see a movie and leave. They had to have a snack or meal before or after the movie and do some shopping while on site. This meant the theatre, restaurants and retail stores had to be in close proximity.

Consistency in zoning across the three municipalities was key to accomplishing that and would allow the entire property to be developed as a single integrated operation. Consider parking requirements, for example. If Homestead's ordinance required one parking space for each two seats, while Munhall's zoning ordinance required a theatre to have one parking space for each three seats, and West Homestead's zoning ordinance required one parking space for each five seats, Loews would want to locate in West Homestead because it would need to provide fewer parking spaces, and thus require less land for parking. If, however, West Homestead's restrictions on restaurants and retail establishments were more

restrictive than those in Munhall, we might see the theatre isolated from the restaurants and retail establishments. This type of isolation could spell doom for the development.

Without knowing whom the tenants would be, it was also important, not only to have the zoning ordinances in the three municipalities be consistent, but also to have ordinances that were flexible. Flexibility was important because many potential national chain tenants have standard building designs and signage that are the same regardless of where they are located. This sameness allows for recognition, nationwide by today's mobile patrons. For example, a Steak 'N Shake at The Waterfront will look exactly the same as one located in Zanesville, OH or Portland, ME. If Steak 'N Shake wanted to locate at the Waterfront, however, and all three municipalities required a different building design from the one required by Steak 'N Shake, a potential tenant would be lost. Or, if none of the municipalities permitted a movable sign like that used at all Dave and Buster's locations, it might elect to locate someplace in Pittsburgh other than the Waterfront.

Faced with these requirements, the Real Estate Department at Rothman Gordon evaluated the current zoning ordinances in all three municipalities to determine the existing similarities. We then drafted a form ordinance to present to all three municipalities that would provide both the consistency and flexibility that Continental needed to fully promote the Waterfront. The three municipalities were all open to amending their ordinances although each had their own concerns about some of the provisions. The initial amendment of the three ordinances took approximately one year, requiring numerous meetings with planning commissions and borough councils, as well as public hearings on the proposed changes. There have been other amendments since then, as uses and tenants became more definite at the development.

So all the work done before the first tenant was even signed has paid off. Having a good zoning ordinance in place, which balanced the needs of the developer against the obligations of each of the three municipalities to provide for the health, safety and general welfare of its citizens, allowed for the development of The Waterfront into a mixed-use community that has proven to be a wonderful addition to the Pittsburgh area.

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