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LITIGATION ASSISTANT

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Dear Members of the Plan Commission,

On the agenda for August 12, 2019 are four items related to the Judge Doyle Square redevelopment, and, specifically, Block 105. Two of those items are related to demolition of the Government East Parking Ramp, and the approval of a conditional use for the Block 105 Hotel. City staff is recommending that these two items be placed on file due to a legal issue.

In 2017, the Wisconsin Legislature enacted Wis. Stat. §66.10015(5) related to planned development zoning stating:

A political subdivision may not establish an expiration date for an approval related to a planned development district of less than 5 years after the date of the last approval required for completion of the project. This section does not prohibit a political subdivision from establishing timelines for completion of work related to an approval.

The definition of “approval” is “a permit or authorization for building, zoning, driveway, stormwater, or other activity related to a project.” Wis. Stat. §66.10015(1)(a).

The Judge Doyle Square development on Block 105 is currently zoned for a planned development. Under the new law, the approvals for authorizing zoning, such as the conditional use and specific implementation plans (SIPs), and construction, such as the demolition, must be valid for at least five years. Whether or not the approval was made by the Council, or as part of a staff approval, is not relevant to the statute.

In April of 2019, the City of Madison (City) approved a minor alteration to the planned development for phasing, and extended the deadlines for the SIPs, demolition, and conditional uses (the “Minor Alteration”). The Minor Alteration approval is subject to §66.10015(5), and are valid for five years (April of 2024).

Please note that the conditional use item, for Beitler, and demolition item, for the City, are not changing any respective requests since the 2017 applications, but are only on the agenda in

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order to extend the deadlines which, notwithstanding the new statute, were to expire in April of 2020. Both Beitler and the City are requesting that these items be placed on file and the current approvals remain in place.

Note that the statute permits the City to establish timelines for constructing the project. The statute does not impact the Development Agreement, as amended, between the City and Beitler Real Estate Services. Beitler is required to close on financing no later than eighteen (18) months after the new Government East is completed.

If you have any additional questions, please let me know.

Kevin Ramakrishna