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DISTRICT II

September 2, 2026

To:

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Circuit Court Judge
Electronic Notice

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Clerk of Circuit Court
Waukesha County Courthouse
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You are hereby notified that the Court has entered the following opinion and order:

2025AP1666

Lisa Salb v. City of Waukesha Plan Commission
(L.C. #2024CV1957)

Before Lazar, P.J., Gundrum, and Grogan, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Lisa and Robert Salb appeal from a circuit court order dismissing their certiorari complaint against the City of Waukesha Plan Commission and City of Waukesha Common Council (collectively, the City) for lack of standing. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. See WIS. STAT. RULE 809.21 (2023-24).¹ For the reasons that follow, we reverse the order and remand the cause for further proceedings consistent with this opinion.

¹ All references to the Wisconsin Statutes are to the 2023-24 version.

The Salbs own and reside at the Blair House, which is located in the City of Waukesha. The Blair House was built in 1876 and is listed in the National and State Registers of Historic Places. Because the Blair House sits on top of a hill, the Salbs enjoy a commanding panoramic view of downtown Waukesha.

In the fall of 2024, the City gave necessary approvals² for construction of a four-story, 219-unit apartment complex on vacant land adjacent to the Blair House. The height of the buildings in the planned development will effectively eliminate the Salbs' view of downtown Waukesha.

The Salbs subsequently filed a complaint seeking certiorari review of the City's approvals pursuant to WIS. STAT. § 781.10.³ The City filed an answer and affirmative defenses, raising the issue of standing. The circuit court determined that the Salbs lacked standing to bring their complaint and therefore dismissed it. This appeal follows.

“‘Standing’ is a concept that restricts access to judicial remedies to those who have suffered some injury because of something that someone has either done or not done.” **Munger v. Seehafer**, 2016 WI App 89, ¶48, 372 Wis. 2d 749, 890 N.W.2d 22. Whether a party has standing is a question of law that we review de novo. See **Friends of the Black River Forest v. Kohler Co.**, 2022 WI 52, ¶10, 402 Wis. 2d 587, 977 N.W.2d 342.

² The approvals related to the final site and architectural plan as well as a petition to rezone.

³ See **St. Croix Scenic Coal., Inc. v. Village of Osceola**, 2024 WI App 73, ¶14, 414 Wis. 2d 549, 15 N.W.2d 917 (explaining that when the legislature enacted WIS. STAT. § 781.10, it “‘established a new, exclusive form of certiorari review for any final decision of a ‘political subdivision on an application for’ ‘a permit or authorization for building, zoning ... or other activity related to residential development.’” (citations omitted)).

To establish standing under WIS. STAT. § 781.10, the Salbs needed to specify facts demonstrating that, as a result of the City’s approvals, they sustained “actual damages or will imminently sustain actual damages that are personal ... and distinct from damages that impact the public generally.” Sec. 781.10(2)(c)3. Injuries to aesthetic interests can constitute actual or imminent damages. *St. Croix Scenic Coal., Inc. v. Village of Osceola*, 2024 WI App 73, ¶20 n.5, 414 Wis. 2d 549, 15 N.W.2d 917.

Here, we are satisfied that the Salbs established standing to challenge the City’s approvals under WIS. STAT. § 781.10. In their complaint, the Salbs allege that the planned development “will have an adverse effect on the beauty and enjoyment of [their] home.” In particular, they allege that, “[t]he approved height of the South building (up to 62 feet) and approved height of the North building (up to 64 feet) will destroy the view from [their] residence” of downtown Waukesha. The complaint includes a rendering from the City Planner revealing just how that destruction would occur. We agree with the Salbs that there can be no clearer example of harm to one’s personal aesthetic interest than replacing one’s commanding panoramic view of a cityscape with the wall of four-story apartment complex—a sight that the Salbs will have to endure every day once the physical environment is changed. Accordingly, we reverse the circuit court order and remand the cause for further proceedings consistent with this opinion.

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily reversed and cause remanded for further proceedings consistent with this opinion, pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals