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GLEE S. SMITH, JR.
OF COUNSEL

November 8, 2007

Mayor Sue Hack
City Hall, PO Box 708
Lawrence, KS 66044

Re: November 13, 2007 City Commission Agenda
Triple T, LLC—Oread Inn Development Project

Dear Mayor Hack:

In anticipation of the November 13, 2007 City Commission meeting, where the City Commission will consider several agenda items pertaining to the Oread Inn Project (the “**Project**”), Triple T, LLC (the “**Company**”) desires to discuss the HRC’s finding that the Project would encroach upon, damage, and destroy the environs of the listed properties, which properties include the environs of the Hancock Historic District, National Register of Historic Places, the Oread Historic District, Register of Historic Kansas Places, and the Jane A. Snow Residence, National Register of Historic Places (collectively the “**Historic Properties**”). See HRC Meeting Minutes from September 20, 2007.

Proposed Findings

The Company proposes that the City Commission make the following findings at the November 13, 2007 meeting:

The City Commission finds, based on a consideration of all relevant factors, that there is no feasible and prudent alternative to the proposed development of the Oread Inn Project at 12th and Oread Avenue, as submitted by Triple T, LLC, and that the program includes all possible planning to minimize harm to the environs of the Hancock Historic District, the Oread Historic District, and the Jane A. Snow Residence resulting from the project.

We respectfully submit that such findings are based upon the relevant factors identified in K.S.A. 75-2724(a) and K.A.R. 118-3-1(e), discussed in greater detail below.

Analysis of Relevant Factors

A. Technical Issues.

The proposed location of the Project, a portion of which is presently zoned for commercial use, has traditionally been a meeting place by both the University and the City. This commingling of "town and gown" centered on food (in the former Yello Sub), lodging (in the various residential rental properties located at the site), and entertainment (in the Henry's Crossing bar). The Project's objective is to magnify the meeting of "town and gown" by providing first class hotel and gathering space at the bookend of the University of Kansas main campus. To that end, the Project's location is aptly and uniquely suited to the Company's intended use of the site. The Project and the underground parking facilities it will provide will be easily accessible to the City and University communities.

After discussing the Project with the Oread Neighborhood Association, the Company has agreed to incorporate additional public infrastructure improvements including new pedestrian walkways connecting the area to Mississippi Street, new sidewalks, landscaping, and artwork, all of which will benefit the area. A new covered private parking facility will be constructed in connection with the Project, which will add approximately 200 new parking spaces to alleviate parking concerns in the Oread Neighborhood. The Project will only add approximately 8% of impervious surface to the site, minimizing drainage concerns.

Several major public and private infrastructure improvements must be completed in connection with the Project, which improvements will have a substantial effect on the safety, aesthetics and functionality of the area. For example, Oread Avenue must be realigned to form a 90 degree intersection with 12th Street. Presently, the intersection at 12th and Oread is a traffic concern. The Project is an urban core redevelopment, and is ideally located to benefit from existing sewer and water lines with relatively minor upgrades and connections.

B. Design Issues.

The size of the Oread Inn cannot be feasibly, prudently, or economically reduced, and the design of the Project includes all possible planning to minimize harm to the environs of the Historic Properties. First, the hotel is not a rectangle—the floors of the hotel "step in" as height increases, to reduce the mass of the structure as height increases. Second, the density of the Project will face Oread Avenue, focused toward the University. Along Oread Avenue, traveling

South toward the University of Kansas, there are a number of campus structures that are compatible with the size and scope of the proposed Project. The Kansas Union, Spooner Hall, Fraser Hall, Blake Hall, Lippincott Hall, the Dyche Museum, the KU Parking Garage, and the Spencer Museum of Art are all large structures. The higher floors of the hotel are located at the South end of the proposed site, as close as possible to those structures, and as far as feasibly possible from the Historic Properties. Any other configuration places more of the hotel bulk closer to the Historic Properties, in contravention of Kansas law. Furthermore, the Project includes an underground parking garage which will mitigate parking encroaching on the neighborhood.

C. The Project's Relationship to the Community-Wide Plan.

The proposed street improvements are consistent with Horizon 2020, Chapter 8, Policy 2.3(a), which states “. . . [c]ollector and local streets should have alignments specifically designed to provide a logical street layout in relation to topographical and natural conditions, public convenience, safety and the proposed use of the land to be served by such streets.” The Project is consistent with the spirit of Horizon 2020, Chapter 10, p. 10-3, which encourages the collaboration of the City, the County, and the University in resolving certain opportunities and issues, including off-street parking within and near the University campus.

