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June 15, 2017

**VIA E-MAIL & HAND DELIVERY**

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Mr. James R. Owczarski  
City Clerk  
City Hall – Room 205  
200 East Wells Street  
Milwaukee, WI 53202

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ROBERT H. FRIEBERT  
(1938-2013)  
EMERITUS  
JOHN D. FINERTY  
OF COUNSEL  
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**RE: File No. 170030, Resolution approving a final Certified Survey Map for land located on the south side of West Layton Avenue and west of South 20th Street to divide a portion of one parcel into two parcels and to dedicate land for public street purposes, in the 13th Aldermanic District**

Dear Mr. Owczarski:

As the you know, this firm represents WoodSpring Suites Milwaukee Airport LLC (“WoodSpring”), the developer of a new hotel on property located at 1701 West Layton Avenue.

Common Council File No. 170030 concerns a Certified Survey Map (“CSM”) involving 11+ acres of surplus right-of-way that WoodSpring has contracted to buy from the Wisconsin Department of Transportation (“WisDOT”). Ordinarily, a final CSM is not controversial and is approved by the Common Council in due course after a detailed technical review by City staff of a preliminary map and the preparation and submission of a final CSM addressing all of staff’s comments. That is what took place in this matter and we anticipated that the final CSM would be approved based upon staff’s recommendation for approval.

For reasons that are not important here, the final CSM has encountered opposition from Alderman Witkowski. Following a brief hearing before the Zoning, Neighborhoods & Development Committee (“ZND”) on June 13, 2017, the Committee voted to recommend that the matter be placed on file. The reason offered by Committee for the recommendation was that the CSM is inaccurate because Lot 2 of the proposed CSM does not show a small strip of West Barnard Avenue that is in the City’s records as being public right-of-way that was dedicated some time before 1962 but was never constructed.

This brings us to the purpose of this letter.

Enclosed please find a second final CSM which is the same as the original final CSM except for retaining as right-of-way the strip of unimproved West Barnard Avenue and the resulting change in the south boundary of Lot 2. Please add this document to File No. 170030.

Mr. James R. Owczarski, City Clerk  
June 15, 2017  
Page 2

As we attempted to explain to the ZND Committee, Bill Fuchs of the Department of Public Works identified this strip of unimproved right-of-way at an early point in the review process (unimproved meaning that no street exists as illustrated on Brian Randall's handout from Tuesday's meeting). In consultation with WoodSpring's surveyor, Chaput Land Surveys, a decision was made that the City would initiate a petition to vacate the unimproved West Barnard Avenue and in turn Chaput Land Surveys would not show it on the CSM since it would be vacated.

Consistent with that approach, the Common Council directed staff to initiate the vacation process by unanimously adopting Common Council File No. 161476 on March 1, 2017. Accordingly, the City's vacation petition was prepared by staff and is Common Council File No. 161477. The vacation petition was unanimously recommended for approval by the Plan Commission on April 10, 2017 and is now before the Public Works Committee.

Based upon the vote of the ZND Committee at its June 13, 2017 meeting, it appears that the City may have changed its mind about vacating the strip of unimproved West Barnard Avenue. We submit that if the Common Council no longer supports the staff recommendations which it previously endorsed in the form of the directory resolution for the preparation of a vacation petition, then the Council should approve the second final CSM. On the other hand, if the Council decides to approve the City-initiated petition to vacate this strip of unimproved right-of-way, then the Council should approve the original final CSM.

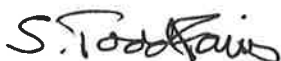
This letter should not be construed as a withdrawal of the original final CSM. We continue to believe that it is accurate but the second final CSM indisputably addresses any inaccuracy that served as the basis for the ZND Committee's recommendation.

In conclusion, the best course of action is for the Common Council to approve the City-initiated vacation petition and the original final CSM. In doing so, WisDOT can sell the site (thereby immediately losing the property tax exemption resulting in the payment of taxes to benefit the entire City) to WoodSpring which will build its \$9.5 million hotel on the site, a permitted use.

If you have any questions or concerns, please do not hesitate to contact us.

Very truly yours,

FRIEBERT, FINERTY & ST. JOHN, S.C.



S. Todd Farris  
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STF/sjf  
Attachment/Enclosure

Mr. James R. Owczarski, City Clerk

June 15, 2017

Page 3

cc: Alderman James A. Bohl, Chairman, ZND Committee (w/Attach.) – Via Email  
Alderman Terry L. Witkowski (w/Attach.) – Via Email  
Mr. Gregg C. Hagopian, Assistant City Attorney (w/Attach.) – Via Email  
Mr. William Fuchs, Department of Public Works (w/Attach.) – Via Email  
Ms. Vanessa L. Koster, Department of City Development (w/Attach.) – Via Email  
Mr. Oscar Tovar, Staff Assistant to Mayor Tom Barrett (w/Attach.) – Via Email  
Mr. Cameron E. Smith, WisDOT Assistant General Counsel (w/Attach.) – Via Email  
Ms. Stephanie Knebel, WoodSpring Suites (w/Attach.) – Via Email  
Brian C. Randall, Esq. (w/Attach.) – Via Email