



May 17, 2024

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VIA E-MAIL

Hon. Stan Pulliam, Mayor  
City of Sandy  
39250 Pioneer Blvd.  
Sandy, OR 97055

RE: Proposed Land Use Extension Ordinance

Dear Mayor Pulliam and Council:

This office represents Roll Tide Properties Corporation, which in 2022 received approval of a plan amendment, zone change, and subdivision known as Bull Run Terrace. We are writing in support of the proposed Land Use Extension Ordinance (Ord. 2024-09) and in particular, the Planning Commission's recommendation that an allowance be made for a two-year extension in some circumstances, as presented in the "alternative ordinance" in your packet.

Since Bull Run Terrace was approved, a perfect storm of high interest rates and reticent financing has forestalled its construction. Critically, much of this is due to lenders' hesitancy to issue construction loans on property located within a city under a development moratorium. Stated plainly, the limitation of development to a certain number of equivalent residential units ("ERUs") has effectively scared away many construction lenders because there is no guarantee that any of these ERUs will be available when projects reach the permitting stage. Thus far, the City has not allocated or reserved ERUs for particular projects, and so this problem remains a critical barrier to starting construction. This situation is in no way the fault of Roll Tide or similarly-situated developers, who have invested a great deal of time, money, and effort in reliance on the City's land use process.

For these reasons, the Planning Commission's proposal in the alternative ordinance to allow an additional two-year extension for developments under review prior to the original moratorium is very much appreciated, and Roll Tide strongly supports it, for two important reasons.

First, while a one-year extension will get Roll Tide through to December 2025, it has already lost one and a half years since approval and its project is large and complex, including the extension of Dubarko Road and its connection to Highway 26. Thus, completing the project to the point of plat recording may take more than the additional time that a one-year extension could provide.

May 17, 2024

Second, most, if not all, of the current approvals were granted when subdivision tentative plats were valid for only one year, which was far shorter than in most jurisdictions. The City has since increased this to two years, but that new allowance does not pertain to Roll Tide's project, which was submitted before the revised code became effective. The City's current extension allowance provides only a single, one-year extension, which Roll Tide has already used.

Given these realities, we believe that the proposed Ordinance should provide a two-year extension, either as a matter of right or under the criteria proposed by the Planning Commission. At least in Roll Tide's case, this is quite reasonable because as noted before, the code now allows for a two-year initial validity period.

Finally, we recommend that both the original and alternative ordinance be revised slightly to remove discretion for the class of extensions it proposes to allow. Under the "needed housing statutes" in ORS 197A.400 (formerly ORS 197.307(4)), ordinances governing the development of housing must be "clear and objective." For this reason, we respectfully request that the operative terms of both proposed ordinances be revised to comply with the needed housing rules as follows:

"An owner, as that term is defined in Sandy Municipal Code 17.10.30, whose property has received land use approval based on an application which was submitted prior to October 3, 2022, may apply for one-year extension of such approval, as provided herein. Such application shall be granted if an owner submits an application and pays the required fee. This extension will add one year-will be added to the current expiration date of the land use approval. This extension is shall be in addition to any other extension which may be available under the Sandy Municipal Code. The Development Services Director will review and approve an extension request pursuant to a Type I process under Sandy Municipal Code 17.12.10 if an applicant satisfies the clear and objective criteria above."

Roll Tide understands that there are criteria recommended by the Planning Commission for the allowance of a two-year extension (the alternative ordinance). Roll Tide recommends that a two-year extension be allowed by right, but barring that, encourages the Council to adopt the alternative ordinance.

With these two proposed changes, we believe that the proposed alternative ordinance will do much to give Roll Tide and similarly-situated developers the confidence they need to continue their pre-development activities. We greatly appreciate Staff's efforts to provide some relief to this difficult situation, and hope the Council will adopt an additional two-year extension.

May 17, 2024

Best regards,

SCHWABE, WILLIAMSON & WYATT, P.C.



Garrett H. Stephenson

GST:jmhi

cc: David Vandehey  
Carey M. Sheldon  
Kelly O'Neill  
Josh Soper

TONameList  
May 17, 2024