D. Economic Issues.

The location of the Project, one of a kind in the City in terms of serving as a resource to the City and the University, requires a first class facility, similar to other Big 12 cities with similar facilities, including restaurant and meeting space. No other use besides the Project, and no reduction in the size of the Project is economically feasible. The cost to construct the public infrastructure improvements warranted by the Project approximate \$4,000,000.00. In addition, the Project includes an underground parking garage estimated to cost \$6,000,000.00. The hotel itself requires support facilities like laundry service that would not decrease in cost if the number of hotel rooms decreased. These costs are averaged over the square footage or the number of hotel rooms of the Project to arrive at an economically feasible cost per unit. If the square footage or number of rooms is reduced, the economics of the Project fail. Consequently, the size of the Project must not be reduced. Otherwise, the public and private costs involved would outweigh the economic benefits. Furthermore, a reduction in the size of the Project would make the utilization of restaurant and meeting space infeasible, due to the fewer number of patrons available to utilize those facilities (thereby amplifying the negative economic effect on the Project).

Other Program Plans that Minimize Harm to the Historic Properties

The Company and its members are committed to historic preservation and to building an enhancement on the edge of campus to bring “town and gown” together. The Company has worked with and received the support of the Oread Neighborhood and Carol von Tersch, owner of the Jane A. Snow Residence, 706 W. 12th Street. *See* comments by Marci Francisco, Devon Kim, and Carol von Tersch in the HRC Minutes from August 16, 2007, and Ms. von Tersch’s letter to the HRC dated August 16, 2007 (a copy of which is attached). The underground parking facility will address neighborhood concerns about parking.

The Company or its members own or control two historic properties—the Oread Apartments at 1201-05 Oread Avenue, and the Lemesany House at 1209 Oread Avenue. The Company is not seeking to demolish either structure under the requests presently before the City Commission. Rather, if the Project is approved and moves forward, the Company has agreed to work with the Oread Neighborhood to determine the best uses of those properties, including without limitation the remodeling of the Oread Apartments. None of the five structures to be demolished are “historic,” as defined by K.A.R. 118-3-1(h), because none of the structures are “property included on ‘the national register of historic places’ or the ‘register of historic Kansas places.’” Three structures have had significant alterations that have compromised their architectural integrity. HRC Staff Report for September 20, 2007, p. 4. All of the structures are rental properties.

The University of Kansas and the KU Alumni Association have each provided letters strongly supporting the Project, copies of which are attached to this letter. Provost and Executive Vice Chancellor Richard W. Lariviere believes that “[t]here is a widely held view among the faculty that the University community needs a venue on or at least very near the campus for entertaining visitors and hosting conferences, faculty recruits, donors and others,” which the Project satisfies. Kevin J. Corbett, President of the KU Alumni Association, expressed his appreciation to the Company for being “. . . forthright with all of us who are private property owners in the area.” The Alumni Association owns 1266 Oread Avenue.

Mayor Sue Hack
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Conclusion

There are no feasible and prudent alternatives to the proposed development of the Project, and the Project includes all possible planning to minimize harm to the environs of the Historic Properties. The Company has diligently attempted to address the reasonable concerns of the Oread Neighborhood and nearby owners of Historic Properties like Carol von Tersch during the planning and design phases of the Project. The Project has been met with support from those organizations and persons.

Very truly yours,

A handwritten signature in black ink, reading "Matthew S. Gough". The signature is written in a cursive style with a large, stylized 'M' and 'G'.

Matthew S. Gough
of Barber Emerson, L.C.

MSG:jsm

cc: Triple T, LLC
Paul Werner
Carol von Tersch
Marci Francisco
Devon Kim
David Corliss
Diane Stoddard

OREAD CIRCLE RE-DEVELOPMENT

OREAD INN

12th & INDIANA

August 16, 2007

Historic Resources Commission
City of Lawrence
Lawrence, KS 66044

Dear Commissioners;

The Department of the Interior Guidelines state that the relationship between historic buildings, and streetscape and landscape features within a neighborhood helps to define the historic character of the area and therefore should be preserved. The guidelines discourage the introduction of a new building, streetscape, or landscape feature that is out of scale or otherwise inappropriate to the setting's historic character. We all agree with that.

The guidelines advise against "introducing new construction *into historic districts* that is visually incompatible or that destroys historic relationships within the district or neighborhood." The Dept of the Interior Guidelines do not address the question of whether the guidelines should apply equally to the *environs* of a historic district or neighborhood as they would apply to the district itself. In reference to environs, the Guidelines state: "The environs of each property (or district) shall be recognized as a physical record of its time, place, and use." This raises questions as to the impact of the changes that have already occurred in the environs of the Hancock District and the Snow House since its period of significance.

