



## Legislation Text

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**File #:** 50643, **Version:** 1

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### Fiscal Note

No City appropriation required. City costs associated with urban development in this area will be included in future operating and capital budgets subject to Common Council approval.

### Title

Authorizing the Director of the Department of Planning of Planning and Community and Economic Development or her designee, on behalf of the City of Madison, to execute a release of a restrictive covenant limiting the use of Lot 14, St. Joseph's Plat; 2810 Coho Street; 14th Ald. Dist.

### Body

WHEREAS the plat of "St. Joseph's Plat" was recorded on November 4, 1977 as Document No. 1546700 in Book 47 of Plats at Pages 43 and 44 to subdivide an approximately 24-acre parcel located on the south side of the West Beltline Highway on both sides of extended Coho Street into twenty lots (recorded as Lots 1-20) for various commercial, office and residential uses; and

WHEREAS the subdivider, Darrell R. Wild, Wild, Inc. recorded a Declarations of Limitations, Restrictions and Uses of St. Joseph's Plat as Document No. 1569288 (some references in later documents misidentify this document as "1589288") in Volume 939 of Records on Pages 507-511 on April 28, 1978 to establish an architectural control committee for the subdivision and to designate specific lots within the plat for specific categories of use based on the City of Madison's "General Zoning Ordinance" in effect as of April 10, 1978; and

WHEREAS said Declarations restricted the use of Lots 13 through 16 of said Plat to be used allowed as "R4" [General Residence District] property as defined in the Madison General Ordinances as of April 10, 1978"; and

WHEREAS said Declarations of Limitations, Restrictions and Uses was amended or extended by the owners of interest in the Lots in the St. Joseph's Plat in 1983 (Document No. 1774368), 1985 (Document Nos. 1886208 and 1917987), and 1986 (Document No. 1975108), said amendments modifying various requirements of the 1978 Declarations; and

WHEREAS a Restrictive Covenant was subsequently recorded against Lot 14, St. Joseph's Plat (the "Property") by the Madsen Corporation as Document 1899392 in Volume 7259 of Records on Pages 28 and 29 on September 13, 1985 to declare and provide that said the Property not be used for: private clubs and lodges; free standing food stores; liquor stores; free standing restaurants; hospitals and sanitariums; hotels and motels; free standing meat markets; trade schools; secondhand stores and rummage shops; taverns; water softener sales and service; or sewer cleaning service; and

WHEREAS said Restrictive Covenant includes a provision requiring that termination or amendment of the restriction by a written and recorded agreement between the then current owner of any interests in the Property and either "the City of Madison, Wisconsin, the City of Madison Department of Planning and Development of the City of Madison Zoning Administration or any successor body with similar authority, or the designee of any of them;" and

WHEREAS said Restrictive Covenant contains no specific reference to this requirement being imposed by the

Common Council or Plan Commission, and City staff can find no condition requiring this restriction; and

WHEREAS the current owner, the State of Wisconsin Investment Board, has an accepted offer to sell the Property to Hotel of the Arts Madison, LLC for the purposes of constructing a five-story, 112-room hotel on the parcel; and

WHEREAS the City of Madison Plan Commission found the standards met and approved the conditional uses necessary to construct the hotel at its January 22, 2018 meeting (see Legislative File ID 48769); and

WHEREAS hotels and many of the land uses restricted by said Restrictive Covenant are allowed by the CC-Commercial Center District zoning of the property, and would be consistent with the General Commercial land use recommendation for the site in the 2006 Comprehensive Plan; and

WHEREAS the Planning Division of the Department of Planning of Planning and Community and Economic Development can find no public interest in the land use restriction recorded in 1985, and can further find no public interest in maintaining the restriction on the Property;

NOW BE IT HEREOFORERESOLVED that the Director of the Department of Planning of Planning and Community and Economic Development or her designee, is hereby authorized on behalf of the City of Madison, to execute a release of a restrictive covenant limiting the use of Lot 14, St. Joseph's Plat.