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Memorandum

To: Common Council
From: Brian Running
Re: Notice of Claim, CFT NV Developments, LLC

In July, the City's Plan Commission denied a Preliminary Site Plan and Architectural Review and an application for a Conditional Use Permit relating to a development proposed by CFT NV Developments, LLC at the corner of Grandview and Silvernail. You'll recognize this as the Panda Express proposal for the site of the former Gasthaus.

Presently, appeals are underway of the denial. In addition to the appeals, CFT has now filed a notice of claim against the City, claiming that the City has committed a "taking" of private property for which compensation must be paid. The amount of compensation is alleged to be \$3,000,000.

The notice of claim accompanies this memo. In a nutshell, it says that because the Plan Commission denied the development on the grounds of traffic issues, and because any development of the property will involve similar traffic issues, the Plan Commission has effectively denied any development of the property and rendered it worthless. They allege that this amounts to a taking, or an inverse condemnation, and that the City must compensate them for the loss of value.

Wisconsin Statutes §893.80 requires that a notice of claim, such as this one, has to be filed with a city within 120 days of the event causing harm, or else the claim will be barred. That's why this notice of claim is being filed. Section 893.80 also says that if a city formally disallows a claim, then the claimant has 6 months within which to file a lawsuit against the city. This means that the statute of limitations is shortened from as much as 6 years to 6 months, which is good for the City.

Therefore, we recommend that the Council formally disallow this claim and direct the City Attorney's office to issue a written disallowance in the form required by §893.80. Doing so will not stop a lawsuit against the City, but it will require CFT to file it within 6 months.

Thank you for your attention to this. Please let me know if you have any questions about this matter.

- BER