Look at the impact of some of the changes that have already occurred. I would like to show you some pictures of the "period of significance" and you can see that it no longer exists. [One photo taken around 1900 and two taken in 1917-1919. They look down Oread Avenue north to 12th Street.] Since that time the neighborhood has evolved into what many call a student ghetto. [Photos showing some of the destruction in the environs.] What Oread Avenue is today is the alumni center, a Christian social center, two huge water tanks, a multi-level parking garage, and a five story student union. The environs is made up of relatively inexpensive apartment buildings and poorly maintained rental properties. The parking garage and the addition to the Student Union are both projects that were approved by the Historic Resources Commission and by the Campus Historic Resources Review Board. Granted that both of these projects did not have the massive scale as does the Eldridge on the Hill, nonetheless, they do tell you that the "period of significance" no longer exists in the environs of the Hancock District.

I am well aware that the scale of the Eldridge on the Hill will have a great effect on the Hancock District and the Snow House and it will be central to your decision on whether or not to approve this project. Scale is THE issue that you must address. All of the other defining features can be worked out to your satisfaction with the developer and his architectural team. The scale of this project is driven by economic considerations and it is economic considerations that may do the most to preserve and protect, not only the Hancock District, but the Oread Historic District and therefore the entire Oread

OREAD CIRCLE RE-DEVELOPMENT

OREAD INN

12th & INDIANA

neighborhood. The infusion of investment capital may make it "safer" for other property owners to invest in their properties. In addition, the developer has committed to including improvements to the pedestrian pathways WITHIN the Hancock District.

Here are some other points I would like you to consider:

The intersection of 12th and Indiana and Oread Avenue is unsafe in its current, historically correct configuration. It should be changed or improved regardless of the Department of the Interior Guidelines.

Stairs (from 12th Street down to Mississippi) within the district have been changed and are now historically inaccurate due to modern code requirements.

Given the environs decisions made by previous HRC's, approval of a multi-level parking garage and an addition to the Student Union, a decision to deny this project because of the impact of its scale on the environs of the Hancock District, could be viewed as capricious and arbitrary.

The determination by the Historic Resources Commission that this proposed project would encroach, damage, or destroy the listed property will probably automatically trigger the need for a determination by the City Commission that there is no reasonable or prudent alternative.

Thank you for the opportunity to express some of these thoughts. This will be a difficult decision for you to make and I know that you will give it your best analytical effort to arrive at a decision that will be in keeping with the Guidelines and will also benefit the ongoing effort to maintain and preserve the Hancock District and the Oread Neighborhood.

Sincerely,

Carol von Tersch
706 West 12th Street
The Snow House

August 29, 2007

Thomas Fritzel
PO Box 906
Lawrence, Ks 66044

Dear Thomas,

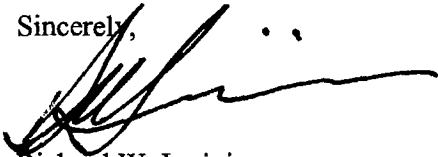
The University of Kansas is following with growing interest the proposals for the intersection of Oread and 12th Street. We are particularly pleased with the consultative and open manner in which this project is being developed by you and your colleagues. The fact that the University's neighbors have been consulted and listened to as this project has been contemplated is an important component in our consideration of this plan.

The plans that we have seen address a number of concerns of the University community.

- (1) There is a widely held view among the faculty that the University community needs a venue on or at least very near the campus for entertaining visitors and hosting conferences, faculty recruits, donors, and others. This plan would provide such a venue.
- (2) To have a hotel facility so close to the campus is an extremely desirable prospect for the same target audiences as well for our alumni.
- (3) The esthetically appealing elevations of this prospect fit well with our desire for this portion of the neighborhood to be both visually appealing and a sound fit with the neighborhood.
- (4) We have a high degree of confidence in the promoters of this project to deliver a high-quality product and in the process to continue to keep all parties informed as the project develops.

In light of these facts, we look forward to the completion of this project which, in our view, will result in a significant enhancement of the intersection.

Sincerely,



Richard W. Lariviere
Provost and Executive Vice Chancellor

RWL\sp



**ALUMNI
ASSOCIATION**
The University of Kansas

August 29, 2007

Mr. Thomas Fritzel
PO Box 906
Lawrence, KS 66044

Dear Thomas:

On behalf of the KU Alumni Association let me first express our appreciation for the approach you have taken with respect to a hotel development at 12th and Oread Avenue. You have been forthright with all of us who are private property owners in the area and I know a number of residents join me in expressing this appreciation.

The hotel facility, as proposed, looks to be a tremendous asset to the KU Alumni Association and appears to offer opportunities for future partnerships. For many years, we have heard countless alumni, parents of prospective students, and conference attendees at the Adams Alumni Center express a desire for a hotel facility near campus.

Further, there has been a growing desire among alumni living out of state to return to Lawrence and the KU community. Condominiums near campus, I am sure, would also inspire many who were not otherwise considering a return to Lawrence. Bringing alumni back to live is not only good from economic standpoint for Lawrence, but also for a vibrant alumni community.

Thomas, again many thanks for proposing such a high quality development and we look forward to future discussions as appropriate.

Sincerely,

Kevin J. Corbett
President

KJC:klw